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Titles 37 through 45

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REVISED CODE OF WASHINGTON

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REVISED CODE OF WASHINGTON
1996 Edition

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CERTIFICATE

The 1996 edition of the Revised Code of Washington, published officially by the Statute Law Committee, is, in accordance with RCW 1.08.037, certified to comply with the current specifications of the committee.



MARY F. GALLAGHER DILLEY, Chairman,
STATUTE LAW COMMITTEE

PREFACE

Numbering system: The number of each section of this code is made up of three parts, in sequence as follows: Number of title; number of chapter within the title; number of section within the chapter. Thus RCW 1.04.020 is Title 1, chapter 4, section 20. The section part of the number (.020) is initially made up of three digits, constitutes a true decimal, and provides a facility for numbering new sections to be inserted between old sections already consecutively numbered, merely by adding one or more digits at the end of the number. In most chapters of the code, sections have been numbered by tens (.010, .020, .030, .040, etc.), leaving nine vacant numbers between original sections so that for a time new sections may be inserted without extension of the section number beyond three digits.

Citation to the Revised Code of Washington: The code should be cited as RCW; see RCW 1.04.040. An RCW title should be cited Title 7 RCW. An RCW chapter should be cited chapter 7.24 RCW. An RCW section should be cited RCW 7.24.010. Through references should be made as RCW 7.24.010 through 7.24.100. Series of sections should be cited as RCW 7.24.010, 7.24.020, and 7.24.030.

History of the Revised Code of Washington; Source notes: The Revised Code of Washington was adopted by the legislature in 1950; see chapter 1.04 RCW. The original publication (1951) contained material variances from the language and organization of the session laws from which it was derived, including a variety of divisions and combinations of the session law sections. During 1953 through 1959, the Statute Law Committee, in exercise of the powers contained in chapter 1.08 RCW, completed a comprehensive study of these variances and, by means of a series of administrative orders or reenactment bills, restored each title of the code to reflect its session law source, but retaining the general codification scheme originally adopted. An audit trail of this activity has been preserved in the concluding segments of the source note of each section of the code so affected. The legislative source of each section is enclosed in brackets [] at the end of the section. Reference to session laws is abbreviated; thus "1891 c 23 § 1; 1854 p 99 § 135" refers to section 1, chapter 23, Laws of 1891 and section 135, page 99, Laws of 1854. "Prior" indicates a break in the statutory chain, usually a repeal and reenactment. "RRS or Rem. Supp.—" indicates the parallel citation in Remington's Revised Code, last published in 1949.

Where, before restoration, a section of this code constituted a consolidation of two or more sections of the session laws, or of sections separately numbered in Remington's, the line of derivation is shown for each component section, with each line of derivation being set off from the others by use of small Roman numerals, "(i)," "(ii)," etc.

Where, before restoration, only a part of a session law section was reflected in a particular RCW section the history note reference is followed by the word "part."

"Formerly" and its correlative form "FORMER PART OF SECTION" followed by an RCW citation preserves the record of original codification.

Double amendments: Some double or other multiple amendments to a section made without reference to each other are set out in the code in smaller (8-point) type. See RCW 1.12.025.

Index: Titles 1 through 91 are indexed in the RCW General Index. Separate indexes are provided for the Rules of Court and the State Constitution.

Sections repealed or decodified; Disposition table: Memorials to RCW sections repealed or decodified are tabulated in numerical order in the table entitled "Disposition of former RCW sections."

Codification tables: To convert a session law citation to its RCW number (for Laws of 1951 or later) consult the codification tables. A similar table is included to relate the disposition in RCW of sections of Remington's Revised Statutes.

Errors or omissions: (1) Where an obvious clerical error has been made in the law during the legislative process, the code reviser adds a corrected word, phrase, or punctuation mark in [brackets] for clarity. These additions do not constitute any part of the law.

(2) Although considerable care has been taken in the production of this code, within the limits of available time and facilities it is inevitable that in so large a work that there will be errors, both mechanical and of judgment. When those who use this code detect errors in particular sections, a note citing the section involved and the nature of the error may be sent to: Code Reviser, Box 40551, Legislative Building, Olympia, WA 98504, so that correction may be made in a subsequent publication.

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Title 37

FEDERAL AREAS—INDIANS

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- 37.08** Jurisdiction in special cases.
- 37.12** Indians and Indian lands—Jurisdiction.
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Chapter 37.04

GENERAL CESSION OF JURISDICTION

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- 37.04.010 Consent given to acquisition of land by United States.
- 37.04.020 Concurrent jurisdiction ceded—Reverter.
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- 37.04.050 Concurrent jurisdiction—Governor authorized to accept—Procedures.

Authority of federal government over federal areas: State Constitution Art. 25.

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37.04.010 Consent given to acquisition of land by United States. The consent of this state is hereby given to the acquisition by the United States, or under its authority, by purchase, lease, condemnation, or otherwise, of any land acquired, or to be acquired, in this state by the United States, from any individual, body politic or corporate, as sites for forts, magazines, arsenals, dockyards, and other needful buildings or for any other purpose whatsoever. The evidence of title to such land shall be recorded as in other cases. [1939 c 126 § 1; RRS § 8108-1.]

37.04.020 Concurrent jurisdiction ceded—Reverter. Concurrent jurisdiction with this state in and over any land so acquired by the United States shall be, and the same is hereby, ceded to the United States for all purposes for which the land was acquired; but the jurisdiction so ceded shall continue no longer than the United States shall be the owner of such lands, and if the purposes of any grant to or acquisition by the United States shall cease, or the United States shall for five consecutive years fail to use any such land for

the purposes of the grant or acquisition, the jurisdiction hereby ceded over the same shall cease and determine, and the right and title thereto shall revert in this state. The jurisdiction ceded shall not vest until the United States shall acquire title of record to such land. [1939 c 126 § 2; RRS § 8108-2.]

37.04.030 Reserved jurisdiction of state. The state of Washington hereby expressly reserves such jurisdiction and authority over land acquired or to be acquired by the United States as aforesaid as is not inconsistent with the jurisdiction ceded to the United States by virtue of such acquisition. [1939 c 126 § 3; RRS § 8108-3.]

37.04.040 Previous cessions of jurisdiction saved. Sections 8108 and 8109, Remington's Revised Statutes [1891 pp 31, 32 §§ 1, 2], and all other acts and parts of acts inconsistent with the provisions of this chapter are hereby repealed: PROVIDED, That jurisdiction heretofore ceded to the United States over any land within this state by any previous act of the legislature shall continue according to the terms of the respective cessions: PROVIDED FURTHER, That if jurisdiction so ceded by any previous act of the legislature has not been affirmatively accepted by the United States, or if the United States has failed or ceased to use any such land for the purposes for which acquired, jurisdiction thereafter shall be governed by the provisions of this chapter. [1939 c 126 § 4; RRS § 8108-4.]

37.04.050 Concurrent jurisdiction—Governor authorized to accept—Procedures. (1) Upon the filing of a legally adequate notice with the governor by the secretary or administrator of any agency of the United States of America owning or having exclusive jurisdiction over certain property, the governor is authorized and directed to accept such jurisdiction as is necessary to establish concurrent jurisdiction between the United States and the state of Washington over the property as described in such notice and to the extent and periods of time authorized in such notice. The acquisition of such concurrent jurisdiction shall become effective upon filing the documents signifying such acceptance in the office of the secretary of state of the state of Washington.

(2) The authorization contained in subsection (1) of this section shall not be exclusive, shall not affect any existing jurisdiction or concurrent jurisdiction by the state over federal property, and shall be in addition to any other method or methods of assuming jurisdiction or concurrent jurisdiction over federal property. [1979 ex.s. c 49 § 1.]

Chapter 37.08

JURISDICTION IN SPECIAL CASES

Sections

37.08.180	Jurisdiction ceded.
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37.08.210	Olympic National Park.
37.08.220	National forests, establishment, consolidation, extension of.
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37.08.260	Auburn general depot.
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37.08.280	Veterans hospitals.

37.08.180 Jurisdiction ceded. Jurisdiction ceded when acquisition of land for permanent military installations, see RCW 37.16.180.

37.08.200 Rainier National Park. Exclusive jurisdiction shall be, and the same is hereby ceded to the United States over and within all the territory that is now or may hereafter be included in that tract of land in the state of Washington, set aside for the purposes of a national park, and known as the Rainier National Park; saving, however, to the said state, the right to serve civil or criminal process within the limits of the aforesaid park, in suits or prosecutions for or on account of rights acquired, obligations incurred or crimes committed in said state, but outside of said park; and saving further to the said state the right to tax persons and corporations, their franchises and property on the lands included in said park: PROVIDED, HOWEVER, This jurisdiction shall not vest until the United States through the proper officer, notifies the governor of this state that they assume police or military jurisdiction over said park. [1901 c 92 § 1; RRS § 8110.]

37.08.210 Olympic National Park. Exclusive jurisdiction shall be, and the same is hereby ceded to the United States over and within all the territory that is now or hereafter included in that tract of land in the state of Washington, set aside for the purposes of a national park, and known as the Olympic National Park; saving, however, to the said state, the right to serve civil and criminal process within the limits of the aforesaid park, in suits or prosecutions for or on account of rights acquired, obligations incurred or crimes committed in said state, but outside of said park; and saving further to the said state the right to tax persons and corporations, their franchises and property on the lands included in said park: PROVIDED, HOWEVER, This jurisdiction shall not vest until the United States, through the proper officer, notifies the governor of this state that they assume police or military jurisdiction over said park: AND PROVIDED FURTHER, That full jurisdiction over a strip of land two hundred fifty feet wide, being one hundred twenty-five feet wide on each side of the now existing center line of primary state highway No. 9 together with existing pit sites and stockpile sites within said park shall be retained by the state of Washington. [1945 c 114 § 1; 1941 c 51 § 1; 1939 c 170 § 1; Rem. Supp. 1945 § 8110-1.]

37.08.220 National forests, establishment, consolidation, extension of. The legislature of the state of Washington hereby consents to the acquisition by the United States by purchase or gift of such lands in the state of Washington as in the opinion of the government of the United States may be needed for the establishment, consolidation and extension of national forests in this state under the provisions of the act of congress approved March 1, 1911, and entitled: "An act to enable any state to cooperate with any other state or states or with the United States for the protection of the watersheds of navigable streams and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," as amended: PROVIDED, The state of Washington shall retain a concurrent jurisdiction with the United States in and over lands so acquired so far that civil processes in all cases, and such criminal processes as may issue under the authority of the state of Washington against any person charged with the commission of any crime without or within said jurisdiction, may be executed thereon in like manner as if this consent had not been granted: PROVIDED FURTHER, That before any acquirement of lands be made under the provisions of this section, such acquisition shall be approved by the department of natural resources: AND FURTHER PROVIDED, That the state of Washington shall retain concurrent jurisdiction to tax persons and corporations and their property and transaction on such lands so acquired. [1988 c 128 § 8; 1935 c 58 § 1; RRS § 9663-23.]

County may convey forest lands to United States: RCW 36.34.210.

37.08.230 Migratory bird preserves. Consent of the state of Washington is given to the acquisition by the United States by purchase, gift, devise, or lease of such areas of land or water, or of land and water, in the state of Washington, as the United States may deem necessary for the establishment of migratory-bird reservations in accordance with the act of congress approved February 18, 1929, entitled "An Act to more effectively meet the obligations of the United States under the migratory bird treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage and other causes by the acquisition of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds; and authorizing appropriations for the establishment of such areas, their maintenance and improvement and for other purposes," reserving, however, to the state of Washington full and complete jurisdiction and authority over all such areas not incompatible with the administration, maintenance, protection, and control thereof by the United States under the terms of said act of congress. [1933 c 159 § 1; no RRS.]

37.08.240 Lake Washington ship canal. That in aid of the construction, maintenance and operation of a ship canal, by the United States of America, to connect the waters of Lakes Union and Washington, in King county, with Puget Sound, together with all necessary and convenient locks, landways, spillways, buildings, power plant and other proper appurtenances, there be and hereby is granted by this state to said United States the right to place, construct, maintain, and operate, such ship canal; landways, spillways, buildings, power plant and other proper appurtenances, upon, along,

through and over any and all lands belonging to and waters of this state in said King county, within such limits as shall be defined by the plans and specifications for such improvement as the same shall be approved by the United States secretary of war, and the right to raise the waters of Salmon Bay and the right to lower the waters of Lake Washington, in prosecution of such improvement, and this state hereby releases the United States from all liability to damages to this state, its successors or assigns, that shall or might arise from such lowering or raising of waters, or otherwise from such improvement. But nothing in this section contained shall operate as an assumption of nor create any liability on the part of the state, for any damages which may result to any person, company or corporation. [1901 c 6 § 1; RRS § 8120.]

37.08.250 Additional right-of-way. That a right-of-way of not exceeding five hundred feet in width is hereby granted to the United States of America through any lands or shorelands belonging to the state of Washington, or to the University of Washington, and lying in King county between Lakes Union and Washington, or in or adjoining either of them, the southern boundary of such right-of-way on the upland to be coincident with the southern boundary of the lands now occupied by the University of Washington adjacent to the present right-of-way of said canal; the width and definite location of such right-of-way before the same is taken possession of by said United States shall be plainly and completely platted and a plat thereof approved by the secretary of war of the United States filed with the department of natural resources: PROVIDED, That nothing in this section contained shall be construed to repeal or impair any right, interest, privilege or grant expressed or intended in the act of the legislature of the state of Washington approved February 8, 1901, entitled, "An Act relative to and in aid of the construction, maintenance and operation by the United States of America of a ship canal with proper locks and appurtenances to connect the waters of Lakes Union and Washington in King county with Puget Sound and declaring an emergency." [1988 c 128 § 9; 1907 c 216 § 1; RRS § 8121.]

37.08.260 Auburn general depot. Concurrent jurisdiction shall be, and the same is hereby ceded to the United States over and within all the land comprising the Auburn General Depot area, being 570.08 acres, more or less, situate in King county, state of Washington; saving, however, to the state the right to serve civil and criminal process within the limits of the aforesaid area in suits or prosecutions for or on account of rights acquired, obligations incurred or crimes committed in said state, but outside of said area. The metes and bounds description of the land over which jurisdiction is ceded hereby is as follows:

A parcel of land in sections 24 and 25, Township 21 North, Range 4 East, Willamette Meridian, King County, as follows: Beginning at a point on the west line of the Northern Pacific Railway right-of-way which point is S 89°16'55" W, 423.65 feet and N 2°12'33" W, 20 feet from the southeast corner of section 25, thence S 89°16'55" W, 1548.93 feet along the north right-of-way line of Ellingson Road to a point, thence N 0°10'45" E, 1298.11 feet to a

point, thence S 89°31'28" W, 638.25 feet to the east right-of-way line of Greenhalgh Road, thence N 0°08'47" E, 1351.31 feet along said east right-of-way line to its intersection with the north right-of-way line of Algona Road, thence S 89°46'07" W, 1724.35 feet along said north right-of-way line to a point on the easterly right-of-way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad, thence N 0°04'38" W, 1223.74 feet along said right-of-way to a point of spiral curve, thence along a spiral curve whose central angle is 1°36'14" and whose long chord bears N 0°27'20" E, 158.51 feet, thence along a circular curve to the right, whose radius bears S 88°28'24" E, 2822.01 feet, through a central angle of 21°16'24" for a distance of 1047.78 feet to a point of spiral, thence along a spiral curve whose central angle is 1°36'14", and whose long chord bears N 23°51'42" E, 158.51 feet, thence N 24°24'15" E, 3088.12 feet to a point of spiral curve, thence along a spiral whose central angle is 1°35'51", and whose long chord bears N 23°51'55" E, 161.51 feet to point of circular curve, thence along a circular curve, to the left, whose radius bears N 67°11'36" W, 2908.01 feet, through a central angle of 20°58'46" for a distance of 1064.80 feet, thence along a spiral curve to the left, whose central angle is 1°35'51", and whose long chord bears N 0°45'10" E, 161.51 feet, thence N 0°13'47" E, 1148.81 feet to the centerline of the Chicago, Milwaukee, St. Paul and Pacific Railroad and Northern Pacific crossover track being a point in a curve, thence along centerline of said crossover track on a curve to the left in a southeasterly direction, from a radius which bears N 63°36'26" E, 351.28 feet, through a central angle of 26°50'13" for a distance of 164.54 feet, thence S 53°13'47" E, 1840.78 feet along said centerline, thence along a curve to the right in a southeasterly direction, from a radius which bears S 36°46'13" W, 386.60 feet, through a central angle of 10°26'06" for a distance of 70.41 feet to the intersection of the westerly right-of-way line of county road No. 76, thence *S 2°12'33" E, 6596.21 feet along the westerly right-of-way line of county road No. 76 to the East-West centerline of said section 25, thence N 89°46'02" E, 60.04 feet to the westerly right-of-way line of the Northern Pacific Railway Company, thence S 2°12'33" E, 2605.01 feet to point of beginning. The jurisdiction ceded hereby does not extend to any existing perimeter railroad or county road right-of-way. [1951 c 40 § 1.]

*Reviser's note: In the third from the last course, the "2" in the description "S 2°12'33" E" was by typographical error omitted from the session laws. The digit is inserted by the reviser after verification from original sources.

37.08.270 Cession of jurisdiction. Cession of jurisdiction, lease or conveyances to United States for flood control, navigation and allied purposes, see RCW 36.34.220-36.34.240.

37.08.280 Veterans hospitals. Upon the filing of an appropriate notice thereof with the governor by the administrator of veterans affairs, an agency of the United States of America, pursuant to the provisions of section 302 of Public Law 93-82 (87 Stat. 195; 38 U.S.C. Sec. 5007), the governor is hereby authorized and directed to accept such legislative jurisdiction as is necessary to establish concurrent jurisdiction between the United States and the state of Washington

to all land comprising the veterans hospital located at Vancouver in Clark county, Washington; the veterans administration hospital located at Walla Walla in Walla Walla county, Washington, and the veterans administration hospital located at American Lake in Pierce county, Washington. The acquisition of such concurrent jurisdiction shall become effective upon filing the documents signifying such acceptance in the office of the secretary of state. [1975 1st ex.s. c 142 § 1.]

Chapter 37.12

INDIANS AND INDIAN LANDS—JURISDICTION

Sections

- 37.12.010 Assumption of criminal and civil jurisdiction by state.
- 37.12.021 Assumption of criminal and civil jurisdiction by state—Resolution of request—Proclamation by governor, 1963 act.
- 37.12.030 Effective date for assumption of jurisdiction—Criminal causes.
- 37.12.040 Effective date for assumption of jurisdiction—Civil causes.
- 37.12.050 State's jurisdiction limited by federal law.
- 37.12.060 Chapter limited in application.
- 37.12.070 Tribal ordinances, customs, not inconsistent with law applicable in civil causes.
- 37.12.100 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations—Retrocession of criminal jurisdiction—Intent.
- 37.12.110 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations—Retrocession of criminal jurisdiction—Definitions.
- 37.12.120 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations—Retrocession of criminal jurisdiction—Proclamation by governor.
- 37.12.130 Quileute, Chehalis, Swinomish, and Colville Indian reservations—Retrocession of criminal jurisdiction—Savings.
- 37.12.140 Quileute, Chehalis, Swinomish, and Colville Indian reservations—Retrocession of criminal jurisdiction—Short title.
- 37.12.150 Retrocession of federal jurisdiction over lands excluded from Olympic National Park.

Alienation of land by Indians: Chapter 64.20 RCW.

Annexation of federal areas by first class city: RCW 35.13.185.

Compact with the United States: State Constitution Art. 26 § 2.

Daylight saving time—Prohibition not applicable to federal areas: RCW 1.20.050.

Qualifications of voters: State Constitution Art. 6 § 1 (Amendment 63).

37.12.010 Assumption of criminal and civil jurisdiction by state. The state of Washington hereby obligates and binds itself to assume criminal and civil jurisdiction over Indians and Indian territory, reservations, country, and lands within this state in accordance with the consent of the United States given by the act of August 15, 1953 (Public Law 280, 83rd Congress, 1st Session), but such assumption of jurisdiction shall not apply to Indians when on their tribal lands or allotted lands within an established Indian reservation and held in trust by the United States or subject to a restriction against alienation imposed by the United States, unless the provisions of RCW 37.12.021 have been invoked, except for the following:

- (1) Compulsory school attendance;
- (2) Public assistance;
- (3) Domestic relations;
- (4) Mental illness;
- (5) Juvenile delinquency;

- (6) Adoption proceedings;
- (7) Dependent children; and
- (8) Operation of motor vehicles upon the public streets, alleys, roads and highways: PROVIDED FURTHER, That Indian tribes that petitioned for, were granted and became subject to state jurisdiction pursuant to this chapter on or before March 13, 1963 shall remain subject to state civil and criminal jurisdiction as if *chapter 36, Laws of 1963 had not been enacted. [1963 c 36 § 1; 1957 c 240 § 1.]

*Reviser's note: Chapter 36, Laws of 1963, which became effective on March 13, 1963, amended RCW 37.12.010, 37.12.030, 37.12.040, and 37.12.060, repealed RCW 37.12.020, and enacted a new section codified herein as RCW 37.12.021.

37.12.021 Assumption of criminal and civil jurisdiction by state—Resolution of request—Proclamation by governor, 1963 act. Whenever the governor of this state shall receive from the majority of any tribe or the tribal council or other governing body, duly recognized by the Bureau of Indian Affairs, of any Indian tribe, community, band or group in this state a resolution expressing its desire that its people and lands be subject to the criminal or civil jurisdiction of the state of Washington to the full extent authorized by federal law, he shall issue within sixty days a proclamation to the effect that such jurisdiction shall apply to all Indians and all Indian territory, reservations, country, and lands of the Indian body involved to the same extent that this state exercises civil and criminal jurisdiction or both elsewhere within the state: PROVIDED, That jurisdiction assumed pursuant to this section shall nevertheless be subject to the limitations set forth in RCW 37.12.060. [1963 c 36 § 5.]

37.12.030 Effective date for assumption of jurisdiction—Criminal causes. Upon March 13, 1963 the state of Washington shall assume jurisdiction over offenses as set forth in RCW 37.12.010 committed by or against Indians in the lands prescribed in RCW 37.12.010 to the same extent that this state has jurisdiction over offenses committed elsewhere within this state, and such criminal laws of this state shall have the same force and effect within such lands as they have elsewhere within this state. [1963 c 36 § 2; 1957 c 240 § 3.]

37.12.040 Effective date for assumption of jurisdiction—Civil causes. Upon March 13, 1963 the state of Washington shall assume jurisdiction over civil causes of action as set forth in RCW 37.12.010 between Indians or to which Indians are parties which arise in the lands prescribed in RCW 37.12.010 to the same extent that this state has jurisdiction over other civil causes of action and, except as otherwise provided in this chapter, those civil laws of this state that are of general application to private persons or private property shall have the same force and effect within such lands as they have elsewhere within this state. [1963 c 36 § 3; 1957 c 240 § 4.]

37.12.050 State's jurisdiction limited by federal law. The jurisdiction assumed pursuant to this chapter shall be subject to the limitations and provisions of the federal act of

August 15, 1953 (Public Law 280, 83rd Congress, 1st Session). [1957 c 240 § 5.]

37.12.060 Chapter limited in application. Nothing in this chapter shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights and tidelands, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the state to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under federal treaty, agreement, statute, or executive order with respect to Indian land grants, hunting, trapping, or fishing or the control, licensing, or regulation thereof. [1963 c 36 § 4; 1957 c 240 § 6.]

37.12.070 Tribal ordinances, customs, not inconsistent with law applicable in civil causes. Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the state, be given full force and effect in the determination of civil causes of action pursuant to this section. [1957 c 240 § 7.]

37.12.100 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations—Retrocession of criminal jurisdiction—Intent. It is the intent of the legislature to authorize a procedure for the retrocession, to the Quileute Tribe, Chehalis Tribe, Swinomish Tribe, Skokomish Tribe, Muckleshoot Tribe, Tulalip Tribes, and the Colville Confederated Tribes of Washington and the United States, of criminal jurisdiction over Indians for acts occurring on tribal lands or allotted lands within the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, or Colville Indian reservation and held in trust by the United States or subject to a restriction against alienation imposed by the United States.

RCW 37.12.100 through 37.12.140 in no way expand the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, or Colville tribe's criminal or civil jurisdiction, if any, over non-Indians or fee title property. RCW 37.12.100 through 37.12.140 shall have no effect whatsoever on water rights, hunting and fishing rights, the established pattern of civil jurisdiction existing on the lands of the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, or Colville Indian reservation, the established pattern of regulatory jurisdiction existing on the lands of the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, or Colville Indian reservation, taxation, or any other matter not specifically included within the terms of RCW 37.12.100 through 37.12.140. [1995 c 202 § 1; 1995 c 177 § 1; 1994 c 12 § 1; 1988 c 108 § 1; 1986 c 267 § 2.]

Reviser's note: This section was amended by 1995 c 177 § 1 and by 1995 c 202 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1986 c 267: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 267 § 8.]

37.12.110 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations—Retrocession of criminal jurisdiction—Definitions. Unless the context clearly requires otherwise, the following definitions apply throughout RCW 37.12.100 through 37.12.140:

(1) "Colville reservation" or "Colville Indian reservation," "Quileute reservation" or "Quileute Indian reservation," "Chehalis reservation" or "Chehalis Indian reservation," "Swinomish reservation" or "Swinomish Indian reservation," "Skokomish reservation" or "Skokomish Indian reservation," "Muckleshoot reservation" or "Muckleshoot Indian reservation," or "Tulalip reservation" or "Tulalip Indian reservation" means all tribal lands or allotted lands lying within the reservation of the named tribe and held in trust by the United States or subject to a restriction against alienation imposed by the United States, but does not include those lands which lie north of the present Colville Indian reservation which were included in original reservation boundaries created in 1872 and which are referred to as the "diminished reservation."

(2) "Indian tribe," "tribe," "Colville tribes," or "Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, or Tulalip tribe" means the confederated tribes of the Colville reservation or the tribe of the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, or Tulalip reservation.

(3) "Tribal court" means the trial and appellate courts of the Colville tribes or the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, or Tulalip tribe. [1995 c 202 § 2; 1995 c 177 § 2; 1994 c 12 § 2; 1988 c 108 § 2; 1986 c 267 § 3.]

Reviser's note: This section was amended by 1995 c 177 § 2 and by 1995 c 202 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1986 c 267: See note following RCW 37.12.100.

37.12.120 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations—Retrocession of criminal jurisdiction—Proclamation by governor. Whenever the governor receives from the confederated tribes of the Colville reservation or the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, or Tulalip tribe a resolution expressing their desire for the retrocession by the state of all or any measure of the criminal jurisdiction acquired by the state pursuant to RCW 37.12.021 over lands of that tribe's reservation, the governor may, within ninety days, issue a proclamation retroceding to the United States the criminal jurisdiction previously acquired by the state over such reservation. However, the state of Washington shall retain jurisdiction as provided in RCW 37.12.010. The proclamation of retrocession shall not become effective until it is accepted by an officer of the United States government in accordance with

25 U.S.C. Sec. 1323 (82 Stat. 78, 79) and in accordance with procedures established by the United States for acceptance of such retrocession of jurisdiction. The Colville tribes and the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, and Tulalip tribes shall not exercise criminal or civil jurisdiction over non-Indians. [1995 c 202 § 3; 1995 c 177 § 3; 1994 c 12 § 3; 1988 c 108 § 3; 1986 c 267 § 4.]

Reviser's note: This section was amended by 1995 c 177 § 3 and by 1995 c 202 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1986 c 267: See note following RCW 37.12.100.

37.12.130 Quileute, Chehalis, Swinomish, and Colville Indian reservations—Retrocession of criminal jurisdiction—Savings. An action or proceeding which has been filed with any court or agency of the state or local government preceding the effective date of retrocession of jurisdiction under RCW 37.12.100 through 37.12.140 shall not abate by reason of the retrocession or determination of jurisdiction. [1986 c 267 § 6.]

Severability—1986 c 267: See note following RCW 37.12.100.

37.12.140 Quileute, Chehalis, Swinomish, and Colville Indian reservations—Retrocession of criminal jurisdiction—Short title. RCW 37.12.100 through 37.12.140 may be known and cited as the Indian reservation criminal jurisdiction retrocession act. [1988 c 108 § 4; 1986 c 267 § 1.]

Severability—1986 c 267: See note following RCW 37.12.100.

37.12.150 Retrocession of federal jurisdiction over lands excluded from Olympic National Park. The state of Washington hereby accepts retrocession from the United States of the jurisdiction which the United States acquired over those lands excluded from the boundaries of the Olympic National Park by 16 U.S.C. Sec. 251e. The lands restored to the Quileute Indian Reservation by Public Law 94-578 shall be subject to the same Washington state and tribal jurisdiction as all other lands within the Quileute Reservation. [1988 c 108 § 5.]

Chapter 37.14

INDIAN CULTURAL FACILITY BOND ISSUE

Sections

- 37.14.010 General obligation bonds—Authorized—Issuance, sale, terms, etc.
- 37.14.020 Anticipation notes—Proceeds of bonds and notes.
- 37.14.030 Administration of proceeds.
- 37.14.040 Retirement of bonds from Indian cultural center construction bond redemption fund—Source—Remedies of bond holders.
- 37.14.050 Legal investment for public funds.
- 37.14.900 Severability—1975-'76 2nd ex.s. c 128.

37.14.010 General obligation bonds—Authorized—Issuance, sale, terms, etc. Solely for the purpose of providing a matching grant for the planning, design, acquisition, construction, furnishing, equipping, remodeling, and landscaping of a regional Indian cultural, educational, tourist, and economic development facility designated as the

"people's lodge," the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one million dollars or so much thereof as shall be required to finance that portion of the grant by the state for said project as is set forth by appropriation from the Indian cultural center construction account in the state treasury for such purposes, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington. All earnings of investments of balances in the Indian cultural center construction account shall be credited to the general fund.

If one hundred fifteen thousand dollars or more in additional federal and/or private funding is not secured within five years of September 1, 1979, and applied toward the completion of the "people's lodge," ownership of the property and/or facility developed with the proceeds of the bonds issued under this section shall be transferred to the state. Expenditure of these bond proceeds shall be conditioned on prior approval by the director of general administration of any real estate acquisitions and of construction plans for any building and/or grounds projects. The director's approval shall be based on a finding that any real estate to be acquired is appraised at or above the purchase price, that any construction plans for building and/or grounds projects provide for completion of any facilities contemplated therein, and that there are funds in an amount sufficient to finish the project so that it is fully operational for its intended uses.

The state finance committee is authorized to prescribe the form of such bonds, the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1985 c 57 § 20; 1983 1st ex.s. c 54 § 7; 1979 ex.s. c 246 § 1; 1975-'76 2nd ex.s. c 128 § 1.]

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1983 1st ex.s. c 54: See RCW 43.83.196.

37.14.020 Anticipation notes—Proceeds of bonds and notes. At the time the state finance committee determines to issue such bonds authorized in RCW 37.14.010 or a portion thereof, it may issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The proceeds from the sale of bonds and notes authorized by this chapter shall be deposited in the Indian cultural center construction account of the general fund hereby created in the state treasury and shall be used exclusively for the purposes specified in this chapter and for the payment of expenses incurred in the issuance and sale of such bonds and notes: PROVIDED, Such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation

notes as have been issued, shall be deposited in the bond redemption fund created in RCW 37.14.040. [1975-'76 2nd ex.s. c 128 § 2.]

37.14.030 Administration of proceeds. The principal proceeds from the sale of the bonds authorized in this chapter and deposited in the Indian cultural center construction account in the general fund shall be administered by the executive director of the arts commission. [1975-'76 2nd ex.s. c 128 § 3.]

37.14.040 Retirement of bonds from Indian cultural center construction bond redemption fund—Source—Remedies of bond holders. The Indian cultural center construction bond redemption fund of 1976 is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds and notes authorized by this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the Indian cultural center construction bond redemption fund of 1976 from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed herein. [1975-'76 2nd ex.s. c 128 § 4.]

37.14.050 Legal investment for public funds. The bonds authorized by this chapter shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975-'76 2nd ex.s. c 128 § 5.]

37.14.900 Severability—1975-'76 2nd ex.s. c 128. If any provision of this 1976 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 128 § 6.]

Most of the sections in this chapter were subsequently repealed by 1971 c 76 § 6.

Appropriation authorized in aid of federal or state improvement: RCW 8.08.090.

Condemnation for military purposes: RCW 8.04.170, 8.04.180.

Eminent domain by counties: Chapter 8.08 RCW.

Joint armory sites: RCW 36.64.050.

Lease or conveyance to the state or to United States for military, housing and other purposes: RCW 36.34.250.

Leases to United States for national defense: RCW 79.08.120.

Long term leases to United States by counties: RCW 36.34.310.

Tide and shore land grants to United States: RCW 79.94.410 through 79.94.440.

Transfer of property to state or United States for military purposes or housing projects: RCW 36.34.260.

37.16.180 Jurisdiction ceded. Pursuant to the Constitution and laws of the United States, and especially to paragraph seventeen of section eight of article one of such Constitution, the consent of the legislature of the state of Washington is hereby given to the United States to acquire by donation from any county acting under the provisions of this chapter, title to all the lands herein intended to be referred to, to be evidenced by the deed or deeds of such county, signed by the chairman of its board of county commissioners and attested by the clerk of such board under the seal of such board, and the consent of the state of Washington is hereby given to the exercise by the congress of the United States of exclusive legislation in all cases whatsoever, over such tracts or parcels of land so conveyed to it: PROVIDED, Upon such conveyance being concluded, a sufficient description by metes and bounds and an accurate plat or map of each such tract or parcel of land be filed in the auditor's office of the county in which such lands are situated, together with copies of the orders, deeds, patents, or other evidences in writing of the title of the United States: AND PROVIDED, That all civil process issued from the courts of this state, and such criminal process as may issue under the authority of this state against any person charged with crime in cases arising outside of such reservation, may be served and executed thereon in the same mode and manner and by the same officers as if the consent herein given had not been made. [1917 c 4 § 22; no RRS. Formerly RCW 37.08.180.]

General cession of jurisdiction: Chapter 37.04 RCW.

Jurisdiction in special cases: Chapter 37.08 RCW.

Chapter 37.16

ACQUISITION OF LANDS FOR PERMANENT MILITARY INSTALLATIONS

Sections

37.16.180 Jurisdiction ceded.

Reviser's note: Chapter 4, Laws of 1917, herein codified as chapter 37.16 RCW, is discussed in *State ex rel. Board of Commissioners v. Clausen*, 95 Wash. 214, 163 Pac. 744 (1917), where it is considered in conjunction with 1917 c 3, a special act authorizing (and directing) Pierce county to condemn property and issue bonds in payment of awards therefor in order to secure the location of Camp (now Fort) Lewis in that county. In prior compilations, Remington omitted 1917 c 4, and Pierce omitted all but section 22, ceding the state's jurisdiction to the United States. 1917 c 4 appears to have been a general act and for that reason was codified herein.



Title 38

MILITIA AND MILITARY AFFAIRS

Chapters

- 38.04** General provisions.
- 38.08** Powers and duties of governor.
- 38.12** Militia officers and advisory council.
- 38.14** Washington state guard.
- 38.16** Enlistments and reserves.
- 38.20** Armories and rifle ranges.
- 38.24** Claims and compensation.
- 38.32** Offenses—Punishment.
- 38.36** Trial procedure.
- 38.38** Washington code of military justice.
- 38.40** Miscellaneous provisions.
- 38.44** Enrollment of persons.
- 38.48** State and national defense.
- 38.52** Emergency management.
- 38.54** State fire services mobilization.

Explosives, manufacture, sale or storage: Chapter 70.74 RCW.

*Limitation on members of the legislature holding office in the state—
Exception: State Constitution Art. 2 § 14.*

*Microfilming of records to provide continuity of civil government: Chapter
40.10 RCW.*

Military subordinate to civil power: State Constitution Art. 1 § 18.

National guard conditional scholarship program: Chapter 28B.103 RCW.

Quartering soldiers in residences: State Constitution Art. 1 § 31.

Right to bear arms: State Constitution Art. 1 § 24.

*Special act relating to aerospace science and modeling center at Camp
Murray: 1969 ex.s. c 85.*

SPECIAL ACTS RELATING TO ARMORIES: *The following special or
temporary acts relating to particular armories are not codified herein:*

- (1) 1959 c 181; 1961 c 135; 1963 c 146, Seattle.*
- (2) 1967 c 37, Prosser.*
- (3) 1967 c 43, Centralia.*
- (4) 1967 c 44, Chewelah.*
- (5) 1967 c 214, Stevens County.*
- (6) 1967 c 224, Tacoma and Pierce County.*
- (7) 1967 c 226, Yakima.*
- (8) 1969 ex.s. c 22, Kirkland.*

Special legislation: State Constitution Art. 2 § 28(2).

Standing army in time of peace prohibited: State Constitution Art. 1 § 31.

State flag furnished to armed forces: RCW 1.20.010.

State militia: State Constitution Art. 10.

Veterans and veterans' affairs: Title 73 RCW.

Chapter 38.04 GENERAL PROVISIONS

Sections

- 38.04.010** General definitions.
- 38.04.020** "Officer," "enlisted men," "enlisted persons" defined—
Convictions and punishments.
- 38.04.030** Composition of the militia.
- 38.04.040** Composition of organized militia.

*Acknowledgments and powers of attorney of military personnel: Chapter
73.20 RCW.*

Military personnel classified as resident students: RCW 28B.15.014.

38.04.010 General definitions. When used in this title, the following words, terms, phrases shall have the following meaning:

The word "militia" shall mean the military forces provided for in the Constitution and laws of the state of Washington.

The term "organized militia" shall be the general term to include both state and national guard and whenever used applies equally to all such organizations.

The term "national guard" shall mean that part of the military force of the state that is organized, equipped and federally recognized under the provisions of the national defense act of the United States, and, in the event the national guard is called into federal service or in the event the state guard or any part or individual member thereof is called into active state service by the commander-in-chief, the term shall also include the "Washington state guard" or any temporary organization set up in times of emergency to replace either the "national guard" or "state guard" while in actual service of the United States.

The term "state guard" shall mean that part of the military forces of the state that is organized, equipped, and recognized under the provisions of the State Defense Forces Act of the United States (32 U.S.C. Sec. 109, as amended).

The term "active state service" or "active training duty" shall be construed to be any service on behalf of the state, or at encampments whether ordered by state or federal authority or any other duty requiring the entire time of any organization or person except when called or drafted into the federal service by the president of the United States.

The term "inactive duty" shall include periods of drill and such other training and service not requiring the entire time of the organization or person, as may be required under state or federal laws, regulations, or orders, including travel to and from such duty.

The terms "in service of United States" and "not in service of United States" as used herein shall be understood to mean the same as such terms when used in the national defense act of congress and amendments thereto.

The term "military" refers to any or all of the armed forces.

The term "armory" refers to any state-owned building, warehouse, vehicle storage compound, organizational maintenance shop or other facility and the lands appurtenant thereto used by the Washington national guard for the storage and maintenance of arms or military equipment or the administration or training of the organized militia.

The term "member" refers to a soldier or airman of the organized militia. [1991 c 43 § 1; 1989 c 19 § 1; 1963 c 220 § 133; 1943 c 130 § 12; Rem. Supp. 1943 § 8603-12. Prior: 1917 c 107 §§ 1, part, 3, part; 1909 c 134 § 10, part; 1895 c 108 § 10, part.]

Short title: "This act shall be known as the Military Code of the state of Washington." [1943 c 130 § 1.]

Severability—1943 c 130: "If any provisions of this act or the application thereof to any person or circumstances is held invalid for any reason, such determination shall not affect other provisions or applications of the act which can be given effect without the invalid provisions, and to this end, the provisions of this act are declared to be severable." [1943 c 130 § 95.]

Martial law: RCW 38.08.030.

38.04.020 "Officer," "enlisted men," "enlisted persons" defined—Convictions and punishments. Whenever used in this title, the word "officer" shall be understood to designate commissioned and warrant officers, and the words "enlisted men" or "enlisted persons" shall be understood to designate members of the organized militia of Washington other than commissioned or warrant officers. The convictions and punishments mentioned unless otherwise specifically designated, shall be understood to be respectively convictions and punishments by military courts. [1989 c 19 § 2; 1943 c 130 § 80; Rem. Supp. 1943 § 8603-80. Prior: 1917 c 107 § 60.]

38.04.030 Composition of the militia. The militia of the state of Washington shall consist of all able bodied citizens of the United States and all other able bodied persons who have declared their intention to become citizens of the United States, residing within this state, who shall be more than eighteen years of age, and shall include all persons who are members of the national guard and the state guard, and said militia shall be divided into two classes, the organized militia and the unorganized militia. [1989 c 19 § 3; 1973 1st ex.s. c 154 § 55; 1963 c 74 § 1; 1943 c 130 § 2; Rem. Supp. 1943 § 8603-2. Prior: 1917 c 107 § 1; 1909 c 134 § 2; 1895 c 108 § 2.]

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

Militia—Who liable to military duty: State Constitution Art. 10 § 1.

38.04.040 Composition of organized militia. The organized militia of Washington shall consist of the commissioned officers, warrant officers, enlisted persons, organizations, staffs, corps, and departments of the regularly commissioned, warranted and enlisted militia of the state, organized and maintained pursuant to law. Its numerical strength, composition, distribution, organization, arms, uniforms, equipment, training and discipline shall be prescribed by the governor in conformity with, and subject to the limitations imposed by the laws and regulations of the United States and the laws of this state: PROVIDED, HOWEVER, That the minimum enlisted strength of the organized militia of this state shall never be less than two thousand. The organized militia may include persons residing outside the state of Washington. [1989 c 19 § 4; 1943 c 130 § 4; Rem. Supp. 1943 § 8603-4. Prior: 1917 c 107 § 3. Cf. 1909 c 108 § 10, part; 1895 c 108 § 10, part.]

Chapter 38.08

POWERS AND DUTIES OF GOVERNOR

Sections

- 38.08.010 Conformance with federal laws.
- 38.08.020 Governor as commander-in-chief—Adjutant general executive head.
- 38.08.030 Proclamation of complete or limited martial law.
- 38.08.040 Governor may order out organized militia.
- 38.08.050 Governor may order out unorganized militia.
- 38.08.060 Governor's decision final.
- 38.08.070 Personal staff for governor.
- 38.08.090 Governor to promulgate rules.
- 38.08.100 Compacts with other states for guarding boundaries.
- 38.08.500 National guard mutual assistance counter-drug activities compact.

Commander-in-chief: State Constitution Art. 3 § 8.

Commander-in-chief may order enrollment: RCW 38.44.010.

Militia—Organization—Discipline—Officers—Power to call out: State Constitution Art. 10 § 2.

38.08.010 Conformance with federal laws. The governor shall cause the organized militia of this state at all times to conform to all federal laws and regulations as are now or may hereafter from time to time become operative and applicable, notwithstanding anything in the laws of this state to the contrary. Except as and when otherwise specifically provided by federal laws, the organized militia of Washington, or any part thereof, shall be subject to call for United States service at such times, in such manner, and in such numbers as may from time to time be prescribed by the United States.

In conformity with the provisions of federal statutes, officers and enlisted persons of the organized militia called or drafted into federal service by order or proclamation of the president of the United States, shall upon release from federal service revert to their former status, grade and rank, as members of the organized militia of Washington, and shall continue to serve in the organized militia of Washington until separated therefrom in the manner provided by law. [1989 c 19 § 5; 1943 c 130 § 5; Rem. Supp. 1943 § 8603-5. Prior: 1921 c 75 § 1; 1917 c 107 § 4; 1909 c 134 § 93; 1895 c 108 § 170.]

38.08.020 Governor as commander-in-chief—Adjutant general executive head. The militia of the state not in the service of the United States shall be governed and its affairs administered pursuant to law, by the governor, as commander-in-chief, through the adjutant general's department, of which the adjutant general shall be the executive head. [1961 c 210 § 1; 1943 c 130 § 3; Rem. Supp. 1943 § 8603-3. Prior: 1917 c 107 § 2; 1909 c 134 §§ 13, 14; 1895 c 108 § 13.]

Governor commander-in-chief: State Constitution Art. 3 § 8.

38.08.030 Proclamation of complete or limited martial law. The governor may by proclamation declare the county or city in which troops are serving, or any specific portion thereof, to be under either complete or limited martial law to the extent, in his or her opinion, that the reestablishment or maintenance of law and order may be promoted.

"Complete martial law" is the subordination of all civil authority to the military;

"Limited military law" is a partial subordination of civil authority by the setting up of an additional police power vested in the military force which shall have the right to try all persons apprehended by it in such area by a military tribunal or turn such offender over to civil authorities within five days for further action, during which time the writ of habeas corpus shall be suspended in behalf of such person. [1989 c 19 § 6; 1943 c 130 § 8; Rem. Supp. 1943 § 8603-8.]

38.08.040 Governor may order out organized militia. In event of war, insurrection, rebellion, invasion, tumult, riot, mob, or organized body acting together by force with intent to commit a felony or to offer violence to persons or property, or by force and violence to break and resist the laws of this state, or the United States, or in case of the imminent danger of the occurrence of any of said events, or at the lawful request of competent state or local authority in support of enforcement of controlled substance statutes, or whenever responsible civil authorities shall, for any reason, fail to preserve law and order, or protect life or property, or the governor believes that such failure is imminent, or in event of public disaster, the governor shall have power to order the organized militia of Washington, or any part thereof, into active service of the state to execute the laws, and to perform such duty as the governor shall deem proper. [1993 c 263 § 1; 1989 c 19 § 7; 1943 c 130 § 6; Rem. Supp. 1943 § 8603-6. Prior: 1917 c 107 § 7; 1913 c 66 § 2; 1909 c 134 § 15.]

38.08.050 Governor may order out unorganized militia. In event of, or imminent danger of, war, insurrection, rebellion, invasion, tumult, riot, resistance to law or process or breach of the peace, if the governor shall have ordered into active service all of the available forces of the organized militia of Washington and shall consider them insufficient in number to properly accomplish the purpose, he or she may then in addition order out the unorganized militia or such portion thereof as he may deem necessary, and cause them to perform such military duty as the circumstances may require. [1989 c 19 § 8; 1943 c 130 § 9; Rem. Supp. 1943 § 8603-9. Prior: 1917 c 107 § 9; 1909 c 134 § 17; 1903 c 155 § 15; 1895 c 108 § 112.]

38.08.060 Governor's decision final. Whenever any portion of the militia is ordered to duty by the governor, the decision of the governor shall be final, incontrovertible, and unimpeachable.

Whenever any portion of the militia has been ordered out by the governor, it shall be deemed that local law and order and the enforcement thereof has failed, and that the militia shall become an additional police power, retaining its separate entity and operating at all times as a military organization under military command, to cooperate with existing peace forces wherever possible, for the reestablishment of law and order and for the protection of life and property. [1943 c 130 § 7; Rem. Supp. 1943 § 8603-7.]

38.08.070 Personal staff for governor. Whenever the governor shall desire the attendance of a personal staff upon any occasion, he or she shall detail therefor officers from the active list of the organized militia of Washington; the officers detailed shall attend in uniform and shall constitute the personal staff of the governor for that occasion, reverting upon completion of such duty to their regular assignments. [1989 c 19 § 9; 1943 c 130 § 15; Rem. Supp. 1943 § 8603-15. Prior: 1917 c 107 § 6; 1909 c 134 § 14. Cf. 1895 c 108 § 13, part.]

38.08.090 Governor to promulgate rules. The governor, through the adjutant general, shall promulgate in orders such rules and amendments not inconsistent with law as the governor may deem necessary for the organization, maintenance and training of the militia, and the acquisition, use, issue or disposal of military property. The governor's regulatory powers herein with respect to military property shall include reasonable authority to make regulations controlling the use and temporary disposal of military property including real property for civic purposes where consistent with federal law and regulations, in a manner similar to the law pertaining to the use of armories. The adopted regulations shall have the same force and effect as if enacted. [1989 c 19 § 10; 1969 ex.s. c 86 § 1; 1943 c 130 § 92; Rem. Supp. 1943 § 8603-92. Prior: 1917 c 107 § 123; 1909 c 134 § 94; 1895 c 108 § 171.]

Commander-in-chief authorized to make rules for specific armories (special or temporary acts not codified in this title):

- (1) 1907 c 55 § 11, Armories at Seattle, Spokane and Tacoma;
- (2) 1909 c 68 § 10, Armory at Bellingham;
- (3) 1913 c 67 § 9, Armory at North Yakima;
- (4) 1917 c 108 § 9, Armory at Walla Walla;
- (5) 1917 c 109 § 9, Armory at Aberdeen;
- (6) 1917 c 166 § 9, Armory at Everett.

38.08.100 Compacts with other states for guarding boundaries. The governor, with consent of congress, is authorized to enter into compacts and agreements with governors of bordering states concerning guarding and patrol of bridges crossing the common boundaries of said states, and for the patrol of said common boundaries. In any such compact or agreement the governor is authorized to permit militia of any bordering state to enter into areas of this state adjacent to said border, or to send militia of this state into areas of any bordering state adjacent to the common boundary as may be necessary to provide effective protection. [1951 c 253 § 1.]

38.08.500 National guard mutual assistance counter-drug activities compact. (1) The governor, with the consent of congress, is authorized to enter into compacts and agreements for the deployment of the national guard with governors of other states concerning drug interdiction, counter-drug, and demand reduction activities. Article 1, section 10 of the Constitution of the United States permits a state to enter into a compact or agreement with another state, subject to the consent of congress. Congress, through enactment of Title 4 of the U.S.C. Section 112, encourages the states to enter such compacts for cooperative effort and mutual assistance.

(2) The compact language contained in this subsection is intended to deal comprehensively with the supportive relationships between states in utilizing national guard assets in counter-drug activities.

NATIONAL GUARD MUTUAL ASSISTANCE COUNTER-DRUG ACTIVITIES COMPACT

ARTICLE I PURPOSE

The purposes of this compact are to:

- (a) Provide for mutual assistance and support among the party states in the utilization of the national guard in drug interdiction, counter-drug, and demand reduction activities.
- (b) Permit the national guard of this state to enter into mutual assistance and support agreements, on the basis of need, with one or more law enforcement agencies operating within this state, for activities within this state, or with a national guard of one or more other states, whether said activities are within or without this state in order to facilitate and coordinate efficient, cooperative enforcement efforts directed toward drug interdiction, counter-drug activities, and demand reduction.
- (c) Permit the national guard of this state to act as a receiving and a responding state as defined within this compact and to ensure the prompt and effective delivery of national guard personnel, assets, and services to agencies or areas that are in need of increased support and presence.
- (d) Permit and encourage a high degree of flexibility in the deployment of national guard forces in the interest of efficiency.
- (e) Maximize the effectiveness of the national guard in those situations that call for its utilization under this compact.
- (f) Provide protection for the rights of national guard personnel when performing duty in other states in counter-drug activities.
- (g) Ensure uniformity of state laws in the area of national guard involvement in interstate counter-drug activities by incorporating said uniform laws within the compact.

ARTICLE II ENTRY INTO FORCE AND WITHDRAWAL

- (a) This compact shall enter into force when enacted into law by any two states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.
- (b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states.

ARTICLE III MUTUAL ASSISTANCE AND SUPPORT

- (a) As used in this article:
 - (1) "Drug interdiction and counter-drug activities" means the use of national guard personnel, while not in federal service, in any law enforcement support activities that are intended to reduce the supply or use of illegal drugs in the

United States. These activities include, but are not limited to:

- (i) Providing information obtained during either the normal course of military training or operations or during counter-drug activities, to federal, state, or local law enforcement officials that may be relevant to a violation of any federal or state law within the jurisdiction of such officials;
 - (ii) Making available any equipment, including associated supplies or spare parts, base facilities, or research facilities of the national guard to any federal, state, or local civilian law enforcement official for law enforcement purposes, in accordance with other applicable law or regulation;
 - (iii) Providing available national guard personnel to train federal, state, or local civilian law enforcement in the operation and maintenance of equipment, including equipment made available above, in accordance with other applicable law;
 - (iv) Providing available national guard personnel to operate and maintain equipment provided to federal, state, or local law enforcement officials pursuant to activities defined and referred to in this compact;
 - (v) Operation and maintenance of equipment and facilities of the national guard or law enforcement agencies used for the purposes of drug interdiction and counter-drug activities;
 - (vi) Providing available national guard personnel to operate equipment for the detection, monitoring, and communication of the movement of air, land, and sea traffic, to facilitate communications in connection with law enforcement programs, to provide transportation for civilian law enforcement personnel, and to operate bases of operations for civilian law enforcement personnel;
 - (vii) Providing available national guard personnel, equipment, and support for administrative, interpretive, analytic, or other purposes;
 - (viii) Providing available national guard personnel and equipment to aid federal, state, and local officials and agencies otherwise involved in the prosecution or incarceration of individuals processed within the criminal justice system who have been arrested for criminal acts involving the use, distribution, or transportation of controlled substances as defined in 21 U.S.C. Sec. 801 et seq., or otherwise by law, in accordance with other applicable law.
- (2) "Demand reduction" means providing available national guard personnel, equipment, support, and coordination to federal, state, local, and civic organizations, institutions and agencies for the purposes of the prevention of drug abuse and the reduction in the demand for illegal drugs.
- (3) "Requesting state" means the state whose governor requested assistance in the area of counter-drug activities.
- (4) "Responding state" means the state furnishing assistance, or requested to furnish assistance, in the area of counter-drug activities.
- (5) "Law enforcement agency" means a lawfully established federal, state, or local public agency that is responsible for the prevention and detection of crime and the enforcement of penal, traffic, regulatory, game, immigration, postal, customs, or controlled substances laws.
- (6) "Official" means the appointed, elected, designated, or otherwise duly selected representative of an agency,

institution, or organization authorized to conduct those activities for which support is requested.

(7) "Mutual assistance and support agreement" or "agreement" means an agreement between the national guard of this state and one or more law enforcement agencies or between the national guard of this state and the national guard of one or more other states, consistent with the purposes of this compact.

(8) "Party state" refers to a state that has lawfully enacted this compact.

(9) "State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(b) Upon the request of a governor of a party state for assistance in the area of interdiction and counter-drug, and demand reduction activities, the governor of a responding state shall have authority under this compact to send without the borders of his or her state and place under the temporary operational control of the appropriate national guard or other military authorities of the requesting state, for the purposes of providing such requested assistance, all or any part of the national guard forces of his or her state as he or she may deem necessary, and the exercise of his or her discretion in this regard shall be conclusive.

(c) The governor of a party state may, within his or her discretion, withhold the national guard forces of his or her state from such use and recall any forces or part or member thereof previously deployed in a requesting state.

(d) The national guard of this state is hereby authorized to engage in interdiction and counter-drug activities and demand reduction.

(e) The adjutant general of this state, in order to further the purposes of this compact, may enter into a mutual assistance and support agreement with one or more law enforcement agencies of this state, including federal law enforcement agencies operating within this state, or with the national guard of one or more other party states to provide personnel, assets, and services in the area of interdiction and counter-drug activities and demand reduction. However, no such agreement may be entered into with a party that is specifically prohibited by law from performing activities that are the subject of the agreement.

(f) The agreement must set forth the powers, rights, and obligations of the parties to the agreement, where applicable, as follows:

(1) Its duration;

(2) The organization, composition, and nature of any separate legal entity created thereby;

(3) The purpose of the agreement;

(4) The manner of financing the agreement and establishing and maintaining its budget;

(5) The method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(6) Provision for administering the agreement, which may include creation of a joint board responsible for such administration;

(7) The manner of acquiring, holding, and disposing of real and personal property used in this agreement, if necessary;

(8) The minimum standards for national guard personnel implementing the provisions of this agreement;

(9) The minimum insurance required of each party to the agreement, if necessary;

(10) The chain of command or delegation of authority to be followed by national guard personnel acting under the provisions of the agreement;

(11) The duties and authority that the national guard personnel of each party state may exercise; and

(12) Any other necessary and proper matters.

Agreements prepared under the provisions of this section are exempt from any general law pertaining to intergovernmental agreements.

(g) As a condition precedent to an agreement becoming effective under this part, the agreement must be submitted to and receive the approval of the office of the attorney general of Washington. The attorney general of the state of Washington may delegate his or her approval authority to the appropriate attorney for the Washington national guard subject to those conditions which he or she decides are appropriate. The delegation must be in writing and is subject to the following:

(1) The attorney general, or his or her agent as stated above, shall approve an agreement submitted to him or her under this part unless he or she finds that it is not in proper form, does not meet the requirements set forth in this part, or otherwise does not conform to the laws of Washington. If the attorney general disapproves an agreement, he or she shall provide a written explanation to the adjutant general of the Washington national guard; and

(2) If the attorney general, or his or her authorized agent as stated above, does not disapprove an agreement within thirty days after its submission to him or her, it is considered approved by him or her.

(h) Whenever national guard forces of any party state are engaged in the performance of duties, in the area of drug interdiction, counter-drug, and demand reduction activities, pursuant to orders, they shall not be held personally liable for any acts or omissions which occur during the performance of their duty.

ARTICLE IV RESPONSIBILITIES

(a) Nothing in this compact shall be construed as a waiver of any benefits, privileges, immunities, or rights otherwise provided for national guard personnel performing duty pursuant to Title 32 of the United States Code nor shall anything in this compact be construed as a waiver of coverage provided for under the Federal Tort Claims Act. In the event that national guard personnel performing counter-drug activities do not receive rights, benefits, privileges, and immunities otherwise provided for national guard personnel as stated above, the following provisions shall apply:

(1) Whenever national guard forces of any responding state are engaged in another state in carrying out the purposes of this compact, the members thereof so engaged shall have the same powers, duties, rights, privileges, and immunities as members of national guard forces of the requesting state. The requesting state shall save and hold members of the national guard forces of responding states harmless from

civil liability, except as otherwise provided herein, for acts or omissions that occur in the performance of their duty while engaged in carrying out the purposes of this compact, whether responding forces are serving the requesting state within the borders of the responding state or are attached to the requesting state for purposes of operational control.

(2) Subject to the provisions of paragraphs (3), (4), and (5) of this Article, all liability that may arise under the laws of the requesting state or the responding states, on account of or in connection with a request for assistance or support, shall be assumed and borne by the requesting state.

(3) Any responding state rendering aid or assistance pursuant to this compact shall be reimbursed by the requesting state for any loss or damage to, or expense incurred in the operation of, any equipment answering a request for aid, and for the cost of the materials, transportation, and maintenance of national guard personnel and equipment incurred in connection with such request, provided that nothing herein contained shall prevent any responding state from assuming such loss, damage, expense, or other cost.

(4) Unless there is a written agreement to the contrary, each party state shall provide, in the same amounts and manner as if they were on duty within their state, for pay and allowances of the personnel of its national guard units while engaged without the state pursuant to this compact and while going to and returning from such duty pursuant to this compact.

(5) Each party state providing for the payment of compensation and death benefits to injured members and the representatives of deceased members of its national guard forces in case such members sustain injuries or are killed within their own state shall provide for the payment of compensation and death benefits in the same manner and on the same terms in the event such members sustain injury or are killed while rendering assistance or support pursuant to this compact. Such benefits and compensation shall be deemed items of expense reimbursable pursuant to paragraph (3) of this Article.

(b) Officers and enlisted personnel of the national guard performing duties subject to proper orders pursuant to this compact shall be subject to and governed by the provisions of their home state code of military justice whether they are performing duties within or without their home state. In the event that any national guard member commits, or is suspected of committing, a criminal offense while performing duties pursuant to this compact without his or her home state, he or she may be returned immediately to his or her home state and said home state shall be responsible for any disciplinary action to be taken. However, nothing in this section shall abrogate the general criminal jurisdiction of the state in which the offense occurred.

ARTICLE V DELEGATION

Nothing in this compact shall be construed to prevent the governor of a party state from delegating any of his or her responsibilities or authority respecting the national guard, provided that such delegation is otherwise in accordance with law. For purposes of this compact, however, the governor shall not delegate the power to request assistance from another state.

ARTICLE VI LIMITATIONS

Nothing in this compact shall:

(a) Authorize or permit national guard units or personnel to be placed under the operational control of any person not having the national guard rank or status required by law for the command in question.

(b) Deprive a properly convened court of jurisdiction over an offense or a defendant merely because of the fact that the national guard, while performing duties pursuant to this compact, was utilized in achieving an arrest or indictment.

ARTICLE VII CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution of the United States or of any state or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters. [1993 c 263 § 2.]

Chapter 38.12

MILITIA OFFICERS AND ADVISORY COUNCIL

Sections

- 38.12.010 Adjutant general—Bond.
- 38.12.015 Department organized into separate divisions—Army national guard—Air national guard—Assistant adjutants general.
- 38.12.020 Powers and duties.
- 38.12.030 Adjutant general and assistant adjutants general—How chosen—Annual salaries—Members of judiciary eligible to serve in guard.
- 38.12.060 Officers to be commissioned by the governor.
- 38.12.070 Examining board.
- 38.12.095 Appointment or promotion of commissioned officers to be made by officer promotion board—Exceptions.
- 38.12.105 Criteria and guidelines for promotion of commissioned officers.
- 38.12.115 Officer promotion board—Meetings—Powers and duties.
- 38.12.125 Officer promotion board—Composition.
- 38.12.135 Officer promotion board—Official acts—Approval requirements—Rules.
- 38.12.150 Officer to take oath.
- 38.12.160 Oath, form of.
- 38.12.170 Termination of officers' membership—Review of retention potential.
- 38.12.180 Retirement of officers.
- 38.12.200 Uniform allowance to officers.

Militia—Organization—Discipline—Officers—Power to call out: State Constitution Art. 10 § 2.

38.12.010 Adjutant general—Bond. The governor, with the advice and consent of the senate, shall appoint an adjutant general who shall be chief of staff to the governor,

and may be removed by the governor at will. The adjutant general shall appoint the civilian employees and other personnel of the department and may remove any of them in accordance with applicable law.

The expenses of the adjutant general's department, necessary to the military service, shall be audited, allowed, and paid as other military expenditures.

The adjutant general must execute an official bond running to the state in the penal sum of twenty thousand dollars conditioned for the faithful performance of his or her duties. The bond shall be submitted to the attorney general for approval, and when approved shall be filed in the office of the secretary of state. The cost of the bond shall be paid by the state.

The adjutant general may obtain and pay for, from funds appropriated for military purposes, a surety bond or bonds running to the state covering such officers of the organized militia responsible to the state for money or military property, as may be advisable to insure proper accountability. The bond or bonds shall be approved and filed in the same manner as the adjutant general's bond. [1989 c 19 § 11; 1981 c 338 § 3; 1957 c 250 § 2. Prior: 1943 c 130 § 16, part; 1917 c 107 § 11, part; 1913 c 66 § 4, part; 1909 c 134 § 27, part; 1901 c 78 § 4, part; 1895 c 108 § 38, part; Rem. Supp. 1943 § 8603-16, part.]

38.12.015 Department organized into separate divisions—Army national guard—Air national guard—Assistant adjutants general. The adjutant general's department shall be organized into separate divisions for the Washington army national guard and the Washington air national guard. Each division may have a general officer at its head who will be referred to as the assistant adjutant general for the Washington army national guard and the assistant adjutant general for the Washington air national guard. [1961 c 210 § 2.]

38.12.020 Powers and duties. The adjutant general shall:

(1) Keep rosters of all active, reserve, and retired officers of the militia, and all other records, and papers required to be kept and filed therein, and shall submit to the governor such reports of the operations and conditions of the organized militia as the governor may require.

(2) Cause the military law, and such other military publications as may be necessary for the military service, to be prepared and distributed at the expense of the state, to the departments and units of the organized militia.

(3) Keep just and true accounts of all moneys received and disbursed by him or her.

(4) Attest all commissions issued to military officers of this state.

(5) Make out and transmit all militia reports, returns, and communications prescribed by acts of congress or by direction of the department of defense and the national guard bureau.

(6) Have a seal, and all copies, orders, records, and papers in his or her office, duly certified and authenticated under the seal, shall be evidence in all cases in like manner as if the originals were produced. The seal now used in the office of the adjutant general shall be the seal of his or her

office and shall be delivered by him or her to the successor. All orders issued from his or her office shall be authenticated with the seal.

(7) Make such regulations pertaining to the preparation of reports and returns and to the use, maintenance, care, and preservation of property in possession of the state for military purposes, whether belonging to the state or to the United States, as in his or her opinion the conditions demand.

(8) Attend to the care, preservation, safekeeping, and repairing of the arms, ordinance, accoutrements, equipment, and all other military property belonging to the state, or issued to the state by the United States for military purposes, and keep accurate accounts thereof. Any property of the state military department which, after proper inspection, is found unsuitable or no longer needed for use of the state military forces, shall be disposed of in such manner as the governor shall direct and the proceeds thereof used for replacements in kind or by other needed authorized military supplies, and the adjutant general may execute the necessary instruments of conveyance to effect such sale or disposal.

(9) Issue the military property as the necessity of service requires and make purchases for that purpose. No military property shall be issued or loaned to persons or organizations other than those belonging to the militia, except as permitted by applicable state or federal law.

(10) Keep on file in his office the reports and returns of military units, and all other writings and papers required to be transmitted to and preserved at the general headquarters of the state militia.

(11) Keep all records of volunteers commissioned or enlisted for all wars or insurrections, and of individual claims of citizens for service rendered in these wars or insurrections, and he or she shall also be the custodian of all records, relics, trophies, colors, and histories relating to such wars now in possession of, or which may be acquired by the state.

(12) Establish and maintain as part of his or her office a bureau of records of the services of the organized militia of the state, and upon request furnish a copy thereof or extract therefrom, attested under seal of his or her office, and such attested copy shall be prima facie proof of service, birthplace, and citizenship.

(13) Keep a record of all real property owned or used by the state for military purposes, and in connection therewith he or she shall have sole power to execute all leases to acquire the use of real property by the state for military purposes, or lease it to other agencies for use for authorized activities. The adjutant general shall also have full power to execute and grant easements for rights of way for construction, operation, and maintenance of utility service, water, sewage, and drainage for such realty. [1989 c 19 § 12; 1977 c 75 § 32; 1957 c 250 § 3. Prior: 1943 c 130 § 16, part; 1917 c 107 § 11, part; 1913 c 66 § 4, part; 1909 c 134 § 27, part; 1901 c 78 § 4, part; 1895 c 108 § 38, part; Rem. Supp. 1943 § 8603-16, part.]

38.12.030 Adjutant general and assistant adjutants general—How chosen—Annual salaries—Members of judiciary eligible to serve in guard. Whenever a vacancy has occurred, or is about to occur in the office of the

adjutant general, the governor shall order to active service for that position from the active list of the Washington army national guard or Washington air national guard an officer not below the rank of a field grade officer who has had at least ten years service as an officer on the active list of the Washington army national guard or the Washington air national guard during the fifteen years next prior to such detail. The officer so detailed shall during the continuance of his or her service as the adjutant general hold the rank of a general officer.

Whenever a vacancy has occurred, or is about to occur, in the offices of assistant adjutants general for the Washington army national guard or the Washington air national guard, the adjutant general with the concurrence of the governor may appoint an officer of the army national guard or the air national guard, who has had at least ten years service in the active list of his respective branch during the fifteen years next prior to such detail. The officer so detailed, may during the continuance of his service as assistant adjutant general hold the rank of a general officer.

If, by reason of the call or draft of officers of the Washington army national guard and/or air national guard into federal service, there is no officer of the Washington national guard available for detail as the adjutant general or as an assistant adjutant general who possesses the requisite qualifications, the governor may appoint any officer or former officer of the organized militia of Washington as acting adjutant general or as an acting assistant adjutant general. If the officers on detail as the adjutant general or as assistant adjutants general are appointed, called, or drafted into the military service of the United States by order or proclamation of the president, they shall be granted leaves of absence by the governor, and are entitled, upon release from federal service, to return to their former status as adjutant general or as assistant adjutants general of Washington, and during the period that they are in federal service, the duties of these offices shall be performed by an acting adjutant general and acting assistant adjutants general, appointed by the governor, as provided in this section, who shall receive the same pay provided for the adjutant general and/or assistant adjutants general respectively, during the period of such assignments.

The adjutant general shall receive an annual salary equal to the base pay of a major general in the United States army. The assistant adjutant general for the Washington army national guard and the assistant adjutant general for the Washington air national guard shall each receive an annual salary equal to the base pay of an officer of equivalent grade in the United States army or United States air force but not to exceed that of a brigadier general. So long as a member of the judiciary of the state of Washington is available for judicial work at such times and under such conditions as may be set forth by local rules and custom, that member may serve as an active member of the national guard or air national guard. [1989 c 19 § 13; 1983 c 218 § 1; 1965 ex.s. c 100 § 1; 1961 c 210 § 3; 1943 c 130 § 21; Rem. Supp. 1943 § 8603-21. Prior: 1921 c 75 § 2; 1917 c 107 § 14; 1909 c 134 § 31, part; 1895 c 108 § 42, part.]

38.12.060 Officers to be commissioned by the governor. All commissioned and warrant officers of the

organized militia of Washington shall be appointed and commissioned or warranted by the governor only as hereinafter provided. No person shall be so appointed and commissioned or warranted unless he or she shall be a citizen of the United States and of this state and more than eighteen years of age. Every commissioned and warranted officer shall hold office under his or her commission or warrant until he or she shall have been regularly appointed and commissioned or warranted to another rank or office, or until he or she shall have been regularly retired, discharged, dismissed or placed in the reserve. [1989 c 19 § 14; 1971 ex.s. c 292 § 41; 1943 c 130 § 19; Rem. Supp. 1943 § 8603-19. Prior: 1917 c 107 § 12, part; 1909 c 134 § 31, part; 1895 c 108 § 42, part.]

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

38.12.070 Examining board. No person shall be appointed and commissioned or warranted to any office in the organized militia of Washington unless he or she shall have been examined and adjudged qualified therefor by an examining board, appointed by the adjutant general, and whose report shall have been approved by the authority appointing the board. The composition, appointment and procedure of examining boards and the nature and scope of examinations shall be as prescribed by the laws or regulations of the United States or those of this state. Whenever a commissioned officer shall have been examined for promotion pursuant to this section and shall have been adjudged not qualified therefor, upon approval by the authority appointing the board of its report to that effect such officer may be honorably discharged, retired or placed in the reserve as the governor shall direct. [1989 c 19 § 15; 1943 c 130 § 20; Rem. Supp. 1943 § 8603-20. Prior: 1917 c 107 § 13; 1909 c 134 § 32; 1895 c 108 § 53.]

38.12.095 Appointment or promotion of commissioned officers to be made by officer promotion board—Exceptions. Whenever a commissioned officer is to be appointed or promoted either to fill a vacancy in the organized militia (Washington army national guard, Washington air national guard and the Washington state guard) or for any other reason, the officer to be appointed or promoted shall be selected by the officer promotion board. This selection in no way will change the powers of the governor under RCW 38.12.060. This section in no way applies to appointments or promotions to adjutant general or assistant adjutant general, to the appointment of officers to the rank of captain, lieutenant, or warrant officer, or to the promotion of second lieutenants, first lieutenants, or warrant officers. [1989 c 19 § 16; 1974 ex.s. c 34 § 1.]

38.12.105 Criteria and guidelines for promotion of commissioned officers. All promotions of commissioned officers in the organized militia will be made on a best-qualified basis. The officer promotion board will select the best-qualified officer for each promotion from among those officers fully qualified for promotion. To be promoted, the selected officer must also meet the requirements of RCW 38.12.070. In no event will seniority be the sole guideline for selecting the officer to be promoted. The officer promotion board will, in determining the best qualified

officer, consider the overall qualifications of an officer and not just the qualifications for one position. [1974 ex.s. c 34 § 2.]

38.12.115 Officer promotion board—Meetings—Powers and duties. The officer promotion board will meet from time to time as directed by the adjutant general. The board will select the best qualified officer for each promotion to be made in the organized militia, and will do any other act pertaining thereto directed by the adjutant general or allowed or directed by statute. [1989 c 19 § 17; 1974 ex.s. c 34 § 3.]

38.12.125 Officer promotion board—Composition. The officer promotion board shall be composed as follows:

(1) For promotions or appointments of army national guard officers, the board will consist of the adjutant general, the assistant adjutant general army, and the five commanders senior in grade and date of rank in that grade in the Washington army national guard. If the board is selecting an officer for promotion to the rank of colonel, any member of the board who is a lieutenant colonel will be automatically disqualified and will not be replaced. If the board is selecting an officer for promotion to the rank of brigadier general, any member of the board who is a lieutenant colonel or who is a colonel will be automatically disqualified and will not be replaced.

(2) For promotions or appointments of air national guard officers, the board will consist of the adjutant general, the assistant adjutant general air, and the five commanders senior in grade and date of rank in that grade in the Washington air national guard. If the board is selecting an officer for promotion to the rank of colonel, any member of the board who is a lieutenant colonel will be automatically disqualified and will not be replaced. If the board is selecting an officer for promotion to the rank of brigadier general, any member of the board who is a lieutenant colonel or who is a colonel will be automatically disqualified and will not be replaced.

(3) For promotions or appointments of state guard officers, the board will consist of the adjutant general, the assistant adjutant general army, and the five officers senior in grade and in date of rank in that grade in the state guard. If the board is selecting an officer for promotion to the rank of colonel, any member of the board who is a lieutenant colonel will be automatically disqualified and will not be replaced. If the board is selecting an officer for promotion to the rank of brigadier general, any member of the board who is a lieutenant colonel or who is a colonel will be automatically disqualified and will not be replaced. [1989 c 19 § 18; 1974 ex.s. c 34 § 4.]

38.12.135 Officer promotion board—Official acts—Approval requirements—Rules. To be an official act of the officer promotion board, an act of that board must be approved by not less than four of the members of the board: PROVIDED, HOWEVER, That if the board consists of less than four officers, the approval of the board shall be unanimous.

An action of an officer promotion board may be an official act of the board without a meeting if all members of the board approve in writing the act in question.

The adjutant general will from time to time fix the rules under which the board will operate. [1974 ex.s. c 34 § 5.]

38.12.150 Officer to take oath. Every officer, duly commissioned or warranted shall within such time as may be provided by law or by regulations, take the oath of office prescribed by law, and give bond, if required. In case of neglect or refusal so to do, the officer shall be considered to have resigned such office and a new appointment may be made as provided by law. [1989 c 19 § 19; 1943 c 130 § 29; Rem. Supp. 1943 § 8603-29. Prior: 1917 c 107 § 26; 1909 c 134 § 36, part; 1895 c 108 § 51.]

38.12.160 Oath, form of. The oath of office for commissioned and warrant officers in the organized militia of Washington shall be substantially as follows: "I,, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the state of Washington, against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the president of the United States and of the governor of the state of Washington, that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of in the organized militia of the state of Washington upon which I am about to enter, so help me God." [1943 c 130 § 30; Rem. Supp. 1943 § 8603-30. Prior: 1917 c 107 § 27; 1909 c 134 § 37.]

Subversive activities: Chapter 9.81 RCW.

38.12.170 Termination of officers' membership—Review of retention potential. The governor may terminate the membership of any commissioned or warrant officer of the organized militia of Washington for any of the following reasons:

- (1) Conviction of an infamous crime;
- (2) Absence from his or her command for more than thirty days without proper leave;
- (3) Sentence of dismissal by court martial, duly approved;
- (4) Upon muster out of the organization to which the officer is then assigned;
- (5) Acceptance of the resignation of the officer, but no officer may be discharged or his or her resignation accepted while under arrest or against whom military charges have been preferred, or until he or she has turned over to his or her successor or satisfactorily accounted for all state and federal moneys and military property for which he or she is accountable or responsible;
- (6) Removal of his or her actual residence to such distance from the station of his or her command as to render it impracticable for him or her to perform the duties of his or her office;
- (7) Incompetence or unfitness for military service as determined by the duly approved findings of a board of officers appointed for that purpose by the adjutant general.

The adjutant general shall annually appoint and convene qualitative retention boards to review the military personnel

records of officers who have completed three or more years service in the Washington state guard to determine their retention potential and acceptability for continuation in an active status. In the conduct of the reviews, the regulation issued by the adjutant general to implement this provision shall conform to the extent practicable to that governing the army national guard. [1989 c 19 § 20; 1984 c 198 § 1; 1943 c 130 § 31; 1925 ex.s. c 72 § 1; Rem. Supp. 1943 § 8603-31. Prior: 1917 c 107 § 28; 1909 c 134 § 39; 1895 c 108 § 63.]

38.12.180 Retirement of officers. Commissioned officers of the organized militia of Washington shall be retired by order of the commander-in-chief with the rank respectively held by them at the time of such retirement for the following reasons:

(1) Unfitness for military service by reason of permanent physical disability.

(2) Upon request after at least five years continuous service as an officer in the organized militia of Washington.

Commissioned officers of the state guard shall upon reaching the age of sixty-four years be retired.

Retired officers shall draw no pay or allowance from the state unless recalled to service.

Retired officers are subject, with their consent, to temporary detail on active state service by the commander-in-chief, and while on such duty shall receive the same pay and allowances as officers of like rank on the active list. [1989 c 19 § 21; 1984 c 198 § 2; 1943 c 130 § 33; Rem. Supp. 1943 § 8603-33. Prior: 1909 c 134 § 40; 1895 c 108 § 66.]

38.12.200 Uniform allowance to officers. Every commissioned officer of the organized militia of Washington shall, within sixty days from the date of the order whereby he or she shall have been appointed, provide at the officer's own expense the uniform and equipment prescribed by the governor for his or her rank and assignment.

There shall be audited and may be paid, at the option of the adjutant general, to each properly uniformed and equipped officer of the active list of the organized militia of Washington, not in federal service an initial uniform allowance of one hundred dollars and annually thereafter for each twelve months state service an additional uniform allowance of fifty dollars, subject to such regulations as the commander-in-chief may prescribe to be audited and paid upon presentation of proper voucher. [1991 c 43 § 2; 1989 c 19 § 22; 1982 c 93 § 1; 1943 c 130 § 37; Rem. Supp. 1943 § 8603-37. Prior: 1923 c 49 § 1; 1917 c 107 § 32; 1909 c 134 § 49; 1903 c 155 § 11; 1901 c 78 § 8; 1895 c 108 § 76.]

Chapter 38.14

WASHINGTON STATE GUARD

Sections

38.14.006	Availability and composition of state guard.
38.14.012	Federal military service.
38.14.018	Pay of state guard members.
38.14.024	Equipment and supplies.

38.14.030 Training.

38.14.036 Qualifications for appointment of officers.

38.14.006 Availability and composition of state guard. The Washington state guard will be available to serve, at the call of the governor in the place of the national guard of the state of Washington under the provisions of this title when the national guard is in the service of the United States, or when otherwise ordered to active state service by the governor. The Washington state guard shall consist of commissioned and warrant officers and enlisted persons commissioned, warranted, or enlisted under the provisions of this title. Persons enlisted under RCW 38.16.015 shall be enrolled in accordance with regulations promulgated by the adjutant general. [1989 c 19 § 23.]

38.14.012 Federal military service. No member of the Washington state guard shall by reason of such membership be exempt from federal military service under the laws of the United States. [1989 c 19 § 24.]

38.14.018 Pay of state guard members. Members of the Washington state guard shall serve without pay except when on active state service with the state as defined in RCW 38.04.010, or when serving on inactive duty as defined in RCW 38.04.010 under orders of the governor specifically authorizing pay. When ordered to active state service or when serving on inactive duty in a pay status, members of the Washington state guard will be paid as prescribed for members of the national guard in RCW 38.24.050, except longevity adjustments for pay will be based solely on total service with the Washington state guard. [1989 c 19 § 25.]

38.14.024 Equipment and supplies. The governor may obtain from the federal government such arms and other equipment and supplies as may be available for issue, donation or loan for the use of the Washington state guard. When such property is provided by the federal government, it will be utilized, maintained, and disposed of in accordance with federal requirements and with property rules and regulations promulgated under the provisions of RCW 38.08.090. [1989 c 19 § 26.]

38.14.030 Training. Members of the Washington state guard may participate in such training opportunities as may be available from the federal government and as approved by the adjutant general. Where required as a condition of such participation, the military department may reimburse the federal government for the costs of such training. [1989 c 19 § 27.]

38.14.036 Qualifications for appointment of officers. The adjutant general shall establish by regulation qualifications for appointment of commissioned and warrant officers in the Washington state guard. [1989 c 19 § 28.]

Chapter 38.16
ENLISTMENTS AND RESERVES

Sections

- 38.16.010 Period of enlistment in national guard.
 38.16.015 Period of enlistment in state guard.
 38.16.020 Discharge of enlisted persons.
 38.16.030 Inactive national guard.
 38.16.040 State guard reserve.
 38.16.050 Appointment of members of the committee for employer support of the guard and reserve to civil affairs unit.

38.16.010 Period of enlistment in national guard. The period of enlistment in the Washington national guard shall conform to the laws and regulations of the United States department of defense governing such enlistments including the term of such enlistments and the maximum and minimum age of enlistment. [1989 c 19 § 29; 1943 c 130 § 35; Rem. Supp. 1943 § 8603-35. Prior: 1917 c 107 § 30; 1909 c 134 § 41; 1895 c 108 § 57.]

38.16.015 Period of enlistment in state guard. The period of enlistment in the Washington state guard shall be set by regulation by the adjutant general: PROVIDED, That no original enlistment may be consummated unless the term thereof can be completed before the applicant attains the age of sixty-four. [1989 c 19 § 30.]

38.16.020 Discharge of enlisted persons. An enlisted person discharged from service in the organized militia of Washington shall receive a notice of discharge in writing in such form and classification as is or shall be prescribed by law or regulations, and in time of peace discharges may be given prior to the expiration of terms of enlistment under such regulations as may be prescribed by competent authority. [1989 c 19 § 31; 1943 c 130 § 36; Rem. Supp. 1943 § 8603-36. Prior: 1917 c 107 § 31; 1909 c 134 § 45, part; 1895 c 108 § 67, part.]

38.16.030 Inactive national guard. The inactive national guard of this state shall respectively be organized by the governor in regulations in conformance with the laws, rules and regulations of the United States. It shall consist of such organizations, officers and enlisted men as the governor shall prescribe. No commissioned officer shall be transferred or furloughed to the inactive national guard without the officer's written consent, except as otherwise expressly provided by law. Any officer of the inactive national guard may be restored to the active list by order of the governor, subject to the same examination as in the case of an original appointment to his or her rank, and in such event his or her service in the inactive national guard shall not be counted in computing total length of service for relative seniority. [1991 c 43 § 3; 1989 c 19 § 32; 1943 c 130 § 34; Rem. Supp. 1943 § 8603-34. Prior: 1917 c 107 § 29.]

38.16.040 State guard reserve. In order to afford the utmost protection to the state of Washington and to the lives and property of citizens thereof, in times of emergency or anticipation thereof, the governor, through the state military department may provide for the organization and training of state guard reserve companies in communities not allocated

a federally recognized or authorized state guard unit. [1943 c 130 § 86; Rem. Supp. 1943 § 8603-86.]

38.16.050 Appointment of members of the committee for employer support of the guard and reserve to civil affairs unit. To assist the state of Washington in the event of mobilization of state and federal military forces in the state, and notwithstanding other provisions of the state military law and other regulations governing appointment and promotion of officers and enlisted personnel of the Washington state guard, members of the Washington committee for employer support of the guard and reserve may be appointed to serve in a civil affairs unit of the Washington state guard. The rank shall be determined by the adjutant general. [1988 c 288 § 17.]

Chapter 38.20

ARMORIES AND RIFLE RANGES

Sections

- 38.20.010 Regulations governing armories.
 38.20.020 City may acquire armory site.
 38.20.030 Counties may expend moneys for armory site.
 38.20.040 Rental of property, armories, and small arms ranges.
 38.20.050 Small arms ranges.

ESTABLISHMENT OF ARMORIES: *The following special or temporary acts relating to the establishment of armories are not codified herein:*

- (1) 1907 c 55, Armories at Seattle, Spokane and Tacoma;
- (2) 1909 c 68, Armory at Bellingham;
- (3) 1913 c 67, Armory at North Yakima;
- (4) 1917 c 108, 1919 c 19, Armory at Walla Walla;
- (5) 1917 c 109, 1919 c 20, Armory at Aberdeen;
- (6) 1917 c 166, 1919 c 21, Armory at Everett;
- (7) 1939 c 152, Armory at Olympia;
- (8) 1939 c 215, Naval and marine corps reserve armory at Seattle;
- (9) 1941 c 236, Naval and marine corps reserve armory at Tacoma;
- (10) 1953 c 277 §§ 1, 2 and 3, Armory at Spokane.

Explosives, manufacture, sale or storage: Chapter 70.74 RCW.

Joint armory sites: RCW 36.64.050.

Militia—Public arms: State Constitution Article 10 § 4.

State, county and municipal indebtedness—Powers extended in certain cases: State Constitution Article 8 § 2.

38.20.010 Regulations governing armories. Except as provided in this section, state-owned armories shall be used strictly for military purposes.

(1) One room, together with the necessary furniture, heat, light, and janitor service, may be set aside for the exclusive use of bona fide veterans' organizations subject to the direction of the officer in charge. Members of these veterans' organizations and their auxiliaries shall have access to the room and its use at all times.

(2) A bona fide veterans' organization may use any state armory for athletic and social events without payment of rent whenever the armory is not being used by the organized militia. The adjutant general may require the veterans' organization to pay the cost of heating, lighting, or other miscellaneous expenses incidental to this use.

(3) The adjutant general may, during an emergency, permit transient lodging of service personnel in armories.

(4) The adjutant general may, upon the recommendation of the executive head or governing body of a county, city or town, permit transient lodging of anyone in armories. The

adjutant general may require the county, city or town to pay no more than the actual cost of staffing, heating, lighting and other miscellaneous expenses incidental to this use.

(5) Civilian rifle clubs affiliated with the National Rifle Association of America are permitted to use small arms ranges in the armories at least one night each week under regulations prescribed by the adjutant general.

(6) State-owned armories shall be available, at the discretion of the adjutant general, for use for casual civic purposes, and amateur and professional sports and theatricals upon payment of fixed rental charges and compliance with regulations of the state military department. Children attending primary and high schools have a preferential right to use these armories.

The adjutant general shall prepare a schedule of rental charges, including a cleaning deposit, and utility costs for each state-owned armory which may not be waived except for activities sponsored by the organized militia or activities provided for in subsection (4) of this section. The rental charges derived from armory rentals less the cleaning deposit shall be paid into the state general fund. [1989 c 19 § 33; 1985 c 295 § 1; 1983 c 268 § 1; 1975 1st ex.s. c 121 § 1; 1973 1st ex.s. c 154 § 56; 1963 c 149 § 1; 1949 c 125 § 1; 1947 c 204 § 1; 1943 c 130 § 93; Rem. Supp. 1949 § 8603-93. Prior: 1923 c 49 § 5; 1917 c 8 § 1; 1909 c 134 § 97; 1907 c 55 § 11; 1903 c 115 §§ 19, 20.]

Effective date—1975 1st ex.s. c 121: "The effective date of this act shall be July 1, 1977." [1975 1st ex.s. c 121 § 2.]

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

SPECIAL ACTS RELATING TO ARMORIES: *The following special or temporary acts relating to particular armories are not codified herein:*

- (1) 1959 c 181; 1961 c 135; 1963 c 146, Seattle
- (2) 1967 c 37, Prosser
- (3) 1967 c 43, Centralia
- (4) 1967 c 44, Chewelah
- (5) 1967 c 214, Stevens County
- (6) 1967 c 224, Tacoma and Pierce County
- (7) 1967 c 226, Yakima
- (8) 1969 ex.s. c 22, Kirkland.

38.20.020 City may acquire armory site. Any city in the state of Washington in which a unit of the national guard is stationed, or is to be stationed, is hereby authorized and empowered to acquire a site for an armory by gift or purchase, and to construct an armory thereon, and to issue and sell its general obligation bonds for said purposes, within the debt limits prescribed by the Constitution, with full power to sell or lease the same to the state of Washington or to the United States. [1933 ex.s. c 16 § 1; RRS § 8598-1.]

38.20.030 Counties may expend moneys for armory site. Any county of the state of Washington is hereby authorized and empowered to appropriate money for the purchase of an armory site whenever the legislature of this state shall appropriate money for or authorize the construction of an armory therein. [1907 c 55 § 3 1/2; No RRS.]

38.20.040 Rental of property, armories, and small arms ranges. All armories and small arms ranges and all property, real or personal, used by the national guard and not owned by the state of Washington or the United States, shall be leased or rented to the state upon such terms and condi-

tions as shall be approved by the commander-in-chief. [1989 c 19 § 34; 1909 c 134 § 98; RRS § 8599.]

38.20.050 Small arms ranges. Under the direction of the governor, the adjutant general shall, at the expense and in the name of the state, buy or lease, establish, equip, maintain and control such small arms ranges and issue such ammunition, transportation and supplies as may be necessary to provide each unit of the organized militia of Washington with adequate means and opportunity for thorough instruction in small arms practice. [1989 c 19 § 35; 1943 c 130 § 91; Rem. Supp. 1943 § 8603-91. Prior: 1917 c 107 § 120; 1909 c 134 § 92; 1895 c 108 § 168.]

Chapter 38.24

CLAIMS AND COMPENSATION

Sections

38.24.010	Payment of military claims.
38.24.020	Audit and payment of awards.
38.24.050	Pay of officers and enlisted personnel.
38.24.060	Employment and reemployment rights upon return from militia duty.

38.24.010 Payment of military claims. All bills, claims and demands for military purposes shall be certified or verified and audited in the manner prescribed by regulations promulgated by the governor and shall be paid by the state treasurer from funds available for that purpose. In all cases where the organized militia, or any part of the organized militia, is called into the service of the state to execute or enforce the laws or in case of war, riot, insurrection, invasion, breach of the peace, public disaster, or the imminent danger of the occurrence of any of these events, warrants for allowed pay and expenses for such services or compensation for injuries or death shall be drawn upon the general fund of the state treasury and paid out of any moneys in said fund not otherwise appropriated. All such warrants shall be the obligation of the state and shall bear interest at the legal rate from the date of their presentation for payment. [1991 c 43 § 4; 1989 c 19 § 36; 1973 c 106 § 14; 1943 c 130 § 42; Rem. Supp. 1943 § 8603-42. Prior: 1917 c 107 § 36; 1909 c 134 § 56, part; 1895 c 108 § 91, part.]

38.24.020 Audit and payment of awards. All compensation shall be payable in monthly installments and shall be audited and paid as any other claim against the military department and shall be payable from the general fund out of any moneys not otherwise appropriated. [1943 c 130 § 41; Rem. Supp. 1943 § 8603-41. Prior: 1917 c 107 § 35; 1909 c 134 § 56, part; 1895 c 108 § 41, part.]

38.24.050 Pay of officers and enlisted personnel. Commissioned officers, warrant officers, and enlisted personnel of the organized militia of Washington, while in active state service or inactive duty, are entitled to and shall receive the same amount of pay and allowances from the state of Washington as provided by federal laws and regulations for commissioned officers, warrant officers, and enlisted personnel of the United States army only if federal

pay and allowances are not authorized. For periods of such active state service, commissioned officers, warrant officers, and enlisted personnel of the organized militia of Washington shall receive either such pay and allowances or an amount equal to one and one-half of the federal minimum wage, whichever is greater.

The value of articles issued to any member and not returned in good order on demand, and legal fines or forfeitures, may be deducted from the member's pay.

If federal pay and allowances are not authorized, all members detailed to serve on any board or commission ordered by the governor, or on any court-martial ordered by proper authority, may, at the discretion of the adjutant general, be paid a sum equal to one day's active state service for each day actually employed on the board or court or engaged in the business thereof, or in traveling to and from the same; and in addition thereto travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended when such duty is at a place other than the city or town of his residence.

Necessary transportation, quartermasters' stores, and subsistence for troops when ordered on active state service may be contracted for and paid for as are other military bills. [1989 c 19 § 37; 1984 c 198 § 3; 1975-'76 2nd ex.s. c 34 § 81; 1974 ex.s. c 46 § 1; 1943 c 130 § 43; Rem. Supp. 1943 § 8603-43. Prior: 1925 c 28 § 2, part; 1919 c 137 § 1, part; 1917 c 107 § 37, part; 1915 c 47 § 1, part; 1913 c 66 § 10, part; 1909 c 134 § 157, part; 1907 c 122 § 5, part; 1903 c 155 § 13, part; 1901 c 78 § 11, part; 1895 c 108 § 89, part.]

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

38.24.060 Employment and reemployment rights upon return from militia duty. All members of the organized militia of Washington who are called to active state service or inactive duty shall, upon return from such duty, have those rights accorded under RCW 73.16.031, 73.16.035, 73.16.041, 73.16.051, and 73.16.061. [1989 c 19 § 38; 1984 c 198 § 4; 1974 ex.s. c 46 § 2.]

**Chapter 38.32
OFFENSES—PUNISHMENT**

Sections

- 38.32.010 Offenses against laws of this state by members on duty status.
- 38.32.020 Offenses under Washington code of military justice.
- 38.32.030 Exemptions while on duty.
- 38.32.070 Member removed from state, request for discharge.
- 38.32.080 Penalty for failure to obey call.
- 38.32.090 Penalty for physician making false certificate.
- 38.32.100 Buying and receiving military property.
- 38.32.120 Authority of commanding officer.
- 38.32.140 Sentence to confinement.

Militia—Organization—Discipline—Officers—Power to call out: State Constitution Art. 10 § 2.

38.32.010 Offenses against laws of this state by members on duty status. Any member of the organized militia on duty status as provided in RCW 38.38.624, or within state armories, committing offenses against the laws of the state, shall be promptly arrested by the military

authorities and turned over to the civil authorities of the county or city in which the offense was committed. [1989 c 19 § 39; 1963 c 220 § 134; 1943 c 130 § 82; Rem. Supp. 1943 § 8603-82.]

38.32.020 Offenses under Washington code of military justice. Offenses under chapter 38.38 RCW committed while on inactive duty or active state service as defined in RCW 38.04.010 may be tried and punished as provided under chapter 38.38 RCW after this duty or service has terminated, and if found guilty the accused shall be punished accordingly. Any member of the organized militia on "inactive duty" or "active state service," as defined in RCW 38.04.010, committing any offense under chapter 38.38 RCW, where the offense charged is also made an offense by the civil law of this state, may, in the discretion of the officer whose duty it is to approve the charge, be turned over to the proper civil authorities for trial.

Any member of the organized militia on "inactive duty" or "active state service," as defined in RCW 38.04.010, committing any offense under chapter 38.38 RCW, may, if such offense is committed upon a military reservation of the United States within this state, be turned over to the civil authorities for trial as provided by federal law. [1989 c 19 § 40; 1963 c 220 § 135; 1943 c 130 § 81; Rem. Supp. 1943 § 8603-81.]

38.32.030 Exemptions while on duty. No person belonging to the military forces of this state shall be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from any place at which he may be required to attend military duty. Any members of the organized militia parading, or performing any duty according to the law shall have the right of way in any street or highway through which they may pass and while on field duty shall have the right to enter upon, cross or occupy any uninclosed lands, or any inclosed lands where no damage will be caused thereby: PROVIDED, That the carriage of the United States mail and legitimate functions of the police and fire departments shall not be interfered with thereby. [1943 c 130 § 45; Rem. Supp. 1943 § 8603-45. Prior: 1917 c 107 § 40; 1909 c 134 § 66; 1895 c 108 § 103.]

38.32.070 Member removed from state, request for discharge. If any member is known to have removed from the state, and, through ignorance or neglect, has failed to apply for discharge, the discharge may be requested by his or her immediate commanding officer. [1989 c 19 § 41; 1963 c 220 § 136; 1943 c 130 § 84; Rem. Supp. 1943 § 8603-84. Cf. 1917 c 107 § 83.]

38.32.080 Penalty for failure to obey call. Any member of the militia who shall have been ordered out for either state or federal service and who shall refuse or wilfully or negligently fail to report at the time and place and to the officer designated in the order or to the representative or successor of such officer, shall be deemed guilty of desertion, and shall suffer such penalty as a general court martial may direct, unless he or she shall produce a sworn certificate from a licensed physician of good standing that he or she was physically unable to appear at the time and place

designated. Any person chargeable with desertion under this section may be taken by force and compelled to serve. [1989 c 19 § 42; 1943 c 130 § 10; Rem. Supp. 1943 § 8603-10. Prior: 1917 c 107 § 10; 1909 c 134 § 21; 1895 c 108 § 114.]

38.32.090 Penalty for physician making false certificate. Any physician who shall knowingly make and deliver a false certificate of physical disability concerning any member of the militia who shall have been ordered out or summoned for active service shall be guilty of perjury and, upon conviction, as an additional penalty, shall forfeit forever his or her license and right to practice in this state. [1989 c 19 § 43; 1943 c 130 § 11; Rem. Supp. 1943 § 8603-11. Prior: 1909 c 134 § 22.]

38.32.100 Buying and receiving military property. Any person who shall purchase or receive in pawn or pledge any military property of the state or of the United States shall be guilty of a gross misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars or imprisoned for not more than six months or both such fine and imprisonment. [1943 c 130 § 87; Rem. Supp. 1943 § 8603-87. Cf. 1917 c 107 § 68.]

38.32.120 Authority of commanding officer. The commanding officer at any drill, parade, encampment or other duty may place in arrest for the time of such drill, parade, encampment or other duty any person or persons who shall trespass on the camp grounds, parade grounds, rifle range or armory, or in any way or manner interrupt or molest the orderly discharge of duty of those on duty, or who shall disturb or prevent the passage of troops going to or returning from any regularly ordered tour of duty; and may prohibit and prevent the sale or use of all spirituous liquors, wines, ale or beer, or holding of huckster or auction sales, and all gambling therein, and remove disorderly persons beyond the limits of such parade or encampment, or within a distance of two miles therefrom, and the commanding officer shall have full authority to abate as common nuisances all disorderly places, and bar all unauthorized sales within such limits. Any person violating any of the provisions of this section, or any order issued in pursuance thereof, shall be guilty of a misdemeanor, and upon conviction shall be fined not more than one hundred dollars, or imprisoned not more than thirty days, or by both such fine and imprisonment.

No license or renewal thereof shall be issued or granted to any person, firm or corporation for the sale of intoxicating or spirituous liquors within a distance of three hundred feet from any armory used by the state of Washington for military purposes, without the approval of the adjutant general. [1989 c 19 § 44; 1963 c 220 § 137; 1943 c 130 § 52; Rem. Supp. 1943 § 8603-52. Prior: 1937 c 51 § 1; 1909 c 134 § 62; 1895 c 108 § 99.]

38.32.140 Sentence to confinement. All military courts of the organized militia of Washington shall have power to sentence to confinement in lieu of fines authorized to be imposed: PROVIDED, That such sentence of confinement shall not exceed one day for each dollar of fine

authorized. [1943 c 130 § 61; 1917 c 107 § 53; Rem. Supp. 1943 § 8603-61.]

Chapter 38.36 TRIAL PROCEDURE

Sections

38.36.120 Fees and mileage.

38.36.120 Fees and mileage. Fees and mileage allowed for the service of process and for civilian witnesses shall be the same as in civil actions. All expenditures necessary to carry the provisions of chapter 130, Laws of 1943, into effect are hereby authorized to be incurred, and paid out of the appropriations for the maintenance of the organized militia of Washington. [1943 c 130 § 78; Rem. Supp. 1943 § 8603-78. Prior: 1917 c 107 § 59; 1909 c 134 § 90.]

Compensation of jurors: RCW 2.36.150.

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

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Chapter 38.38

WASHINGTON CODE OF MILITARY JUSTICE

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Reviser's note: Article numbers in this chapter parallel equivalent sections in the federal Uniform Code of Military Justice and do not constitute part of the law.

PART I—GENERAL PROVISIONS

38.38.004 [Art. 1] Definitions. In this chapter, unless the context otherwise requires:

(1) "Organized militia" means the national guard of the state, as defined in section 101(3) of title 32, United States Code, and any other military force organized under the laws of the state of Washington.

(2) "Officer" means commissioned or warrant officer.

(3) "Commissioned officer" includes a commissioned warrant officer.

(4) "Commanding officer" includes only commissioned officers in command of a unit.

(5) "Superior commissioned officer" means a commissioned officer superior in rank or command.

(6) "Enlisted member" means a person in an enlisted grade.

(7) "Grade" means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.

(8) "Rank" means the order of precedence among members of the organized militia.

(9) The term "active state service" or "active training duty" shall be construed to be any service on behalf of the state, or at encampments whether ordered by state or federal authority or any other duty requiring the entire time of any organization or person except when called or drafted into the federal service by the president of the United States.

The term "inactive duty" shall include periods of drill and such other training and service not requiring the entire time of the organization or person, as may be required under state or federal laws, regulations, or orders, including travel to and from such duty.

(10) "Military court" means a court-martial or a court of inquiry.

(11) "Military judge" means the presiding officer of a general or special court-martial detailed in accordance with RCW 38.38.256.

(12) "State judge advocate" means the commissioned officer responsible for supervising the administration of the military justice in the organized militia.

(13) "Accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any person who has an interest other than an official interest in the prosecution of the accused.

(14) "Military" refers to any or all of the armed forces.

(15) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being, or a successor in command.

(16) "May" is used in a permissive sense. The words "no person may. . ." mean that no person is required, authorized, or permitted to do the act prescribed.

(17) "Shall" is used in an imperative sense.

(18) "Code" means this chapter.

(19) "A month's pay" or fraction thereof shall be calculated based upon a member's basic pay entitlement as if the member were serving for a thirty-day period. [1989 c 48 § 1; 1963 c 220 § 1.]

Effective date—1963 c 220: "This act shall take effect on July 1, 1963." [1963 c 220 § 140.] For codification of 1963 c 220, see Codification Tables, Volume 0.

38.38.008 [Art. 2] Persons subject to this code. This code applies to all members of the organized militia who are not in federal service. [1989 c 48 § 2; 1963 c 220 § 2.]

38.38.012 [Art. 3] Jurisdiction to try certain personnel. No person who has deserted from the organized militia may be relieved from amenability to the jurisdiction of this code by virtue of a separation from any later period of service. [1989 c 48 § 3; 1989 c 11 § 9; 1963 c 220 § 3.]

Reviser's note: This section was amended by 1989 c 11 § 9 and by 1989 c 48 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1989 c 11: See note following RCW 9A.56.220.

38.38.016 [Art. 4] Dismissal of commissioned officer. (1) If any commissioned officer, dismissed by order of the governor, makes a written application for trial by court-martial, setting forth, under oath, that he or she has been wrongfully dismissed, the governor, as soon as practicable, shall convene a general court-martial to try that officer on the charges on which the officer was dismissed. A court-martial so convened has jurisdiction to try the dismissed officer on those charges, and the officer shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which the officer is charged. The court-martial may, as part of its sentence, adjudge the affirmance of the dismissal, but if the court-martial acquits the accused or if the sentence adjudged, as finally approved or affirmed, does not include dismissal, the chief of staff to the governor or adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

(2) If the governor fails to convene a general court-martial within six months from the presentation of an application for trial under this code, the chief of staff to the governor or adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

(3) If a discharge is substituted for a dismissal under this code, the governor alone may reappoint the officer to such commissioned grade and with such rank as, in the opinion of the governor, that former officer would have attained had the officer not been dismissed. The reappointment of such a former officer may be made only if a vacancy is available under applicable tables of organization. All time between the dismissal and the reappointment shall be considered as actual service for all purposes.

(4) If an officer is discharged from the organized militia by administrative action or by board proceedings under law, or is dropped from the rolls by order of the governor, the officer has no right to trial under this section. [1989 c 48 § 4; 1963 c 220 § 4.]

38.38.020 [Art. 5] Territorial applicability of the code. (1) This code applies throughout the state. It also applies to all persons otherwise subject to this code while they are serving outside the state, and while they are going to and returning from such service outside the state, in the same manner and to the same extent as if they were serving inside the state.

(2) Courts-martial and courts of inquiry may be convened and held in units of the organized militia while those units are serving outside the state with the same jurisdiction and powers as to persons subject to this code as if the proceedings were held inside the state, and offenses committed outside the state may be tried and punished either inside or outside the state. [1989 c 48 § 5; 1963 c 220 § 5.]

38.38.024 [Art. 6] Judge advocates and legal officers. (1) The governor, on the recommendation of the adjutant general, shall appoint an officer of the organized militia as state judge advocate. To be eligible for appointment, an officer must be a member of the bar of the highest court of the state and must have been a member of the bar of the state for at least five years.

(2) The adjutant general may appoint as many assistant state judge advocates as he or she considers necessary. To be eligible for appointment, assistant state judge advocates must be officers of the organized militia and members of the bar of the highest court of the state.

(3) The state judge advocate or assistants shall make frequent inspections in the field in supervision of the administration of military justice.

(4) Convening authorities shall at all times communicate directly with their staff judge advocates in matters relating to the administration of military justice; and the staff judge advocate of any command is entitled to communicate directly with the staff judge advocate of a superior or subordinate command, or with the state judge advocate.

(5) No person who has acted as member, law officer, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer, or who has been a witness for either the prosecution or defense, in any case may later act as staff judge advocate to any reviewing authority upon the same case. [1989 c 48 § 6; 1963 c 220 § 6.]

PART II—APPREHENSION AND RESTRAINT

38.38.064 [Art. 7] Apprehension. (1) Apprehension is the taking of a person into custody.

(2) Any person authorized by this code, or by regulations issued under it, to apprehend persons subject to this code, any marshal of a court-martial appointed pursuant to the provisions of this code, and any peace officer authorized to do so by law, may do so upon reasonable belief that an offense has been committed and that the person apprehended committed it.

(3) Commissioned officers, warrant officers, and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this code and to apprehend persons subject to this code who take part therein. [1989 c 48 § 7; 1963 c 220 § 7.]

38.38.068 [Art. 8] Apprehension of deserters. Any civil officer having authority to apprehend offenders under the laws of the United States or of a state, territory, commonwealth, or possession, or the District of Columbia may summarily apprehend a deserter from the state of Washington organized militia and deliver the offender into the custody of the state of Washington organized militia. If an offender is apprehended outside of the state of Washington, the return to the area must be in accordance with normal extradition procedures or reciprocal agreement. [1989 c 48 § 8; 1963 c 220 § 8.]

38.38.072 [Art. 9] Imposition of restraint. (1) Arrest is the restraint of a person by an order, not imposed as a punishment for an offense, directing the person to remain within certain specified limits. Confinement is the physical restraint of a person.

(2) An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this code or through any person authorized by this code to apprehend persons. A commanding officer may

authorize warrant officers or noncommissioned officers to order enlisted members of the officer's command or subject to the officer's authority into arrest or confinement.

(3) A commissioned officer or a warrant officer may be ordered apprehended or into arrest or confinement only by a commanding officer to whose authority the officer is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons apprehended or into arrest or confinement may not be delegated.

(4) No person may be ordered apprehended or into arrest or confinement except for probable cause.

(5) This section does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified. [1989 c 48 § 9; 1963 c 220 § 9.]

38.38.076 [Art. 10] Restraint of persons charged with offenses. Any person subject to this code charged with an offense under this code shall be ordered into arrest or confinement, as circumstances may require; but when charged only with an offense normally tried by a summary court-martial, such person shall not ordinarily be placed in confinement. When any person subject to this code is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform the person of the specific wrong of which he or she is accused and to try the person or to dismiss the charges and release the person. [1989 c 48 § 10; 1963 c 220 § 10.]

38.38.080 [Art. 10a] Confinement in jails. Persons confined other than in a guard house, whether before, during or after trial by a military court, shall be confined in civil jails, penitentiaries, or prisons designated by the governor or by such person as the governor may authorize to act. [1989 c 48 § 11; 1963 c 220 § 11.]

38.38.084 [Art. 11] Reports and receiving of prisoners. (1) No provost marshal, commander of a guard, master at arms, warden, keeper, or officer of a city or county jail or any other jail, penitentiary, or prison designated under RCW 38.38.080, may refuse to receive or keep any prisoner committed to his or her charge, when the committing person furnishes a statement, signed by the committing person, of the offense charged against the prisoner.

(2) Every commander of a guard, master at arms, warden, keeper, or officer of a city or county jail or of any other jail, penitentiary, or prison designated under RCW 38.38.080, to whose charge a prisoner is committed shall, within twenty-four hours after that commitment or as soon as he or she is relieved from guard, report to the commanding officer of the prisoner the name of the prisoner, the offense charged against the prisoner, and the name of the person who ordered or authorized the commitment. [1989 c 48 § 12; 1963 c 220 § 12.]

38.38.088 [Art. 13] Punishment prohibited before trial. Subject to RCW 38.38.488, no person, while being held for trial or the result of trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against the person, nor shall the arrest

or confinement imposed upon the person be any more rigorous than the circumstances require to insure his or her presence, but the person may be subjected to minor punishment during that period for infractions of discipline. [1989 c 48 § 13; 1963 c 220 § 13.]

38.38.092 [Art. 14] Delivery of offenders to civil authorities. (1) Under such regulations as may be prescribed under this code a person subject to this code who is on active state service or inactive duty who is accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

(2) When delivery under this section is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender after having answered to the civil authorities for the offense shall, upon the request of competent military authority, be returned to military custody for the completion of the sentence. [1989 c 48 § 14; 1963 c 220 § 14.]

PART III—NONJUDICIAL PUNISHMENT

38.38.132 [Art. 15] Commanding officer's nonjudicial punishment—Suspension—Appeal. (1) Under such regulations as the governor may prescribe, limitations may be placed on the powers granted by this section with respect to the kind and amount of punishment authorized, the categories of commanding officers and warrant officers exercising command authorized to exercise those powers, the applicability of this section to an accused who demands trial by court-martial, and the kinds of courts-martial to which the case may be referred upon such a demand. However, except in the case of a member attached to or embarked in a vessel, punishment may not be imposed upon any member of the organized militia under this section if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment. Under similar regulations, rules may be prescribed with respect to the suspension of punishments authorized hereunder. If authorized by regulations of the governor, a commanding officer exercising general court-martial jurisdiction or an officer of general rank in command may delegate powers under this section to a principal assistant.

(2) Subject to subsection (1) of this section, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

(a) Upon officers of his or her command:

(i) Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive duty or drill days;

(ii) If imposed by an officer exercising general court-martial jurisdiction or an officer of general rank in command:

(A) Forfeiture of up to thirty days' pay, but not more than fifteen days' pay per month;

(B) Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive drill or duty days;

(C) Detention of up to forty-five days' pay, but not more than fifteen days' pay per month;

(b) Upon other personnel of his or her command:

(i) If imposed upon a person attached to or embarked in a vessel, confinement for not more than three consecutive days;

(ii) Forfeiture of not more than seven days' pay;

(iii) Reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

(iv) Extra duties, including fatigue or other duties for not more than fourteen duty or drill days, which need not be consecutive, and for not more than two hours per day, holidays included;

(v) Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive days;

(vi) Detention of not more than fourteen days' pay;

(vii) If imposed by an officer of the grade of major or above:

(A) The punishment authorized in subsection (2)(b)(i) of this section;

(B) Forfeiture of up to thirty days' pay, but not more than fifteen days' pay per month;

(C) Reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades;

(D) Extra duties, including fatigue or other duties, for not more than fourteen drill or duty days, which need not be consecutive, and for not more than two hours per day, holidays included;

(E) Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive days;

(F) Detention of up to forty-five days' pay, but not more than fifteen days' pay per month.

Detention of pay shall be for a stated period of not more than one year but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. Extra duties and restriction may not be combined to run consecutively in the maximum amount imposable for each. Whenever any such punishments are combined to run consecutively, there must be an apportionment. In addition, forfeiture of pay may not be combined with detention of pay without an apportionment.

(3) An officer in charge may impose upon enlisted members assigned to the unit of which the officer is in charge such of the punishment authorized under subsection (2)(b) of this section as the governor may specifically prescribe by regulation.

(4) The officer who imposes the punishment authorized in subsection (2) of this section, or a successor in command, may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed

under subsection (2) of this section, whether or not executed. In addition, the officer may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges, and property affected. The officer may also mitigate reduction in grade to forfeiture or detention of pay. When mitigating extra duties to restriction, the restriction shall not be longer than the number of hours of extra duty that may have been imposed. When mitigating reduction in grade to forfeiture or detention of pay, the amount of the forfeiture or detention shall not be greater than the amount that could have been imposed initially under this section by the officer who imposed the punishment mitigated.

(5) A person punished under this section who considers the punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (4) of this section by the officer who imposed the punishment. Before acting on an appeal from a punishment of:

(a) Forfeiture of more than seven days' pay;

(b) Reduction of one or more pay grades from the fourth or a higher pay grade;

(c) Extra duties for more than ten days;

(d) Restriction for more than ten days; or

(e) Detention of more than fourteen days' pay;

the authority who is to act on the appeal shall refer the case to a judge advocate for consideration and advice, and may so refer the case upon appeal from any punishment imposed under subsection (2) of this section.

(6) The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(7) The governor may by regulation prescribe the form of records to be kept of proceedings under this section and may also prescribe that certain categories of those proceedings shall be in writing. [1991 c 43 § 5; 1989 c 48 § 15; 1963 c 220 § 15.]

PART IV—COURTS-MARTIAL JURISDICTION

38.38.172 [Art. 16] Courts-martial of organized militia not in federal service—Composition—Jurisdiction—Powers and proceedings. (1) In the organized militia not in federal service, there are general, special, and summary courts-martial constituted like similar courts of the armed forces of the United States. They have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures provided for those courts.

(2) The three kinds of courts-martial are:

(a) General courts-martial, consisting of a military judge and not less than five members, or only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests orally on the record or in writing a court composed only of a military judge and the military judge approves;

(b) Special courts-martial, consisting of not less than three members, or a military judge and not less than three members, or only a military judge, if one has been detailed to the court, and the accused under the same conditions as those prescribed in (a) of this subsection so requests; and

(c) Summary courts-martial, consisting of one commissioned officer. [1989 c 48 § 16; 1963 c 220 § 16.]

38.38.176 [Art. 17] Jurisdiction of courts-martial in general. Each force of the organized militia has court-martial jurisdiction over all persons subject to this code. The exercise of jurisdiction by one force over personnel of another force shall be in accordance with regulations prescribed by the governor. [1989 c 48 § 17; 1963 c 220 § 17.]

38.38.180 [Art. 18] Jurisdiction of general courts-martial. Subject to RCW 38.38.176, general courts martial have jurisdiction to try persons subject to this code for any offense made punishable by this code and may, under such limitations as the governor may prescribe, adjudge any of the following punishments:

(1) A fine of not more than two hundred dollars;

(2) Forfeiture of pay and allowances;

(3) A reprimand;

(4) Dismissal or dishonorable discharge;

(5) Reduction of a noncommissioned officer to the ranks; or

(6) Any combination of these punishments. [1963 c 220 § 18.]

38.38.184 [Art. 19] Jurisdiction of special courts-martial—Dishonorable discharge. Subject to RCW 38.38.176, special courts-martial have jurisdiction to try persons subject to this code for any offense for which they may be punished under this code. A special court-martial has the same powers of punishment as a general court-martial, except that a fine imposed by a special court-martial may not be more than one hundred dollars for a single offense. A dishonorable discharge may not be adjudged unless a complete record of the proceedings and testimony has been made, counsel having the qualifications prescribed under RCW 38.38.260 was detailed to represent the accused, and a military judge was detailed to the trial, except in any case in which a military judge could not be detailed to the trial because of physical conditions or military exigencies. In any such case in which a military judge was not detailed to the trial, the convening authority shall make a detailed written statement, to be appended to the record, stating the reason or reasons a military judge could not be detailed. [1989 c 48 § 18; 1963 c 220 § 19.]

38.38.188 [Art. 20] Jurisdiction of summary courts-martial. (1) Subject to RCW 38.38.176, summary courts-

martial have jurisdiction to try persons subject to this code, except officers for any offense made punishable by this code.

(2) No person with respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if the person objects thereto, unless under RCW 38.38.132 the person has been permitted and has elected to refuse punishment under that section. If objection to trial by summary court-martial is made by an accused who has been permitted to refuse punishment under RCW 38.38.132, trial shall be ordered by special or general court-martial, as may be appropriate.

(3) A summary court-martial may sentence to a fine of not more than twenty-five dollars for a single offense, to forfeiture of pay and allowances, and to reduction of a noncommissioned officer to the ranks. [1989 c 48 § 19; 1963 c 220 § 20.]

38.38.192 Sentences of dismissal or dishonorable discharge to be approved by the governor. In the organized militia not in federal service, no sentence of dismissal or dishonorable discharge may be executed until it is approved by the governor. [1963 c 220 § 21.]

38.38.196 Complete record of proceedings and testimony if dishonorable discharge or dismissal adjudged. A dishonorable discharge or dismissal may not be adjudged by any court-martial unless a complete record of the proceedings and testimony before the court has been made. [1989 c 48 § 20; 1963 c 220 § 22.]

38.38.200 Confinement instead of fine. In the organized militia not in federal service, a court-martial may, instead of imposing a fine, sentence to confinement for not more than one day for each dollar of the authorized fine. [1989 c 48 § 21; 1963 c 220 § 23.]

PART V—APPOINTMENT AND COMPOSITION OF COURTS-MARTIAL

38.38.240 [Art. 22] Who may convene general courts-martial. In the organized militia not in federal service, general courts-martial may be convened by the president or by the governor, or by the commanding general of the national guard of the District of Columbia. [1989 c 48 § 22; 1963 c 220 § 24.]

38.38.244 [Art. 23] Special courts-martial of organized militia not in federal service—Who may convene. (1) In the organized militia not in federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command, may convene special courts-martial. Special courts-martial may also be convened by superior authority. When any such officer is an accuser, the court shall be convened by superior competent authority.

(2) A special court-martial may not try a commissioned officer. [1989 c 48 § 23; 1963 c 220 § 25.]

38.38.248 [Art. 24] Summary courts-martial of organized militia not in federal service—Who may convene. (1) In the organized militia not in federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment, may convene a summary court-martial consisting of one commissioned officer. The proceedings shall be informal.

(2) When only one commissioned officer is present with a command or detachment the commissioned officer shall be the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases brought before him or her. Summary courts-martial may, however, be convened in any case by superior competent authority when considered desirable. [1989 c 48 § 24; 1963 c 220 § 26.]

38.38.252 [Art. 25] Who may serve on courts-martial. (1) Any commissioned officer of or on duty with the organized militia is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

(2) Any warrant officer of or on duty with the organized militia is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

(3)(a) Any enlisted member of the organized militia who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted member who may lawfully be brought before such courts for trial, but shall serve as a member of a court only if, before the conclusion of a session called by the military judge under RCW 38.38.380(1) prior to trial or, in the absence of such a session, before the court is assembled for the trial of the accused, the accused personally has requested in writing that enlisted members serve on it. After such a request, the accused may not be tried by a general or special court-martial the membership of which does not include enlisted members in a number comprising at least one-third of the total membership of the court, unless eligible members cannot be obtained on account of physical conditions or military exigencies. If such members cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained.

(b) In this section, the word "unit" means any regularly organized body of the organized militia not larger than a company, a squadron, or a body corresponding to one of them.

(4)(a) When it can be avoided, no person subject to this code may be tried by a court-martial any member of which is junior to the person in rank or grade.

(b) When convening a court-martial, the convening authority shall detail as members thereof such members as, in his or her opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member is eligible to serve as a member of a general or special court-martial when

the member is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

(c) Before a court-martial is assembled for the trial of a case, the convening authority may excuse a member of the court from participating in the case. Under such regulations as the governor may prescribe, the convening authority may delegate his or her authority under this subsection to the staff judge advocate or to any other principal assistant. [1989 c 48 § 25; 1963 c 220 § 27.]

38.38.256 [Art. 26] Military judge of a general or special court-martial. (1) A military judge shall be detailed to each general court-martial. Subject to regulations of the governor, a military judge may be detailed to any special court-martial. The governor shall prescribe regulations providing for the manner in which military judges are detailed for such courts-martial and for the persons who are authorized to detail military judges for such courts-martial. The military judge shall preside over each open session of the court-martial to which he or she has been detailed.

(2) A military judge shall be a commissioned officer of the armed forces who is a member of the bar of a federal court or a member of the bar of the highest court of a state and who is certified to be qualified for duty as a military judge by the state judge advocate.

(3) The military judge of a general court-martial shall be designated by the state judge advocate or a designee for detail in accordance with regulations prescribed under subsection (1) of this section. Unless the court-martial was convened by the governor, neither the convening authority nor any member of the staff shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge so detailed, which relates to performance of duty as a military judge. A commissioned officer who is certified to be qualified for duty as a military judge of a general court-martial may perform such duties only when he or she is assigned and directly responsible to the state judge advocate or designee, and may perform duties of a judicial or nonjudicial nature other than those relating to the primary duty as a military judge of a general court-martial when such duties are assigned by or with the approval of the state judge advocate or designee.

(4) No person is eligible to act as military judge in a case if the person is the accuser or a witness for the prosecution or has acted as investigating officer or a counsel in the same case.

(5) The military judge of a court-martial may not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel, nor may the military judge vote with the members of the court. [1989 c 48 § 26; 1963 c 220 § 28.]

38.38.260 [Art. 27] Detail of trial counsel and defense counsel. (1)(a) Trial counsel and defense counsel shall be detailed for each general and special court-martial. Assistant trial counsel and assistant and associate defense counsel may be detailed for each general and special court-martial. The governor shall prescribe regulations providing for the manner in which counsel are detailed for such courts-

martial and for the persons who are authorized to detail counsel for such courts-martial.

(b) No person who has acted as investigating officer, military judge, or court member in any case may act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant or associate defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

(2) Trial counsel or defense counsel detailed for a general court-martial:

(a) Must be a judge advocate who is a graduate of an accredited law school or is a member of the bar of a federal court or of the highest court of a state, or must be a member of the bar of a federal court or of the highest court of a state; and

(b) Must be certified as competent to perform such duties by the state judge advocate.

(3) In the case of a special court-martial:

(a) The accused shall be afforded the opportunity to be represented at the trial by counsel having the qualifications prescribed under subsection (2) of this section unless counsel having such qualifications cannot be obtained on account of physical conditions or military exigencies. If counsel having such qualifications cannot be obtained, the court may be convened and the trial held but the convening authority shall make a detailed written statement, to be appended to the record, stating why counsel with such qualifications could not be obtained;

(b) If the trial counsel is qualified to act as counsel before a general court-martial, the defense counsel detailed by the convening authority must be a person similarly qualified; and

(c) If the trial counsel is a judge advocate or a member of the bar of a federal court or the highest court of a state, the defense counsel detailed by the convening authority must be one of the foregoing. [1991 c 43 § 6; 1989 c 48 § 27; 1963 c 220 § 29.]

38.38.264 [Art. 28] Detail or employment of reporters and interpreters. Under such regulations as the governor may prescribe, the convening authority of a general or special court martial or court of inquiry shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court. Under like regulations the convening authority of a military court may detail or employ interpreters who shall interpret for the court. [1963 c 220 § 30.]

38.38.268 [Art. 29] Absent and additional members. (1) No member of a general or special court-martial may be absent or excused after the court has been assembled for the trial of the accused unless excused as a result of a challenge, excused by the military judge for physical disability or other good cause, or excused by order of the convening authority for good cause.

(2) Whenever a general court-martial, other than a general court-martial composed of a military judge only, is reduced below five members, the trial may not proceed unless the convening authority details new members suffi-

cient in number to provide not less than five members. The trial may proceed with the new members present after the recorded evidence previously introduced before the members of the court has been read to the court in the presence of the military judge, the accused, and counsel for both sides.

(3) Whenever a special court-martial, other than a special court-martial composed of a military judge only, is reduced below three members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than three members. The trial shall proceed with the new members present as if no evidence had previously been introduced at the trial, unless a verbatim record of the evidence previously introduced before the members of the court or a stipulation thereof is read to the court in the presence of the military judge, if any, the accused, and counsel for both sides.

(4) If the military judge of a court-martial composed of a military judge only is unable to proceed with the trial because of physical disability, as a result of a challenge, or for other good cause, the trial shall proceed, subject to any applicable conditions of RCW 38.38.172(2) (a) or (b), after the detail of a new military judge as if no evidence had previously been introduced, unless a verbatim record of the evidence previously introduced or a stipulation thereof is read in court in the presence of the new military judge, the accused, and counsel for both sides. [1989 c 48 § 28; 1963 c 220 § 31.]

PART VI—PRETRIAL PROCEDURE

38.38.308 [Art. 30] Charges and specifications. (1) Charges and specifications shall be signed by a person subject to this code under oath before a person authorized by this code to administer oaths and shall state:

(a) That the signer has personal knowledge of, or has investigated, the matters set forth therein; and

(b) That they are true in fact to the best of his or her knowledge and belief.

(2) Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made thereof in the interest of justice and discipline, and the person accused shall be informed of the charges against him or her as soon as practicable. [1989 c 48 § 29; 1963 c 220 § 32.]

38.38.312 [Art. 31] Compulsory self-incrimination prohibited. (1) No person subject to this code may compel persons to incriminate themselves or to answer any question the answer to which may tend to incriminate them.

(2) No person subject to this code may interrogate, or request any statement from, an accused or a person suspected of an offense without first informing the person of the nature of the accusation and advising that the person does not have to make any statement regarding the offense of which he or she is accused or suspected and that any statement made by the person may be used as evidence against him or her in a trial by court-martial.

(3) No person subject to this code may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade the person.

(4) No statement obtained from any person in violation of this section, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against the person in a trial by court-martial. [1989 c 48 § 30; 1963 c 220 § 33.]

38.38.316 [Art. 32] Investigation. (1) No charge or specification may be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made. This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline.

(2) The accused shall be advised of the charges against him or her and of the right to be represented at that investigation by counsel. The accused has a right to be represented at that investigation as provided in RCW 38.38.376 and in regulations prescribed under that section.

At that investigation full opportunity shall be given to the accused to cross-examine witnesses against him or her if they are available and to present anything the person may desire in his or her own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after the investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused.

(3) If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (2) hereof, no further investigation of that charge is necessary under this section unless it is demanded by the accused after being informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in his or her own behalf.

(4) The requirements of this section are binding on all persons administering this code but failure to follow them does not divest a military court of jurisdiction. [1989 c 48 § 31; 1963 c 220 § 34.]

38.38.320 [Art. 33] Forwarding of charges. When a person is held for trial by general court-martial the commanding officer shall, within eight days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the investigation and allied papers, to the governor. If that is not practicable, the officer shall report in writing to the governor the reasons for delay. [1989 c 48 § 32; 1963 c 220 § 35.]

38.38.324 [Art. 34] Advice of state judge advocate and reference for trial. (1) Before directing the trial of any charge by general court-martial, the convening authority shall refer it to the state judge advocate for consideration and advice. The convening authority may not refer a charge to a general court-martial for trial unless he or she has found that the charge alleges an offense under this code, is warranted by evidence indicated in the report of the investiga-

tion under RCW 38.38.316, if there is such a report, and the court-martial would have jurisdiction over the accused and the offense.

(2) The advice of the staff judge advocate under subsection (1) of this section with respect to a specification under a charge shall include a written and signed statement by the staff judge advocate:

(a) Expressing conclusions with respect to each matter set forth in subsection (1) of this section; and

(b) Recommending action that the convening authority take regarding the specification.

If the specification is referred for trial, the recommendation of the state judge advocate shall accompany the specification.

(3) If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections, and such changes in the charges and specifications as are needed to make them conform to the evidence may be made. [1989 c 48 § 33; 1963 c 220 § 36.]

38.38.328 [Art. 35] Service of charges. The trial counsel to whom court-martial charges are referred for trial shall cause to be served upon the accused a copy of the charges upon which trial is to be had. In time of peace no person may, against his or her objection, be brought to trial or be required to participate by himself or counsel in a session called by a military judge under RCW 38.38.380(1), in a general court-martial within a period of five days after the service of the charges upon him or her, or before a special court-martial within a period of three days after the service of the charges upon him or her. [1989 c 48 § 34; 1963 c 220 § 37.]

PART VII—TRIAL PROCEDURE

38.38.368 [Art. 36] Governor may prescribe rules. The procedure, including modes of proof, in cases before military courts and other military tribunals may be prescribed by the governor by regulations, which shall, so far as the governor considers practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the courts of the state, but which may not be contrary to or inconsistent with this code. [1989 c 48 § 35; 1963 c 220 § 38.]

38.38.372 [Art. 37] Unlawfully influencing action of court. (1) No authority convening a general, special, or summary court-martial nor any other commanding officer, or officer serving on the staff thereof, may censure, reprimand, or admonish the court or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his or her functions in the conduct of the proceeding. No person subject to this code may attempt to coerce or, by any unauthorized means, influence the action of the court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to judicial acts. The foregoing provisions of this section shall not apply with respect to (a)

general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial, or (b) to statements and instructions given in open court by the military judge, president of a special court-martial, or counsel.

(2) In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a member of the organized militia is qualified to be advanced, in grade, or in determining the assignment or transfer of a member of the organized militia, or in determining whether a member of the organized militia should be retained on active duty, no person subject to this chapter may, in preparing any such report (a) consider or evaluate the performance of duty of any such member of a court-martial, or (b) give a less favorable rating or evaluation of any member of the organized militia because of the zeal with which such member, as counsel, represented any accused before a court-martial. [1989 c 48 § 36; 1963 c 220 § 39.]

38.38.376 [Art. 38] Duties of trial counsel and defense counsel. (1) The trial counsel of a general or special court-martial shall prosecute in the name of the state, and shall, under the direction of the court, prepare the record of the proceedings.

(2) The accused has the right to be represented in his or her defense before a general or special court-martial by civilian counsel if provided by the accused, or by military counsel of his or her own selection if reasonably available as defined in regulations of the governor, or by the defense counsel detailed under RCW 38.38.260. Should the accused have civilian counsel of his or her own selection, the defense counsel, and assistant defense counsel, if any, who were detailed, shall, if the accused so desires, act as associate counsel; otherwise they shall be excused by the military judge or president of a special court-martial.

(3) In every court-martial proceeding, the defense counsel may, in the event of conviction, forward for attachment to the record of proceedings a brief of such matters the defense counsel feels should be considered in behalf of the accused on review, including any objection to the contents of the record which he or she considers appropriate and assist the accused in the submission of any matter under RCW 38.38.536.

(4) An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when qualified to be a trial counsel as required by RCW 38.38.260, perform any duty imposed by law, regulation, or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

(5) An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when qualified to be the defense counsel as required by RCW 38.38.260, perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused. [1989 c 48 § 37; 1963 c 220 § 40.]

38.38.380 [Art. 39] Sessions. (1) At any time after the service of charges which have been referred for trial to

a court-martial composed of a military judge and members, the military judge may, subject to RCW 38.38.328, call the court into session without the presence of the members for the purpose of:

(a) Hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

(b) Hearing and ruling upon any matter which may be ruled upon by the military judge under this chapter, whether or not the matter is appropriate for later consideration or decision by the members of the court;

(c) Holding the arraignment and receiving the pleas of the accused; and

(d) Performing any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to RCW 38.38.368 and which does not require the presence of the members of the court.

These proceedings shall be conducted in the presence of the accused, the defense counsel, and the trial counsel and shall be made a part of the record.

(2) When the members of a court-martial deliberate or vote, only the members may be present. All other proceedings, including any other consultation of the members of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and in cases in which a military judge has been detailed to the court, the military judge. [1989 c 48 § 38; 1963 c 220 § 41.]

38.38.384 [Art. 40] Continuances. The military judge or a court-martial without a military judge may, for reasonable cause, grant a continuance to any party for such time and as often as may appear to be just. [1989 c 48 § 39; 1963 c 220 § 42.]

38.38.388 [Art. 41] Challenges. (1) The military judge and members of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The military judge or, if none, the court shall determine the relevance and validity of challenges for cause and may not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(2) Each accused and the trial counsel is entitled to one peremptory challenge, but the military judge may not be challenged except for cause. [1989 c 48 § 40; 1963 c 220 § 43.]

38.38.392 [Art. 42] Oaths. (1) Before performing their respective duties, military judges, members of general and special courts-martial, trial counsel, assistant trial counsel, defense counsel, assistant or associate defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully. The form of the oath, the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which these duties are to be performed or for a particular case, shall be as prescribed in regulations of the governor. These regulations may provide that an oath to perform

faithfully duties as a military judge, trial counsel, assistant trial counsel, defense counsel, or assistant or associate defense counsel may be taken at any time by a judge advocate or other person certified to be qualified or competent for the duty, and if such an oath is taken it need not again be taken at the time the judge advocate, or other person, is detailed to that duty.

(2) Each witness before a court-martial shall be examined on oath. [1989 c 48 § 41; 1963 c 220 § 44.]

38.38.396 [Art. 43] Statute of limitations. (1) A person charged with desertion or absence without leave in time of war, or with aiding the enemy or with mutiny may be tried and punished at any time without limitation.

(2) Except as otherwise provided in this section, a person charged with desertion in time of peace or with the offense punishable under RCW 38.38.784 is not liable to be tried by court-martial if the offense was committed more than three years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

(3) Except as otherwise provided in this section, a person charged with any offense is not liable to be tried by court-martial or punished under RCW 38.38.132 if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command or before the imposition of punishment under RCW 38.38.132.

(4) Periods in which the accused was absent from territory in which the state has the authority to apprehend the accused, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this section. [1989 c 48 § 42; 1963 c 220 § 45.]

38.38.400 [Art. 44] Former jeopardy. (1) No person may, without the person's consent, be tried a second time in any military court of the state for the same offense.

(2) No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

(3) A proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial in the sense of this section. [1989 c 48 § 43; 1963 c 220 § 46.]

38.38.404 [Art. 45] Pleas of the accused. (1) If an accused arraigned before a court-martial makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that the accused has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though the accused had pleaded not guilty.

(2) With respect to any other charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge or by a court-martial without a military judge, a finding of guilty of the charge or specification may be entered immediately without vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty. [1991 c 43 § 7; 1989 c 48 § 44; 1963 c 220 § 47.]

38.38.408 [Art. 46] Opportunity to obtain witnesses and other evidence. (1) The trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the governor may prescribe.

(2) The president of a special court-martial, military judge, or a summary court officer may:

(a) Issue a warrant for the arrest of any accused person who, having been served with a warrant and a copy of the charges, disobeys a written order by the convening authority to appear before the court;

(b) Issue subpoenas duces tecum and other subpoenas;

(c) Enforce by attachment the attendance of witnesses and the production of books and papers; and

(d) Sentence for refusal to be sworn or to answer, as provided in actions before civil courts of the state.

(3) Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall run to any part of the state and shall be executed by civil officers as prescribed by the laws of the state. [1989 c 48 § 45; 1963 c 220 § 48.]

38.38.412 [Art. 47] Refusal to appear or testify—Penalty. (1) Any person not subject to this code who:

(a) Has been duly subpoenaed to appear as a witness or to produce books and records before a court-martial, military commission, court of inquiry, or any other military court or board, or before any military or civil officer designated to take a deposition to be read in evidence before such a court;

(b) Has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending the superior court of the state; and

(c) Wilfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce; is guilty of an offense against the state.

(2) Any person who commits an offense named in subsection (1) of this section shall be tried before the superior court of this state having jurisdiction and jurisdiction is conferred upon those courts for that purpose. Upon conviction, such a person shall be punished by a fine of not more than five hundred dollars, or imprisonment for not more than six months, or both.

(3) The prosecuting attorney in any such court, upon the certification of the facts by the military court, commission, court of inquiry, or board, shall prosecute any person violating this section. [1989 c 48 § 46; 1963 c 220 § 49.]

38.38.416 Contempts. A military court may punish for contempt any person who uses any menacing word, sign,

or gesture in its presence, or who disturbs its proceedings by any riot or disorder. The punishment may not exceed confinement for thirty days or a fine of one hundred dollars, or both. [1963 c 220 § 50.]

38.38.420 [Art. 49] Depositions. (1) At any time after charges have been signed, as provided in RCW 38.38.308, any party may take oral or written depositions unless a military judge or court-martial without a military judge hearing the case, or if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids it for good cause. If a deposition is to be taken before charges are referred for trial, such an authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.

(2) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(3) Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of the state or by the laws of the place where the deposition is taken to administer oaths.

(4) A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence or, in the case of audiotape, videotape, or similar material, may be played in evidence before any court-martial or in any proceeding before a court of inquiry, if it appears:

(a) That the witness resides or is beyond the state in which the court-martial or court of inquiry is ordered to sit, or beyond the distance of one hundred miles from the place of trial or hearing;

(b) That the witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing; or

(c) That the present whereabouts of the witness is unknown. [1989 c 48 § 47; 1963 c 220 § 51.]

38.38.424 [Art. 50] Admissibility of records of courts of inquiry. (1) In any case not extending to the dismissal of a commissioned officer, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court martial if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence.

(2) Such testimony may be read in evidence only by the defense in cases extending to the dismissal of a commissioned officer.

(3) Such testimony may also be read in evidence before a court of inquiry or a military board. [1963 c 220 § 52.]

38.38.428 [Art. 51] Voting, rulings, instructions. (1) Voting by members of a general or special court-martial on the findings and on the sentence, and by members of a court-martial without a military judge upon questions of

challenge, shall be by secret written ballot. The junior member of the court shall count the votes. The count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court.

(2) The military judge and, except for questions of challenge, the president of a court-martial without a military judge shall rule upon all questions of law and all interlocutory questions arising during the proceedings. Any such ruling made by the military judge upon any question of law or any interlocutory question other than the factual issue of mental responsibility of the accused, or by the president of a court-martial without a military judge upon any question of law other than a motion for a finding of not guilty, is final and constitutes the ruling of the court. However, the military judge or the president of a court-martial without a military judge may change a ruling at any time during the trial. Unless the ruling is final, if any member objects thereto, the court shall be cleared and closed and the question decided by a vote as provided in RCW 38.38.432, beginning with the junior in rank.

(3) Before a vote is taken on the findings, the military judge or the president of a court-martial without a military judge shall, in the presence of the accused and counsel, instruct the members of the court as to the elements of the offense and charge them:

(a) That the accused must be presumed to be innocent until guilt is established by legal and competent evidence beyond reasonable doubt;

(b) That in the case being considered, if there is reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and the accused must be acquitted;

(c) That, if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree to which there is no reasonable doubt; and

(d) That the burden of proof to establish the guilt of the accused beyond reasonable doubt is upon the state.

(4) Subsections (1), (2), and (3) of this section do not apply to a court-martial composed of a military judge only. The military judge of such a court-martial shall determine all questions of law and fact arising during the proceedings and, if the accused is convicted, adjudge an appropriate sentence. The military judge of such a court-martial shall make a general finding and shall in addition on request find the facts specially. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear therein. [1989 c 48 § 48; 1963 c 220 § 53.]

38.38.432 [Art. 52] Number of votes required. (1) No person may be convicted of an offense, except as provided in RCW 38.38.404(2) or by the concurrence of two-thirds of the members present at the time the vote is taken.

(2) All sentences shall be determined by the concurrence of two-thirds of the members present at the time that the vote is taken.

(3) All other questions to be decided by the members of a general or special court-martial shall be determined by a majority vote, but a determination to reconsider a finding of guilty, or to reconsider a sentence with a view towards decreasing it, may be made by any lesser vote which

indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence. A tie vote on a challenge disqualifies the member challenged. A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused's sanity is a determination against the accused. A tie vote on any other question is a determination in favor of the accused. [1989 c 48 § 49; 1963 c 220 § 54.]

38.38.436 [Art. 53] Court to announce action. A court martial shall announce its findings and sentence to the parties as soon as determined. [1963 c 220 § 55.]

38.38.440 [Art. 54] Record of trial. (1) Each general court-martial shall keep a separate record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by that of a member if the trial counsel is unable to authenticate it by reason of death, disability, or absence. In a court-martial consisting of only a military judge, the record shall be authenticated by the court reporter under the same conditions which would impose such a duty on a member under this subsection.

(2) Each special and summary court-martial shall keep a separate record of the proceedings in each case, and the record shall be authenticated in the manner required by such regulations as the governor may prescribe.

(3)(a) A complete record of the proceedings and testimony shall be prepared:

(i) In each general court-martial case in which the sentence adjudged includes a dismissal, a discharge, or, if the sentence adjudged does not include a discharge, any other punishment which exceeds that which may otherwise be adjudged by a special court-martial; and

(ii) In each special court-martial case in which the sentence adjudged includes a dishonorable discharge.

(b) In all other court-martial cases, the record shall contain such matters as may be prescribed by regulations of the governor.

(4) A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is authenticated. [1989 c 48 § 50; 1963 c 220 § 56.]

PART VIII—SENTENCES

38.38.480 [Art. 55] Cruel and unusual punishments prohibited. Punishment by flogging, or by branding, marking or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any court martial or inflicted upon any person subject to this code. The use of irons, single or double, except for the purpose of safe custody, is prohibited. [1963 c 220 § 57.]

38.38.484 [Art. 56] Maximum limits—Reduction in pay grade. (1) The punishment which a court-martial may direct for an offense may not exceed limits prescribed by this code.

(2) Unless otherwise provided in regulations to be prescribed by the governor, a court-martial sentence of an enlisted member in a pay grade above E-1, as approved by the convening authority, that includes a dishonorable discharge reduces that member to pay grade E-1, effective on the date of that approval.

(3) If the sentence of a member who is reduced in pay grade under subsection (2) of this section is set aside or disapproved, or, as finally approved, does not include any punishment named in subsection (2) of this section, the rights and privileges of which the member was deprived because of that reduction shall be restored and the member is entitled to the pay and allowances to which the member would have been entitled for the period the reduction was in effect, had he or she not been so reduced. [1989 c 48 § 51; 1963 c 220 § 58.]

38.38.488 [Art. 57] Effective date of sentences. (1) No forfeiture may extend to any pay or allowances accrued before the date on which the sentence is approved by the person acting under RCW 38.38.536.

(2) Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is ordered to be executed by the convening authority, but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement. Regulations prescribed by the governor may provide that sentences of confinement may not be executed until approved by designated officers.

(3) All other sentences of courts-martial are effective on the date ordered executed.

(4) On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority or, if the accused is no longer under his or her jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned, may, in his or her sole discretion, defer service of the sentence to confinement. The deferment shall terminate when the sentence is ordered executed. The deferment may be rescinded at any time by the officer who granted it or, if the accused is no longer under his or her jurisdiction, by the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned. [1989 c 48 § 52; 1963 c 220 § 59.]

38.38.492 [Art. 58] Execution of confinement. (1) A sentence of confinement adjudged by a military court, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the forces of the organized militia or in any jail, penitentiary, or prison designated for that purpose. Persons so confined in a jail, penitentiary, or prison are subject to the same discipline and treatment as persons confined or committed to the jail, penitentiary, or prison by the courts of the state or of any political subdivision thereof.

(2) The omission of the words "hard labor" from any sentence or punishment of a court-martial adjudging confinement does not deprive the authority executing that sentence

or punishment of the power to require hard labor as a part of the punishment.

(3) The keepers, officers, and wardens of city or county jails and of other jails, penitentiaries, or prisons designated by the governor, or by such person as the governor may authorize to act under RCW 38.38.080, shall receive persons ordered into confinement before trial and persons committed to confinement by a military court and shall confine them according to law. No such keeper, officer, or warden may require payment of any fee or charge for so receiving or confining a person. [1989 c 48 § 53; 1963 c 220 § 60.]

PART IX—REVIEW OF COURTS-MARTIAL

38.38.532 Execution of sentence—Suspension of sentence. Except as provided in RCW 38.38.196 and 38.38.556, a court-martial sentence, unless suspended, may be ordered executed by the convening authority when approved by him or her. The convening authority shall approve the sentence or such part, amount, or commuted form of the sentence as he or she sees fit, and may suspend the execution of the sentence as approved by him or her. [1989 c 48 § 54; 1963 c 220 § 61.]

38.38.536 Initial action on the record. After a trial by court martial the record shall be forwarded to the convening authority, as reviewing authority, and action thereon may be taken by the person who convened the court, a commissioned officer commanding for the time being, a successor in command, or by the governor. [1963 c 220 § 62.]

38.38.540 [Art. 60] Initial action on the record—General court-martial records. The convening authority shall refer the record of each general court-martial to the staff judge advocate, who shall submit a written opinion thereon to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction. [1989 c 48 § 55; 1963 c 220 § 63.]

38.38.544 [Art. 61] Reconsideration and revision. (1) If a specification before a court martial has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any further appropriate action.

(2) Where there is an apparent error or omission in the record or where the record shows improper or inconsistent action by a court martial with respect to a finding or sentence which can be rectified without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action. In no case, however, may the record be returned:

(a) For reconsideration of a finding of not guilty, or a ruling which amounts to a finding of not guilty;

(b) For reconsideration of a finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some section of this code; or

(c) For increasing the severity of the sentence unless the sentence prescribed for the offense is mandatory. [1963 c 220 § 64.]

38.38.548 [Art. 62] Rehearings. (1) If the convening authority disapproves the findings and sentence of a court martial he may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing. In such a case he shall state the reasons for disapproval. If he disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges.

(2) Each rehearing shall take place before a court martial composed of members not members of the court martial which first heard the case. Upon a rehearing the accused may not be tried for any offense of which he was found not guilty by the first court martial, and no sentence in excess of or more severe than the original sentence may be imposed, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory. [1963 c 220 § 65.]

38.38.552 [Art. 63] Approval by the convening authority. In acting on the findings and sentence of a court martial, the convening authority may approve only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in law and fact and as he in his discretion determines should be approved. Unless he indicates otherwise, approval of the sentence is approval of the findings and sentence. [1963 c 220 § 66.]

38.38.556 [Art. 64] Review of records—Disposition. (1) If the convening authority is the governor, the governor's action on the review of any record of trial is final.

(2) In all other cases not covered by subsection (1), if the sentence of a special court-martial as approved by the convening authority includes a dishonorable discharge, whether or not suspended, the entire record shall be sent to the appropriate staff judge advocate of the state force concerned to be reviewed in the same manner as a record of trial by general court-martial. The record and the opinion of the staff judge advocate shall then be sent to the state judge advocate for review.

(3) All other special and summary court-martial records shall be sent to the judge advocate of the appropriate force of the organized militia and shall be acted upon, transmitted, and disposed of as may be prescribed by regulations of the governor.

(4) The state judge advocate shall review the record of trial in each case sent for review as provided under subsection (2) of this section. If the final action of the court-martial has resulted in an acquittal of all charges and specifications, the opinion of the state judge advocate is limited to questions of jurisdiction.

(5) The state judge advocate shall take final action in any case reviewable by the state judge advocate.

(6) In a case reviewable by the state judge advocate under this section, the state judge advocate may act only with respect to the findings and sentence as approved by the convening authority. The state judge advocate may affirm only such findings of guilty, and the sentence or such part or

amount of the sentence, as the state judge advocate finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, the state judge advocate may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses. If the state judge advocate sets aside the findings and sentence, the state judge advocate may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If the state judge advocate sets aside the findings and sentence and does not order a rehearing, he shall order that the charges be dismissed.

(7) In a case reviewable by the state judge advocate under this section, the state judge advocate shall instruct the convening authority to act in accordance with the state judge advocate's decision on the review. If the state judge advocate has ordered a rehearing but the convening authority finds a rehearing impracticable, the state judge advocate may dismiss the charges.

(8) The state judge advocate may order one or more boards of review each composed of not less than three commissioned officers of the organized militia, each of whom must be a member of the bar of the highest court of the state. Each board of review shall review the record of any trial by special court-martial, including a sentence to a dishonorable discharge, referred to it by the state judge advocate. Boards of review have the same authority on review as the state judge advocate has under this section. [1989 c 48 § 56; 1963 c 220 § 67.]

38.38.560 [Art. 65] Error of law—Lesser included offense. (1) A finding or sentence of a court martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(2) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm so much of the finding as includes a lesser included offense. [1963 c 220 § 68.]

38.38.564 [Art. 66] Review counsel. (1) Upon the final review of a sentence of a general court-martial, the accused has the right to be represented by counsel before the reviewing authority, before the staff judge advocate, and before the state judge advocate.

(2) Upon the request of an accused entitled to be so represented, the state judge advocate shall appoint a lawyer who is a member of the organized militia and who has the qualifications prescribed in RCW 38.38.260, if available, to represent the accused before the reviewing authority, before the staff judge advocate, and before the state judge advocate, in the review of cases specified in subsection (1) of this section.

(3) If provided by the accused, an accused entitled to be so represented may be represented by civilian counsel before the reviewing authority, before the staff judge advocate, and before the state judge advocate. [1991 c 43 § 8; 1989 c 48 § 57; 1963 c 220 § 69.]

38.38.568 [Art. 67] Vacation of suspension. (1) Before the vacation of the suspension of a special court-martial sentence, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. The probationer shall be represented at the hearing by counsel if the probationer so desires.

(2) The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the governor in cases involving a general court-martial sentence and to the commanding officer of the force of the organized militia of which the probationer is a member in all other cases covered by subsection (1) of this section. If the governor or commanding officer vacates the suspension, any unexecuted part of the sentence except a dismissal shall be executed.

(3) The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence. [1989 c 48 § 58; 1963 c 220 § 70.]

38.38.572 [Art. 68] Petition for a new trial. At any time within two years after approval by the convening authority of a court-martial sentence which extends to dismissal or dishonorable discharge, the accused may petition the governor for a new trial on ground of newly discovered evidence or fraud on the court-martial. [1989 c 48 § 59; 1963 c 220 § 71.]

38.38.576 [Art. 69] Remission and suspension. (1) A convening authority may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures.

(2) The governor may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court martial. [1963 c 220 § 72.]

38.38.580 [Art. 70] Restoration. (1) Under such regulations as the governor may prescribe, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed part is included in a sentence imposed upon a new trial or rehearing.

(2) If a previously executed sentence of dishonorable discharge is not imposed on a new trial, the governor shall substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.

(3) If a previously executed sentence of dismissal is not imposed on a new trial, the governor shall substitute therefor a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed by the governor alone to such commissioned grade and with such rank as in the opinion of the governor that former officer would have attained had he not been dismissed. The reappointment of such a former officer may be made if a position vacancy is available under applicable

tables of organization. All time between the dismissal and reappointment shall be considered as service for all purposes. [1989 c 48 § 60; 1963 c 220 § 73.]

38.38.584 [Art. 71] Finality of proceedings, findings and sentences. The proceedings, findings and sentences of courts martial as reviewed and approved, as required by this code, and all dismissals and discharges carried into execution under sentences by courts martial following review and approval, as required by this code, are final and conclusive. Orders publishing the proceedings of courts martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the state, subject only to action upon a petition for a new trial as provided in RCW 38.38.572. [1963 c 220 § 74.]

PART X—PUNITIVE ARTICLES

38.38.624 [Art. 72] Persons to be tried or punished. No person may be tried or punished for any offense provided for in RCW 38.38.628 through 38.38.800, unless it was committed while he was in a duty status. [1963 c 220 § 75.]

38.38.628 [Art. 73] Principals. Any person subject to this code who:

- (1) Commits an offense punishable by this code, or aids, abets, counsels, commands, or procures its commission; or
- (2) Causes an act to be done which if directly performed by him would be punishable by this code; is a principal. [1963 c 220 § 76.]

38.38.632 [Art. 74] Accessory after the fact. Any person subject to this code who, knowing that an offense punishable by this code has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court martial may direct. [1963 c 220 § 77.]

38.38.636 [Art. 75] Conviction of lesser included offense. An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein. [1963 c 220 § 78.]

38.38.640 [Art. 76] Attempts. (1) An act, done with specific intent to commit an offense under this code, amounting to more than mere preparation and tending, even though failing to effect its commission, is an attempt to commit that offense.

(2) Any person subject to this code who attempts to commit any offense punishable by this code shall be punished as a court martial may direct, unless otherwise specifically prescribed.

(3) Any person subject to this code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated. [1963 c 220 § 79.]

38.38.644 [Art. 77] Conspiracy. Any person subject to this code who conspires with any other person to commit an offense under this code shall, if one or more of the

conspirators does an act to effect the object of the conspiracy, be punished as a court martial may direct. [1963 c 220 § 80.]

38.38.648 [Art. 78] Solicitation. (1) Any person subject to this code who solicits or advises another or others to desert in violation of RCW 38.38.660 or mutiny in violation of RCW 38.38.696 shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a court martial may direct.

(2) Any person subject to this code who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of RCW 38.38.716 or sedition in violation of RCW 38.38.696 shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed, he shall be punished as a court martial may direct. [1963 c 220 § 81.]

38.38.652 [Art. 79] Fraudulent enlistment, appointment, or separation. Any person who:

(1) Procures his or her own enlistment or appointment in the organized militia by knowingly false representation or deliberate concealment as to qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(2) Procures his or her own separation from the organized militia by knowingly false representation or deliberate concealment as to eligibility for that separation; shall be punished as a court-martial may direct. [1989 c 48 § 61; 1963 c 220 § 82.]

38.38.656 [Art. 80] Unlawful enlistment, appointment, or separation. Any person subject to this code who effects an enlistment or appointment in or a separation from the organized militia of any person who is known to the person to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court-martial may direct. [1989 c 48 § 62; 1963 c 220 § 83.]

38.38.660 [Art. 81] Desertion. (1) Any member of the organized militia who:

(a) Without authority goes or remains absent from the member's unit, organization, or place of duty with intent to remain away therefrom permanently;

(b) Quits the member's unit, organization or place of duty with intent to avoid hazardous duty or to shirk important service; or

(c) Without being regularly separated from one of the organized militia enlists or accepts an appointment in the same or another one of the organized militia, or in one of the armed forces of the United States, without fully disclosing the fact that he or she has not been regularly separated;

is guilty of desertion.

(2) Any commissioned officer of the organized militia who, after tender of a resignation and before notice of its

acceptance, quits his or her post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

(3) Any person found guilty of desertion or attempt to desert shall be punished as a court-martial may direct. [1989 c 48 § 63; 1963 c 220 § 84.]

38.38.664 [Art. 82] Absence without leave. Any person subject to this code who, without authority:

(1) Fails to go to his appointed place of duty at the time prescribed;

(2) Goes from that place; or

(3) Absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed;

shall be punished as a court martial may direct. [1963 c 220 § 85.]

38.38.668 [Art. 83] Missing movement. Any person subject to this code who through neglect or design misses the movement of a ship, aircraft, or unit with which he is required in the course of duty to move shall be punished as a court martial may direct. [1963 c 220 § 86.]

38.38.672 [Art. 84] Contempt towards officials.

Any person subject to this code who uses contemptuous words against the president, the governor, or the governor of any other state, territory, commonwealth, or possession in which that person may be serving, shall be punished as a court martial may direct. [1963 c 220 § 87.]

38.38.676 [Art. 85] Disrespect towards superior commissioned officer. Any person subject to this code who behaves with disrespect towards his superior commissioned officer shall be punished as a court martial may direct. [1963 c 220 § 88.]

38.38.680 [Art. 86] Assaulting or wilfully disobeying superior commissioned officer. Any person subject to this code who:

(1) Strikes his superior commissioned officer or draws or lifts up any weapon or offers any violence against him while he is in the execution of his office; or

(2) Wilfully disobeys a lawful command of his superior commissioned officer; shall be punished as a court martial may direct. [1963 c 220 § 89.]

38.38.684 Insubordinate conduct toward warrant officer or noncommissioned officer. Any warrant officer or enlisted member who:

(1) Strikes or assaults a warrant officer or noncommissioned officer while that officer is in the execution of the officer's office;

(2) Wilfully disobeys the lawful order of a warrant officer or noncommissioned officer; or

(3) Treats with contempt or is disrespectful in language or deportment toward a warrant officer or noncommissioned officer while that officer is in the execution of the officer's office;

shall be punished as a court-martial may direct. [1989 c 48 § 64; 1963 c 220 § 90.]

38.38.688 [Art. 88] Failure to obey order or regulation. Any person subject to this code who:

(1) Violates or fails to obey any lawful general order or regulation;

(2) Having knowledge of any other lawful order issued by a member of the organized militia which it is the person's duty to obey, fails to obey the order; or

(3) Is derelict in the performance of the person's duties; shall be punished as a court-martial may direct. [1989 c 48 § 65; 1963 c 220 § 91.]

38.38.692 [Art. 89] Cruelty and maltreatment. Any person subject to this code who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court martial may direct. [1963 c 220 § 92.]

38.38.696 [Art. 90] Mutiny or sedition. (1) Any person subject to this code who:

(a) With intent to usurp or override lawful military authority refuses, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance is guilty of mutiny;

(b) With intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition;

(c) Fails to do his utmost to prevent and suppress a mutiny or sedition being committed in his presence, or fails to take all reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition which he knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

(2) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished as a court martial may direct. [1963 c 220 § 93.]

38.38.700 [Art. 91] Resistance, breach of arrest, and escape. Any person subject to this code who resists apprehension or breaks arrest or who escapes from physical restraint lawfully imposed shall be punished as a court martial may direct. [1963 c 220 § 94.]

38.38.704 [Art. 92] Releasing prisoner without proper authority. Any person subject to this code who, without proper authority, releases any prisoner committed to his charge, or who through neglect or design suffers any such prisoner to escape, shall be punished as a court martial may direct, whether or not the prisoner was committed in strict compliance with law. [1963 c 220 § 95.]

38.38.708 [Art. 93] Unlawful detention of another. Any person subject to this code who, except as provided by law or regulation, apprehends, arrests, or confines any person shall be punished as a court martial may direct. [1963 c 220 § 96.]

38.38.712 [Art. 94] Noncompliance with procedural rules. Any person subject to this code who:

(1) Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this code; or

(2) Knowingly and intentionally fails to enforce or comply with any provision of this code regulating the proceedings before, during, or after trial of an accused; shall be punished as a court martial may direct. [1963 c 220 § 97.]

38.38.716 [Art. 95] Misbehavior before the enemy. Any person subject to this code who before or in the presence of the enemy:

(1) Runs away;

(2) Shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is the person's duty to defend;

(3) Through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;

(4) Casts away arms or ammunition;

(5) Is guilty of cowardly conduct;

(6) Quits a place of duty to plunder or pillage;

(7) Causes false alarms in any command, unit, or place under control of the armed forces of the United States or the organized militia;

(8) Wilfully fails to do his or her utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which it is the person's duty so to encounter, engage, capture, or destroy; or

(9) Does not afford all practicable relief and assistance to any troops, combatants, vessels; or aircraft of the armed forces belonging to the United States or their allies, to the state, or to any other state, when engaged in battle; shall be punished as a court-martial may direct. [1989 c 48 § 66; 1963 c 220 § 98.]

38.38.720 [Art. 96] Subordinate compelling surrender. Any person subject to this code who compels or attempts to compel the commander of any of the organized militia of the state, or of any other state, to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punished as a court-martial may direct. [1989 c 48 § 67; 1963 c 220 § 99.]

38.38.724 [Art. 97] Improper use of countersign. Any person subject to this code who in time of war discloses the parole or countersign to any person not entitled to receive it, or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from that which, to his knowledge, he was authorized and required to give, shall be punished as a court martial may direct. [1963 c 220 § 100.]

38.38.728 [Art. 98] Forcing a safeguard. Any person subject to this code who forces a safeguard shall be punished as a court martial may direct. [1963 c 220 § 101.]

38.38.732 [Art. 99] Captured or abandoned property. (1) All persons subject to this code shall secure all public property taken from the enemy for the service of the United States, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

(2) Any person subject to this code who:

(a) Fails to carry out the duties prescribed in subsection (1) hereof;

(b) Buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he receives or expects any profit, benefit, or advantage to himself or another directly or indirectly connected with himself; or

(c) Engages in looting or pillaging; shall be punished as a court martial may direct. [1963 c 220 § 102.]

38.38.736 [Art. 100] Aiding the enemy. Any person subject to this code who:

(1) Aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or

(2) Without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly; shall be punished as a court martial may direct. [1963 c 220 § 103.]

38.38.740 [Art. 101] Misconduct of a prisoner. Any person subject to this code who, while in the hands of the enemy in time of war:

(1) For the purpose of securing favorable treatment by his captors acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners; or

(2) While in a position of authority over such persons maltreats them without justifiable cause; shall be punished as a court martial may direct. [1963 c 220 § 104.]

38.38.744 [Art. 102] False official statements. Any person subject to this code who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court martial may direct. [1963 c 220 § 105.]

38.38.748 [Art. 103] Military property—Loss, damage, destruction, or wrongful disposition. Any person subject to this code who, without proper authority:

(1) Sells or otherwise disposes of;

(2) Wilfully or through neglect damages, destroys, or loses; or

(3) Wilfully or through neglect suffers to be damaged, destroyed, sold or wrongfully disposed of; any military property of the United States or of the state shall be punished as a court martial may direct. [1963 c 220 § 106.]

38.38.752 [Art. 104] Property other than military property—Waste, spoilage, or destruction. Any person subject to this code who, while in a duty status, wilfully or recklessly wastes, spoils, or otherwise wilfully and wrongfully destroys or damages any property other than military property of the United States or of the state shall be punished as a court martial may direct. [1963 c 220 § 107.]

38.38.756 [Art. 105] Improper hazarding of vessel. (1) Any person subject to this code who wilfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the organized militia shall be punished as a court-martial may direct.

(2) Any person subject to this code who negligently hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the organized militia shall be punished as a court-martial may direct. [1989 c 48 § 68; 1963 c 220 § 108.]

38.38.760 [Art. 106] Drunken or reckless driving. Any person subject to this code who operates any vehicle while drunk, or in a reckless or wanton manner, shall be punished as a court martial may direct. [1963 c 220 § 109.]

38.38.764 [Art. 107] Drunk on duty—Sleeping on post—Leaving post before relief. Any person subject to this code who is found drunk on duty or sleeping upon his post, or who leaves his post before he is regularly relieved, shall be punished as a court martial may direct. [1963 c 220 § 110.]

38.38.768 [Art. 108] Dueling. Any person subject to this code who fights or promotes, or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority, shall be punished as a court martial may direct. [1963 c 220 § 111.]

38.38.772 [Art. 109] Malingering. Any person subject to this code who for the purpose of avoiding work, duty or service in the organized militia:

(1) Feigns illness, physical disablement, mental lapse or derangement; or

(2) Intentionally inflicts self-injury; shall be punished as a court-martial may direct. [1989 c 48 § 69; 1963 c 220 § 112.]

38.38.776 [Art. 110] Riot or breach of peace. Any person subject to this code who causes or participates in any riot or breach of the peace shall be punished as a court martial may direct. [1963 c 220 § 113.]

38.38.780 [Art. 111] Provoking speeches or gestures. Any person subject to this code who uses provoking or reproachful words or gestures toward any other person subject to this code shall be punished as a court martial may direct. [1963 c 220 § 114.]

38.38.784 [Art. 112] Perjury. Any person subject to this code who in a judicial proceeding or in a course of

justice conducted under this code wilfully and corruptly gives, upon a lawful oath or in any form allowed by law to be substituted for an oath, any false testimony material to the issue or matter of inquiry is guilty of perjury and shall be punished as a court martial may direct. [1963 c 220 § 115.]

38.38.788 [Art. 113] Frauds against the government.

Any person subject to this code:

(1) Who, knowing it to be false or fraudulent:

(a) Makes any claim against the United States, the state, or any officer thereof; or

(b) Presents to any person in the civil or military service thereof, for approval or payment any claim against the United States, the state, or any officer thereof;

(2) Who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the state, or any officer thereof:

(a) Makes or uses any writing or other paper knowing it to contain any false or fraudulent statements;

(b) Makes any oath to any fact or to any writing or other paper knowing the oath to be false; or

(c) Forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;

(3) Who, having charge, possession, custody, or control of any money, or other property of the United States or the state, furnished or intended for the armed forces of the United States or the organized militia, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which the person receives a certificate or receipt; or

(4) Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the state, furnished or intended for the armed forces of the United States or the organized militia, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the state; shall, upon conviction, be punished as a court-martial may direct. [1989 c 48 § 70; 1963 c 220 § 116.]

38.38.792 [Art. 114] Larceny and wrongful appropriation. (1) Any person subject to this code who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or of any other person any money, personal property, or article of value of any kind:

(a) With intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, steals that property and is guilty of larceny; or

(b) With intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, is guilty of wrongful appropriation.

(2) Any person found guilty of larceny or wrongful appropriation shall be punished as a court martial may direct. [1963 c 220 § 117.]

38.38.796 [Art. 115] Conduct unbecoming an officer and a gentleman. Any commissioned officer who is

convicted of conduct unbecoming an officer and a gentleman shall be punished as a court martial may direct. [1963 c 220 § 118.]

38.38.800 [Art. 116] General article. Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the organized militia, of which persons subject to this code may be guilty, shall be taken cognizance of by a general, special or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court. However, cognizance may not be taken of, and jurisdiction may not be extended to, the crimes of murder, manslaughter, rape, robbery, maiming, sodomy, arson, extortion, assault, burglary, or housebreaking, jurisdiction of which is reserved to civil courts. [1989 c 48 § 71; 1963 c 220 § 119.]

PART XI—MISCELLANEOUS PROVISIONS

38.38.840 [Art. 117] Courts of inquiry. (1) Courts of inquiry to investigate any matter may be convened by the governor or by any other person designated by the governor for that purpose, whether or not the persons involved have requested such an inquiry: PROVIDED, That upon the request of the officer involved such an inquiry shall be instituted as hereinabove set forth.

(2) A court of inquiry consists of three or more commissioned officers. For each court of inquiry the convening authority shall also appoint counsel for the court.

(3) Any person subject to this code whose conduct is subject to inquiry shall be designated as a party. Any person subject to this code or employed in the state military department, who has a direct interest in the subject of inquiry has the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

(4) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(5) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath or affirmation to faithfully perform their duties.

(6) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

(7) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

(8) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel. [1989 c 48 § 72; 1963 c 220 § 120.]

38.38.844 [Art. 118] Authority to administer oaths. (1) The following members of the organized militia may administer oaths for the purposes of military administration,

including military justice, and affidavits may be taken for those purposes before persons having the general powers of a notary public:

(a) The state judge advocate and all assistant state judge advocates;

(b) All law specialists;

(c) All summary courts-martial;

(d) All adjutants, assistant adjutants, acting adjutants, and personnel adjutants;

(e) The military judge, president, trial counsel, and assistant trial counsel for all general and special courts-martial;

(f) The president and the counsel for the court of any court of inquiry;

(g) All officers designated to take a deposition;

(h) All persons detailed to conduct an investigation; and

(i) All other persons designated by regulations of the governor.

(2) Officers of the organized militia may not be authorized to administer oaths as provided in this section unless they are on active state service or inactive duty for training in or with those forces under orders of the governor as prescribed in this code.

(3) The signature without seal of any such person, together with the title of the person's office, is prima facie evidence of the person's authority. [1989 c 48 § 73; 1963 c 220 § 121.]

38.38.848 [Art. 119] Sections to be explained. RCW 38.38.008, 38.38.012, 38.38.064 through 38.38.132, 38.38.252, 38.38.260, 38.38.372, 38.38.480, 38.38.624 through 38.38.792, and 38.38.848 through 38.38.860 shall be carefully explained to every enlisted member at the time of the member's enlistment or transfer or induction into, or at the time of the member's order to duty in or with any of the organized militia or within thirty days thereafter. They shall also be explained annually to each unit of the organized militia. A complete text of this code and of the regulations prescribed by the governor thereunder shall be made available to any member of the organized militia, upon request, for personal examination. [1989 c 48 § 74; 1963 c 220 § 122.]

38.38.852 [Art. 120] Complaints of wrongs. Members of the organized militia who believe themselves wronged by their commanding officer, and who, upon due application to that commanding officer, are refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the governor or adjutant general. The governor or adjutant general shall examine the complaint and take proper measures for redressing the wrong complained of. [1989 c 48 § 75; 1963 c 220 § 123.]

38.38.856 [Art. 121] Redress of injuries to property.

(1) Whenever complaint is made to any commanding officer that wilful damage has been done to the property of any person or that the person's property has been wrongfully taken by members of the organized militia, the commanding officer may, subject to such regulations as the governor may prescribe, convene a board to investigate the complaint. The board shall consist of from one to three commissioned

officers and, for the purpose of that investigation, it has power to summon witnesses and examine them upon oath or affirmation, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by the commanding officer shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive, except as provided in subsection (3) of this section, on any disbursing officer for the payment by the disbursing officer to the injured parties of the damages so assessed and approved.

(2) If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be paid to the injured parties from the military funds of the units of the organized militia to which the offenders belonged.

(3) Any person subject to this code who is accused of causing wilful damage to property has the right to be represented by counsel, to summon witnesses in the person's behalf, and to cross-examine those appearing against him or her. The person has the right of appeal to the next higher commander. [1989 c 48 § 76; 1963 c 220 § 124.]

38.38.860 [Art. 122] Execution of process and sentence. In the organized militia not in federal service, the processes and sentences of its courts-martial shall be executed by the civil officers prescribed by the laws of the state. [1989 c 48 § 77; 1963 c 220 § 125.]

38.38.864 [Art. 123] Process of military courts. (1) Military courts may issue any process or mandate necessary to carry into effect their powers. Such a court may issue subpoenae and subpoenae duces tecum and enforce by attachment attendance of witnesses and production of books and records, when it is sitting within the state and the witnesses, books and records sought are also so located.

(2) Process and mandates may be issued by summary courts-martial, or the military judge of other military courts and may be directed to and may be executed by the marshals of the military court or any peace officer and shall be in such form as may be prescribed by regulations issued under this code.

(3) All officers to whom process or mandates may be so directed shall execute them and make return of their acts thereunder according to the requirements of those documents. Except as otherwise specifically provided in this code, no such officer may demand or require payment of any fee or charge for receiving, executing, or returning such a process or mandate or for any service in connection therewith. [1989 c 48 § 78; 1963 c 220 § 126.]

38.38.868 [Art. 124] Payment of fines and disposition thereof. Fines imposed by a military court may be paid to it or to an officer executing its process. The amount of such a fine may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due the person, until the fine is liquidated. Any sum so deducted shall be turned in

to the military court which imposed the fine. Notwithstanding any other law, the officer collecting a fine or penalty imposed by a military court upon an officer or enlisted person shall pay it within thirty days to the state treasurer. Such a fine becomes a part of, is credited to, and may be spent from, the military fund of the organization or detachment to which the officer or enlisted person who paid the fine belonged. The treasurer of the state shall then report the amount thereof designating the organization or detachment to which it belongs, to the adjutant general of the state, and shall pay it over to the organization or detachment on request of its commanding officer. [1989 c 48 § 79; 1963 c 220 § 127.]

38.38.872 [Art. 125] Immunity for action of military courts. No accused may bring an action or proceeding against the convening authority or a member of a military court or officer or person acting under its authority or reviewing its proceedings because of the approval, imposition, or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court. [1963 c 220 § 128.]

38.38.876 [Art. 126] Presumption of jurisdiction. The jurisdiction of the military courts and boards established by this code shall be presumed and the burden of proof rests on any person seeking to oust those courts or boards of jurisdiction in any action or proceeding. [1963 c 220 § 129.]

38.38.880 [Art. 127] Delegation of authority by the governor. The governor may delegate any authority vested in him under this code, and may provide for the subdelegation of any such authority, except the power given him by RCW 38.38.192 and 38.38.240. [1963 c 220 § 130.]

38.38.884 [Art. 128] Uniformity of interpretation. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it and, so far as practical, to make that law uniform with the law of the United States. [1963 c 220 § 131.]

38.38.888 [Art. 129] Short title. This chapter may be cited as the "Washington code of military justice." [1963 c 220 § 132.]

Chapter 38.40

MISCELLANEOUS PROVISIONS

Sections

38.40.010	Liability of officers and enlisted persons on duty.
38.40.020	Not liable for exercise of judgment.
38.40.025	Liability of state for federal activities.
38.40.030	Compensation for death or disability.
38.40.040	Interference with employment—Penalty.
38.40.050	Discharge from employment—Penalty.
38.40.060	Military leaves for public employees.
38.40.100	Notice for duty.
38.40.110	Employment or membership in other organizations— Discrimination prohibited—Penalty—Civil cause of action.
38.40.120	Authorized military organizations.

38.40.130 Corporations may be formed.

38.40.150 Property to remain public property.

Acknowledgments and powers of attorney: Chapter 73.20 RCW.

Acquisitions of lands for permanent military installations: Chapter 37.16 RCW.

Artillery, firing across highway: RCW 77.16.260.

Common carriers—Special exceptions on carriage of property, government freight, etc.: RCW 81.28.080.

Eminent domain

condemnation for military purposes: RCW 8.04.170, 8.04.180.

notice where military land is involved: RCW 8.28.030.

Evidence

proof of missing in action, capture by enemy, etc.: RCW 5.40.030.

written finding of presumed death as prima facie evidence: RCW 5.40.020.

Federal areas and jurisdiction: Title 37 RCW.

Gas bombs: RCW 70.74.310.

Hunting and fishing licenses free to certain veterans: RCW 77.32.230.

Joint armory sites: RCW 36.64.050.

Juries—Persons exempt: RCW 2.36.080.

Mental illness hospitalization

authority over patient—Federal agencies, private establishments: RCW 71.02.490.

commitment to veterans administration or other federal agency—General provision: RCW 73.36.165.

Militia

privilege from arrest: State Constitution Art. 10 § 5.

soldiers' home: State Constitution Art. 10 § 3.

Personal exemptions—Pension money exempt: RCW 6.15.020.

Residence, contingencies affecting: State Constitution Art. 6 § 4.

Soldiers' and veterans' homes: Chapter 72.36 RCW.

Statute of limitations tolled—As to person in military service of United States: RCW 4.16.220.

Tide and shore land grants to United States: RCW 79.94.410 through 79.94.440.

Unlawful firearms—Exception: RCW 9.41.190.

Veterans and veterans' affairs: Title 73 RCW.

Veterans' rehabilitation council: Chapter 43.61 RCW.

Voter, when privileged from military duty: State Constitution Art. 6 § 5.

38.40.010 Liability of officers and enlisted persons on duty. Members of the militia ordered into active service of the state by any proper authority shall not be liable civilly or criminally for any act or acts done by them while on such duty nor shall any action lie against any officer or enlisted person for any acts done by the officer or enlisted person in line of duty by virtue of any order which may thereafter be held invalid by any civil court. When a suit or proceeding shall be commenced in any court by any person against any officer or enlisted person of the militia for any act done by such officer or enlisted person in his or her official capacity or in the discharge of any duty, or against any person acting under the authority or order of such officer or by virtue of any warrant issued pursuant to law, the defendant may require the person prosecuting or instituting the proceeding to give security for the payment of all costs that may be awarded to the defendant, and the defendant in all cases may make a general denial and, under such general denial, give all other or any special defense matter in evidence. In case the plaintiff shall be nonsuited or the verdict or judgment be in favor of the defendant, treble costs shall be assessed against the plaintiff. The defendant in such action shall be defended by the attorney general at the expense of the state,

but private counsel may also be employed by the defendant. The venue of all such actions shall be Thurston county and the state of Washington shall be in all cases a necessary party defendant. [1989 c 19 § 45; 1943 c 130 § 13; Rem. Supp. 1943 § 8603-13. Cf. 1909 c 134 § 25, part; 1895 c 108 § 173, part.]

38.40.020 Not liable for exercise of judgment. The commanding officer of any of the military forces of the state of Washington engaged under the order of proper authority in the suppression of insurrection, the dispersion of a mob, the protection of life or property, or the enforcement of the laws, shall exercise discretion as to the propriety of the means to be used in controlling or dispersing of any mob or other unlawful assembly and, if he or she exercises his or her honest judgment thereon, he or she shall not be liable in either a civil or criminal action for any act done in line of duty. [1989 c 19 § 46; 1943 c 130 § 14; Rem. Supp. 1943 § 8603-14. Cf. 1909 c 134 § 25, part; 1895 c 108 § 173, part.]

38.40.025 Liability of state for federal activities. Neither the state of Washington, its officers, employees, or agents, nor any member of the militia may be held liable in any civil action for damages arising out of any of the activities of the military forces of the state of Washington while engaged in activities during which the officers, employees, agents, or members are considered employees of the federal government under the federal tort claims act, 26 U.S.C. Sec. 2671 et seq. [1987 c 26 § 2.]

Legislative declaration—1987 c 26: "The legislature recognizes that Congress has established comprehensive administrative programs to compensate members of the military forces for injuries they may incur while performing training for national defense." [1987 c 26 § 1.]

Severability—1987 c 26: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 26 § 3.]

38.40.030 Compensation for death or disability. If any member of the organized militia is injured, incapacitated, or otherwise disabled while in active state service or inactive duty as a member of the organized militia, he or she shall receive from the state of Washington just and reasonable relief in the amount to be determined as provided in this section, including necessary medical care. If the member dies from disease contracted or injury received or is killed while in active state service or inactive duty under order of the governor, then the dependents of the deceased shall receive such compensation as may be allowed as provided in this section. If the United States or any agent thereof, in accordance with any federal statute or regulation, furnishes monetary assistance, benefits, or other temporary or permanent relief to militia members or to their dependents for injuries arising out of and occurring in the course of their activities as militia members, but not including Social Security benefits, then the amount of compensation which any militia member or his or her dependents are otherwise entitled to receive from the state of Washington as provided in this section shall be reduced by the amount of monetary assistance, benefits, or other temporary or permanent relief the militia member or his or her dependents have received

and will receive from the United States or any agent thereof as a result of his or her injury. All claims arising under this section shall be inquired into by a board of three officers, at least one being a medical officer, to be appointed by the adjutant general. The board has the same power to take evidence, administer oaths, issue subpoenas, compel witnesses to attend and testify and produce books and papers, and punish their failure to do so as is possessed by a general court martial. The amount of compensation or benefits payable shall conform as nearly as possible to the general schedule of payments and awards provided under the workers' compensation law in effect in the state of Washington at the time the disability or death occurred. The findings of the board shall be reviewed by the adjutant general and submitted to the governor for final approval. The reviewing officer or the governor may return the proceedings for revision or for the taking of further testimony. The action of the board when finally approved by the governor is final and conclusive and constitutes the fixed award for the injury or loss and is a debt of the state of Washington. [1989 c 19 § 47; 1987 c 185 § 5; 1984 c 198 § 5; 1943 c 130 § 40; Rem. Supp. 1943 § 8603-40. Prior: 1923 c 49 § 3; 1917 c 107 § 38; 1909 c 134 § 60; 1895 c 108 § 92.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Workers' compensation: Title 51 RCW.

38.40.040 Interference with employment—Penalty. A person, who either alone, or with another, wilfully deprives a member of the organized militia of Washington of his or her employment or prevents such member being employed, or obstructs or annoys said member or his or her employer in their trade, business or employment, because he or she is such member, or dissuades any person from enlisting in said organized militia by threat or injury to him or her in their employment, trade or business, in case he or she shall so enlist, shall be guilty of a gross misdemeanor and on conviction thereof shall be fined in a sum not exceeding five hundred dollars, or imprisonment in the county jail not more than six months, or by both such fine and imprisonment. [1989 c 19 § 48; 1943 c 130 § 46; Rem. Supp. 1943 § 8603-46. Prior: 1917 c 107 § 41; 1909 c 134 § 67; 1895 c 108 § 104, part.]

38.40.050 Discharge from employment—Penalty. No member of the organized militia of Washington shall be discharged by his or her employer by reason of the performance of any military duties upon which he or she may be ordered. When any member of the organized militia of Washington is ordered upon active state service or inactive duty which takes the member from his or her employment the member may apply upon the termination of such duty to be restored to his or her position and employment, and if the tour of duty shall have continued for a period not longer than three months, any employer or the officer or manager of any firm or corporation having authority to reemploy such member and failing to do so shall be guilty of a gross misdemeanor, and on conviction thereof shall be fined in any sum not exceeding five hundred dollars, or imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment. [1989 c 19 § 49; 1943 c

130 § 48; Rem. Supp. 1943 § 8603-48. Prior: 1917 c 107 § 43; 1909 c 134 § 69; 1895 c 108 § 104, part.]

38.40.060 Military leaves for public employees.

Every officer and employee of the state or of any county, city, or other political subdivision thereof who is a member of the Washington national guard or of the army, navy, air force, coast guard, or marine corps reserve of the United States, or of any organized reserve or armed forces of the United States shall be entitled to and shall be granted military leave of absence from such employment for a period not exceeding fifteen days during each calendar year. Such leave shall be granted in order that the person may report for active duty, when called, or take part in active training duty in such manner and at such time as he or she may be ordered to active duty or active training duty. Such military leave of absence shall be in addition to any vacation or sick leave to which the officer or employee might otherwise be entitled, and shall not involve any loss of efficiency rating, privileges, or pay. During the period of military leave, the officer or employee shall receive from the state, or the county, city, or other political subdivision, his or her normal pay. [1991 c 25 § 1; 1989 c 19 § 50; 1957 c 236 § 1; 1939 c 113 § 1.]

Application—1991 c 25: "This act applies to all public employees and officers who reported for active duty or active training duty, under RCW 38.40.060, on or after August 2, 1990." [1991 c 25 § 2.]

38.40.100 Notice for duty. Orders for duty may be oral or written. Officers and enlisted persons may be warned for duty as follows: Either by stating the substance of the order, or by reading the order to the person warned, or by delivering a copy of such order to such person, or by leaving a copy of such order at his or her last known place of abode or business, with some person of suitable age and discretion, or by sending a copy of such order or notice containing the substance thereof, to such person by mail, directed to his or her last known place of abode or business. Orders may be transmitted by telegraph or telephone. Such warning may be given by any officer or authorized enlisted person. The officer or enlisted person giving such warning shall, when required, make a return thereof, containing the names of persons warned and the time, place and manner of warning. Such returns shall be verified on oath and shall be prima facie evidence, on the trial of any person returned as a delinquent, of the facts therein stated. [1989 c 19 § 51; 1943 c 130 § 53; Rem. Supp. 1943 § 8603-53. Prior: 1909 c 134 § 65; 1895 c 108 § 102.]

38.40.110 Employment or membership in other organizations—Discrimination prohibited—Penalty—Civil cause of action. No club, society, association, corporation, employer, or organization shall by any constitution, rule, bylaws, resolution, vote or regulation, or otherwise, discriminate against or refuse to hire, employ, or reemploy any member of the organized militia of Washington because of his or her membership in said organized militia. Any person or persons, club, society, association, employer, corporation, or organization, violating or aiding, abetting, or assisting in the violation of any provision of this section shall be guilty of a misdemeanor and on conviction thereof shall be fined

in any sum not exceeding one hundred dollars and in addition thereto shall forfeit the right to do business for a period of thirty days. Any person who has been discriminated against in violation of this section shall have a civil cause of action for damages. [1991 c 43 § 9; 1989 c 19 § 52; 1943 c 130 § 47; Rem. Supp. 1943 § 8603-47. Prior: 1917 c 107 § 42; 1909 c 134 § 68.]

38.40.120 Authorized military organizations. No organized body other than the recognized militia organizations of this state, armed forces of the United States, students of educational institutions where military science is a prescribed part of the course of instruction or bona fide veterans organizations shall associate themselves together as a military company or organize or parade in public with firearms: PROVIDED, That nothing herein shall be construed to prevent authorized parades by the organized militia of another state or armed forces of foreign countries. Any person participating in any such unauthorized organization shall be guilty of a misdemeanor. [1989 c 19 § 53; 1943 c 130 § 54; Rem. Supp. 1943 § 8603-54. Prior: 1909 c 249 § 294; 1903 c 135 § 1.]

38.40.130 Corporations may be formed. The officers, or the officers and enlisted persons of any regiment, battalion, company or similar unit of the organized militia of Washington, or the officers and enlisted persons of any two or more companies or similar units of the organized militia of the state of Washington, located at the same station, are hereby authorized to organize themselves into a corporation for social purposes and for the purpose of holding, acquiring and disposing of such property, real and personal, as such military organizations may possess or acquire. Such corporations shall not be required to pay any filing or license fee to the state.

The dissolution or disbandment of any such unit as a military organization shall not in itself terminate the existence of the corporation, but the existence of the same may continue for the period limited in its articles of incorporation for the benefit of such corporation.

Upon the dissolution or disbandment of any such unit which shall not have incorporated, and which shall at the time of such dissolution or disbandment possess any funds or property, the title to such funds or property shall immediately vest in the state of Washington, and the adjutant general shall take possession thereof and dispose of the same to the best interest of the organized militia of Washington. [1989 c 19 § 54; 1943 c 130 § 49; Rem. Supp. 1943 § 8603-49. Prior: 1923 c 49 § 4; 1917 c 107 § 44; 1915 c 19 § 1; 1909 c 134 § 71; 1895 c 108 §§ 123, 124.]

38.40.150 Property to remain public property. All property issued to organizations and members of the organized militia of Washington shall be and remain public property. [1943 c 130 § 38; Rem. Supp. 1943 § 8603-38. Prior: 1917 c 107 § 33; 1909 c 134 § 51; 1895 c 108 § 78.]

Chapter 38.44

ENROLLMENT OF PERSONS

Sections

- 38.44.010 Commander-in-chief may order enrollment.
- 38.44.020 Notice of enrollment.
- 38.44.030 Exemptions.
- 38.44.040 Penalties for dereliction or false certificate.
- 38.44.050 Compensation of enrolling officer.
- 38.44.060 Examination of records.

Militia—Exemption from military duty: State Constitution Art. 10 § 6.

38.44.010 Commander-in-chief may order enrollment. Whenever the commander-in-chief shall deem it necessary, in event of, or imminent danger of war, insurrection, rebellion, invasion, tumult, riot, resistance to law or process, breach of the peace, public disaster, or the imminent occurrence of any of these events, the commander-in-chief may order an enrollment by counties of all persons subject to military duty, designating the county assessor or some other person for each county to act as county enrolling officer. Each county enrolling officer may appoint such assistant or assistants as may be authorized by the commander-in-chief. In each county the enrollment shall include every sane able bodied inhabitant not under sentence for a felony, who is more than eighteen and less than forty-five years of age. The enrollment shall be made in triplicate and shall state the name, residence, age, occupation and previous or existing military or naval service of each person enrolled. When complete the rolls shall be verified under oath by the enrolling officer, who shall immediately thereupon file one copy with the adjutant general of the state and another with the county auditor, retaining the third copy for himself or herself. [1989 c 19 § 55; 1973 1st ex.s. c 154 § 57; 1909 c 134 § 4; 1895 c 108 § 4; RRS § 8456.]

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

38.44.020 Notice of enrollment. Persons making an enrollment under this chapter shall, at the time of making same, serve a notice of such enrollment upon each person enrolled, by delivering such notice to the enrollee personally or by leaving it with some person of suitable age and discretion at his or her place of business or residence, or by mailing such notice to him or her at the enrollee's last known place of residence, and shall make a return under oath of such service to accompany the copy of the enrollment filed with the adjutant general. The return shall be prima facie evidence of the facts therein. [1991 c 43 § 10; 1989 c 19 § 56; 1909 c 134 § 5; 1895 c 108 § 5; RRS § 8457.]

38.44.030 Exemptions. Whenever an enrollment shall have been ordered under this chapter, the commanding officers of existing organizations of militia, and the chiefs of all police and fire departments shall make and deliver to the enrolling officer of the county in which such organization and departments are stationed, verified lists in triplicate of the members of their respective commands and departments, and the enrolling officer shall mark "Exempt" opposite the names of all persons so listed, attaching one copy of each such list to each copy of the enrollment. The enrolling

officer shall also mark "Exempt" opposite the names of all federal, state and county officers. All other persons claiming exemption must within fifteen days after service upon them of the notice of enrollment make a written verified claim in duplicate of such exemption and file the same in the office of the county auditor, who shall within five days thereafter forward one copy thereof with remarks and recommendations to the adjutant general. Upon the expiration of the time within which any claim of exemption may be filed and received by the adjutant general, the latter shall notify the county auditor of the decision in each case where exemption has been claimed, and the county auditor shall write upon the roll opposite the name of each person whose claim of exemption has been allowed by the adjutant general, the word "Exempt." All those on the roll not marked "Exempt" shall be subject to military duty. [1991 c 43 § 11; 1989 c 19 § 57; 1909 c 134 § 6; 1895 c 108 § 6, part; RRS § 8458.]

38.44.040 Penalties for dereliction or false certificate. If any officer or person, who becomes charged under this chapter with any duty relating to an enrollment of persons subject to military duty, refuses or neglects to perform the same within the time and substantially in the manner required by law, or if he or she shall knowingly make any false certificate, or if, when acting as county or assistant enrolling officer, he or she shall knowingly or willfully omit from the roll any person required by this chapter to be enrolled he or she shall thereby forfeit not less than one hundred nor more than five hundred dollars, to be sued for in the name of the state of Washington by the prosecuting attorney of the county in which such offense shall occur, the amount of the penalty to be determined by the court, and, when recovered, to be paid into the general fund of the state. [1991 c 43 § 12; 1989 c 19 § 58; 1909 c 134 § 7; RRS § 8459.]

38.44.050 Compensation of enrolling officer. Each county enrolling officer shall be allowed the sum of five cents per name enrolled and served with notice of enrollment by the enrolling officer or assistants, to be audited and paid as other military bills out of any moneys in the general fund appropriated to the military department, and from such allowance the enrolling officer must pay the assistant or assistants. [1991 c 43 § 13; 1989 c 19 § 59; 1909 c 134 § 8; RRS § 8460.]

38.44.060 Examination of records. All civil officers in each county, city and town shall allow persons authorized under this chapter to make enrollments, at all proper times, to examine their records and take copies thereof or information therefrom. It shall be the duty of every person, under the penalties provided in RCW 38.44.040, upon application, of any person legally authorized to make an enrollment, truthfully to state all of the facts within his or her knowledge concerning any individual of whom the enroller shall make inquiry. In event of a violation of this section the enroller shall report the facts to the prosecuting attorney, who shall at once proceed to enforce the penalty. [1991 c 43 § 14; 1989 c 19 § 60; 1909 c 134 § 9; 1895 c 108 § 6, part; RRS § 8461.]

Chapter 38.48

STATE AND NATIONAL DEFENSE

Sections

38.48.050 Acceptance of national defense facilities act.

Reviser's note: The following acts, which appear to have been of limited duration, are omitted from RCW:

(1) 1941 c 200, 1943 c 191; RRS §§ 8607-7 through 8607-15; Act in aid of national defense;

(2) 1943 c 93; Authorizing sale or lease of tools and equipment to federal agencies;

(3) 1943 c 200; Washington state war council; and

(4) 1945 c 211; Armory drill pay for active state guard.

38.48.050 Acceptance of national defense facilities act. The legislature hereby expresses its intention to secure to this state the benefits of the act of congress entitled the "National Defense Facilities Act" (10 U.S.C. Sec. 2231, et seq., as amended), and the state military department shall be charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of the said act of congress for the acquisition, construction, expansion, rehabilitation or conversion of facilities necessary for the administration and training of units of the state military department and reserve components of the armed forces of the United States. The provisions of the said act of congress are hereby accepted by this state and this state will observe and comply with the requirements thereof. [1989 c 19 § 61; 1953 c 181 § 1; 1953 c 277 § 4.]

Chapter 38.52

EMERGENCY MANAGEMENT

Sections

- 38.52.005 State military department to administer emergency management program—Local organizations authorized to change name.
- 38.52.010 Definitions.
- 38.52.020 Declaration of policy and purpose.
- 38.52.030 Director—Comprehensive emergency management plan—State-wide enhanced 911 emergency communications network—State coordinator of search and rescue operations—State program for emergency assistance—State coordinator for radioactive and hazardous waste emergency response programs.
- 38.52.037 Comprehensive state mine rescue plan—Submittal to legislature.
- 38.52.040 Emergency management council—Members—Ad hoc committees—Function as state emergency response commission—Rules review.
- 38.52.050 Governor's general powers and duties.
- 38.52.070 Local organizations authorized—Joint establishment, operation—Emergency powers, procedures.
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- 38.52.180 Liability for property damage, bodily injury, death—Immunity—Assumption by state—Indemnification.

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- 38.52.207 Claims arising from emergency management related activities—Filing—Consideration, adjustment, settlement, etc., by director—Effect.
- 38.52.210 Compensation boards—Established.
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- 38.52.550 Emergency communications systems and information—Immunity from civil liability.
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- 38.52.900 Short title.
- 38.52.920 Repeal and saving.
- 38.52.930 Transfer of powers, duties, and functions to state military department.

Hazardous materials incidents, handling and liability: RCW 70.136.010 through 70.136.070.

38.52.005 State military department to administer emergency management program—Local organizations authorized to change name. The department shall administer the comprehensive emergency management program of the state of Washington as provided for in this chapter. All

local organizations, organized and performing emergency management functions pursuant to RCW 38.52.070, may change their name and be called the department/division of emergency management. [1995 c 391 § 1; 1986 c 266 § 22; 1984 c 38 § 1; 1972 ex.s. c 6 § 1.]

Effective date—1995 c 391: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 391 § 18.]

Transfer of powers and duties of department of emergency management and office of archaeology and historic preservation—Construction of statutory references: "The department of emergency management and the office of archaeology and historic preservation are hereby abolished and their powers, duties, and functions are hereby transferred to the department of community development. All references to the director of emergency management or the department of emergency management and the office of archaeology and historic preservation in the Revised Code of Washington shall be construed to mean the director or department of community development." [1986 c 266 § 1.]

Severability—1986 c 266: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 266 § 138.]

38.52.010 Definitions. As used in this chapter:

(1) "Emergency management" or "comprehensive emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural or man-made, and to provide support for search and rescue operations for persons and property in distress. However, "emergency management" or "comprehensive emergency management" does not mean preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

(2) "Local organization for emergency services or management" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions.

(3) "Political subdivision" means any county, city or town.

(4) "Emergency worker" means any person, including but not limited to an architect registered under chapter 18.08 RCW or a professional engineer registered under chapter 18.43 RCW, who is registered with a local emergency management organization or the department and holds an identification card issued by the local emergency management director or the department for the purpose of engaging in authorized emergency management activities or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities.

(5) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

(6)(a) "Emergency or disaster" as used in all sections of this chapter except RCW 38.52.430 shall mean an event or set of circumstances which: (i) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or (ii) reaches such a dimension or degree

of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

(b) "Emergency" as used in RCW 38.52.430 means an incident that requires a normal police, coroner, fire, rescue, emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in RCW 38.52.430.

(7) "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural or man-made disaster, including instances involving searches for downed aircraft when ground personnel are used. Nothing in this section shall affect appropriate activity by the department of transportation under chapter 47.68 RCW.

(8) "Executive head" and "executive heads" means the county executive in those charter counties with an elective office of county executive, however designated, and, in the case of other counties, the county legislative authority. In the case of cities and towns, it means the mayor.

(9) "Director" means the adjutant general.

(10) "Local director" means the director of a local organization of emergency management or emergency services.

(11) "Department" means the state military department.

(12) "Emergency response" as used in RCW 38.52.430 means a public agency's use of emergency services during an emergency or disaster as defined in subsection (6)(b) of this section.

(13) "Expense of an emergency response" as used in RCW 38.52.430 means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising from the response to the particular incident. Reasonable costs shall include the costs of providing police, coroner, fire fighting, rescue, emergency medical services, or utility response at the scene of the incident, as well as the salaries of the personnel responding to the incident.

(14) "Public agency" means the state, and a city, county, municipal corporation, district, or public authority located, in whole or in part, within this state which provides or may provide fire fighting, police, ambulance, medical, or other emergency services. [1995 c 391 § 2. Prior: 1993 c 251 § 5; 1993 c 206 § 1; 1986 c 266 § 23; 1984 c 38 § 2; 1979 ex.s. c 268 § 1; 1975 1st ex.s. c 113 § 1; 1974 ex.s. c 171 § 4; 1967 c 203 § 1; 1953 c 223 § 2; 1951 c 178 § 3.]

Effective date—1995 c 391: See note following RCW 38.52.005.

Finding—Intent—1993 c 251: See note following RCW 38.52.430.

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.020 Declaration of policy and purpose. (1) Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness as defined in RCW 38.52.010(6), and in order to insure that preparations of this state will be adequate to deal with such disasters, to insure the administration of state and federal programs providing disaster relief to individuals, and further to insure adequate support for search and rescue operations, and generally to protect the public peace, health, and safety, and to preserve the lives and property of the peo-

ple of the state, it is hereby found and declared to be necessary:

(a) To provide for emergency management by the state, and to authorize the creation of local organizations for emergency management in the political subdivisions of the state;

(b) To confer upon the governor and upon the executive heads of the political subdivisions of the state the emergency powers provided herein;

(c) To provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government with respect to the carrying out of emergency management functions;

(d) To provide a means of compensating emergency management workers who may suffer any injury, as herein defined, or death; who suffer economic harm including personal property damage or loss; or who incur expenses for transportation, telephone or other methods of communication, and the use of personal supplies as a result of participation in emergency management activities; and

(e) To provide programs, with intergovernmental cooperation, to educate and train the public to be prepared for emergencies.

(2) It is further declared to be the purpose of this chapter and the policy of the state that all emergency management functions of this state and its political subdivisions be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur. [1986 c 266 § 24; 1984 c 38 § 3; 1979 ex.s. c 268 § 2; 1975 1st ex.s. c 113 § 2; 1974 ex.s. c 171 § 5; 1967 c 203 § 2; 1953 c 223 § 1; 1951 c 178 § 2.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.030 Director—Comprehensive emergency management plan—State-wide enhanced 911 emergency communications network—State coordinator of search and rescue operations—State program for emergency assistance—State coordinator for radioactive and hazardous waste emergency response programs. (1) The director may employ such personnel and may make such expenditures within the appropriation therefor, or from other funds made available for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

(2) The director, subject to the direction and control of the governor, shall be responsible to the governor for carrying out the program for emergency management of this state. The director shall coordinate the activities of all organizations for emergency management within the state, and shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this chapter, as may be prescribed by the governor.

(3) The director shall develop and maintain a comprehensive, all-hazard emergency plan for the state which shall include an analysis of the natural and man-caused hazards which could affect the state of Washington, and shall include

the procedures to be used during emergencies for coordinating local resources, as necessary, and the resources of all state agencies, departments, commissions, and boards. The comprehensive emergency management plan shall direct the department in times of state emergency to administer and manage the state's emergency operations center. This will include representation from all appropriate state agencies and be available as a single point of contact for the authorizing of state resources or actions, including emergency permits. The comprehensive, all-hazard emergency plan authorized under this subsection may not include preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack. This plan shall be known as the comprehensive emergency management plan.

(4) In accordance with the comprehensive emergency management plans and the programs for the emergency management of this state, the director shall procure supplies and equipment, institute training programs and public information programs, and shall take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

(5) The director shall make such studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the capabilities of the state for emergency management, and shall plan for the most efficient emergency use thereof.

(6) The emergency management council shall advise the director on all aspects of the communications and warning systems and facilities operated or controlled under the provisions of this chapter.

(7) The director, through the state enhanced 911 coordinator, shall coordinate and facilitate implementation and operation of a state-wide enhanced 911 emergency communications network.

(8) The director shall appoint a state coordinator of search and rescue operations to coordinate those state resources, services and facilities (other than those for which the state director of aeronautics is directly responsible) requested by political subdivisions in support of search and rescue operations, and on request to maintain liaison with and coordinate the resources, services, and facilities of political subdivisions when more than one political subdivision is engaged in joint search and rescue operations.

(9) The director, subject to the direction and control of the governor, shall prepare and administer a state program for emergency assistance to individuals within the state who are victims of a natural or man-made disaster, as defined by RCW 38.52.010(6). Such program may be integrated into and coordinated with disaster assistance plans and programs of the federal government which provide to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of assistance to individuals affected by a disaster. Further, such program may include, but shall not be limited to, grants, loans, or gifts of services, equipment, supplies, materials, or funds of the state, or any political subdivision thereof, to individuals who, as a result of a disaster, are in need of assistance and who meet standards of eligibility for disaster assistance established by the department of social and health services: PROVIDED,

HOWEVER, That nothing herein shall be construed in any manner inconsistent with the provisions of Article VIII, section 5 or section 7 of the Washington state Constitution.

(10) The director shall appoint a state coordinator for radioactive and hazardous waste emergency response programs. The coordinator shall consult with the state radiation control officer in matters relating to radioactive materials. The duties of the state coordinator for radioactive and hazardous waste emergency response programs shall include:

(a) Assessing the current needs and capabilities of state and local radioactive and hazardous waste emergency response teams on an ongoing basis;

(b) Coordinating training programs for state and local officials for the purpose of updating skills relating to emergency response;

(c) Utilizing appropriate training programs such as those offered by the federal emergency management agency, the department of transportation and the environmental protection agency; and

(d) Undertaking other duties in this area that are deemed appropriate by the director. [1995 c 269 § 1201. Prior: 1991 c 322 § 20; 1991 c 54 § 2; 1986 c 266 § 25; 1984 c 38 § 4; 1975 1st ex.s. c 113 § 3; 1973 1st ex.s. c 154 § 58; 1967 c 203 § 3; 1951 c 178 § 4.]

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

Findings—Intent—1991 c 322: See note following RCW 86.12.200.

Referral to electorate—1991 c 54: "Sections 1 through 6 and 9 through 16 of this act shall be submitted to the people for their adoption and ratification, or rejection, at the next succeeding general election to be held in this state, in accordance with Article II, section 1 of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof. The ballot title for this act shall be: "Shall enhanced 911 emergency telephone dialing be provided throughout the state and be funded by a tax on telephone lines?" [1991 c 54 § 17.]

Reviser's note: "This act," chapter 54, Laws of 1991, was adopted and ratified by the people at the November 5, 1991, general election (Referendum Bill No. 42).

Severability—1986 c 266: See note following RCW 38.52.005.

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

Hazardous and radioactive wastes: Chapters 70.98, 70.99, 70.105, 70.136 RCW.

38.52.037 Comprehensive state mine rescue plan—Submittal to legislature. The department shall consult with appropriate local, state, federal, and private sector officials in developing a comprehensive state mine rescue plan. The plan shall identify mine rescue resources, set forth a framework for a coordinated response to mine rescue emergencies, identify shortfalls, and recommend solutions.

The draft of the comprehensive state mine rescue plan and a schedule for submittal of the final plan shall be submitted to the legislature on January 13, 1986. [1986 c 266 § 26; 1985 c 459 § 6.]

Severability—1986 c 266: See note following RCW 38.52.005.

Severability—1985 c 459: See note following RCW 79.01.668.

38.52.040 Emergency management council—Members—Ad hoc committees—Function as state emergency response commission—Rules review. (1) There is hereby created the emergency management council

(hereinafter called the council), to consist of not more than seventeen members who shall be appointed by the governor. The membership of the council shall include, but not be limited to, representatives of city and county governments, sheriffs and police chiefs, the Washington state patrol, the military department, the department of ecology, state and local fire chiefs, seismic safety experts, state and local emergency management directors, search and rescue volunteers, medical professions who have expertise in emergency medical care, building officials, and private industry. The representatives of private industry shall include persons knowledgeable in emergency and hazardous materials management. The council members shall elect a chairman from within the council membership. The members of the council shall serve without compensation, but may be reimbursed for their travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The emergency management council shall advise the governor and the director on all matters pertaining to state and local emergency management. The council may appoint such ad hoc committees, subcommittees, and working groups as are required to develop specific recommendations for the improvement of emergency management practices, standards, policies, or procedures. The council shall ensure that the governor receives an annual assessment of state-wide emergency preparedness including, but not limited to, specific progress on hazard mitigation and reduction efforts, implementation of seismic safety improvements, reduction of flood hazards, and coordination of hazardous materials planning and response activities. The council or a subcommittee thereof shall periodically convene in special session and serve during those sessions as the state emergency response commission required by P.L. 99-499, the emergency planning and community right-to-know act. When sitting in session as the state emergency response commission, the council shall confine its deliberations to those items specified in federal statutes and state administrative rules governing the coordination of hazardous materials policy. The council shall review administrative rules governing state and local emergency management practices and recommend necessary revisions to the director. [1995 c 269 § 1202; 1988 c 81 § 18; 1984 c 38 § 5; 1979 ex.s. c 57 § 8; 1975-'76 2nd ex.s. c 34 § 82; 1974 ex.s. c 171 § 6; 1951 c 178 § 5.]

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

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

38.52.050 Governor's general powers and duties.

(1) The governor, through the director, shall have general supervision and control of the emergency management functions in the department, and shall be responsible for the carrying out of the provisions of this chapter, and in the event of disaster beyond local control, may assume direct operational control over all or any part of the emergency management functions within this state.

(2) In performing his or her duties under this chapter, the governor is authorized to cooperate with the federal government, with other states, and with private agencies in

all matters pertaining to the emergency management of this state and of the nation.

(3) In performing his or her duties under this chapter and to effect its policy and purpose, the governor is further authorized and empowered:

(a) To make, amend, and rescind the necessary orders, rules, and regulations to carry out the provisions of this chapter within the limits of the authority conferred upon him herein, with due consideration of the plans of the federal government;

(b) On behalf of this state, to enter into mutual aid arrangements with other states and territories, or provinces of the Dominion of Canada and to coordinate mutual aid plans between political subdivisions of this state;

(c) To delegate any administrative authority vested in him under this chapter, and to provide for the subdelegation of any such authority;

(d) To appoint, with the advice of local authorities, metropolitan or regional area coordinators, or both, when practicable;

(e) To cooperate with the president and the heads of the armed forces, the emergency management agency of the United States, and other appropriate federal officers and agencies, and with the officers and agencies of other states in matters pertaining to the emergency management of the state and nation. [1986 c 266 § 27; 1984 c 38 § 6; 1974 ex.s. c 171 § 7; 1951 c 178 § 6.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.070 Local organizations authorized—Joint establishment, operation—Emergency powers, procedures. (1) Each political subdivision of this state is hereby authorized and directed to establish a local organization for emergency management in accordance with the state emergency management plan and program: PROVIDED, That a political subdivision proposing such establishment shall submit its plan and program for emergency management to the state director and secure his or her recommendations thereon, and certification for consistency with the state comprehensive emergency management plan, in order that the plan of the local organization for emergency management may be coordinated with the plan and program of the state. No political subdivision may be required to include in its plan provisions for the emergency evacuation or relocation of residents in anticipation of nuclear attack. If the director's recommendations are adverse to the plan as submitted, and, if the local organization does not agree to the director's recommendations for modification to the proposal, the matter shall be referred to the council for final action. The director may authorize two or more political subdivisions to join in the establishment and operation of a local organization for emergency management as circumstances may warrant, in which case each political subdivision shall contribute to the cost of emergency management upon such fair and equitable basis as may be determined upon by the executive heads of the constituent subdivisions. If in any case the executive heads cannot agree upon the proper division of cost the matter shall be referred to the council for arbitration and its decision shall be final. When two or more political subdivisions join in the establishment and operation of a local organization for emergency management each shall

pay its share of the cost into a special pooled fund to be administered by the treasurer of the most populous subdivision, which fund shall be known as the emergency management fund. Each local organization for emergency management shall have a director who shall be appointed by the executive head of the political subdivision, and who shall have direct responsibility for the organization, administration, and operation of such local organization for emergency management, subject to the direction and control of such executive officer or officers. In the case of a jointly established and operated organization for emergency management, the director shall be appointed by the joint action of the executive heads of the constituent political subdivisions. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of this chapter.

(2) In carrying out the provisions of this chapter each political subdivision, in which any disaster as described in RCW 38.52.020 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of an extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements), including, but not limited to, budget law limitations, requirements of competitive bidding and publication of notices, provisions pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditures of public funds. [1986 c 266 § 28; 1984 c 38 § 7; 1974 ex.s. c 171 § 9; 1951 c 178 § 8.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.080 Outside aid—Rights and liabilities—Claims. (1) Whenever the employees of any political subdivision are rendering outside aid pursuant to the authority contained in RCW 38.52.070 such employees shall have the same powers, duties, rights, privileges, and immunities as if they were performing their duties in the political subdivisions in which they are normally employed.

(2) The political subdivision in which any equipment is used pursuant to this section shall be liable for any loss or damage thereto and shall pay any expense incurred in the operation and maintenance thereof. No claim for such loss, damage, or expense shall be allowed unless, within sixty days after the same is sustained or incurred, an itemized notice of such claim under oath is served by mail or otherwise upon the executive head of such political subdivision where the equipment was used. The term "employee" as used in this section shall mean, and the provisions of this section shall apply with equal effect to, volunteer auxiliary employees, and emergency workers.

(3) The foregoing rights, privileges, and obligations shall also apply in the event such aid is rendered outside the state, provided that payment or reimbursement in such case shall or may be made by the state or political subdivision receiving such aid pursuant to a reciprocal mutual aid agreement or compact with such state or by the federal government. [1984 c 38 § 8; 1974 ex.s. c 171 § 10; 1951 c 178 § 9.]

38.52.090 Mutual aid arrangements—Interstate civil defense and disaster compact—Interstate mutual aid compact. (1) The director of each local organization for emergency management may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency management plan and program, and in time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements. The adjutant general shall adopt and distribute a standard form of contract for use by local organizations in understanding and carrying out said mutual aid arrangements.

(2) The adjutant general and the director of each local organization for emergency management may, subject to the approval of the governor, enter into mutual aid arrangements with emergency management agencies or organizations in other states for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. All such arrangements shall be pursuant to either of the compacts contained in subsection (2) (a) or (b) of this section.

(a) The legislature recognizes that the compact language contained in this subsection is inadequate to meet many forms of emergencies. For this reason, after June 7, 1984, the state may not enter into any additional compacts under this subsection (2)(a).

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

The contracting States solemnly agree:

Article 1. The purpose of this compact is to provide mutual aid among the States in meeting any emergency or disaster from enemy attack or other cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of the respective States, including such resources as may be available from the United States Government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the civil defense agencies or similar bodies of the States that are parties hereto. The Directors of Civil Defense (Emergency Services) of all party States shall constitute a committee to formulate plans

and take all necessary steps for the implementation of this compact.

Article 2. It shall be the duty of each party State to formulate civil defense plans and programs for application within such State. There shall be frequent consultation between the representatives of the States and with the United States Government and the free exchange of information and plans, including inventories of any materials and equipment available for civil defense. In carrying out such civil defense plans and programs the party States shall so far as possible provide and follow uniform standards, practices and rules and regulations including:

(a) Insignia, arm bands and any other distinctive articles to designate and distinguish the different civil defense services;

(b) Blackouts and practice blackouts, air raid drills, mobilization of civil defense forces and other tests and exercises;

(c) Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;

(d) The effective screening or extinguishing of all lights and lighting devices and appliances;

(e) Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

(f) All materials or equipment used or to be used for civil defense purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party State;

(g) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic, prior, during, and subsequent to drills or attacks;

(h) The safety of public meetings or gatherings; and

(i) Mobile support units.

Article 3. Any party State requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the State rendering aid may withhold resources to the extent necessary to provide reasonable protection for such State. Each party State shall extend to the civil defense forces of any other party State, while operating within its State limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving State), duties, rights, privileges and immunities as if they were performing their duties in the State in which normally employed or rendering services. Civil defense forces will continue under the command and control of their regular leaders but the organizational units will come under the operational control of the civil defense authorities of the State receiving assistance.

Article 4. Whenever any person holds a license, certificate or other permit issued by any State evidencing the meeting of qualifications for professional, mechanical or other skills, such person may render aid involving such skill in any party State to meet an emergency or disaster and such State shall give due recognition to such license, certificate or other permit as if issued in the State in which aid is rendered.

Article 5. No party State or its officers or employees rendering aid in another State pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged, or on account of

the maintenance or use of any equipment or supplies in connection therewith.

Article 6. Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that appropriate among other States party hereto, this instrument contains elements of a broad base common to all States, and nothing herein contained shall preclude any State from entering into supplementary agreements with another State or States. Such supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons, and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, equipment and supplies.

Article 7. Each party State shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that State and the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such State.

Article 8. Any party State rendering aid in another State pursuant to this compact shall be reimbursed by the party State receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost incurred in connection with such requests; provided, that any aiding State may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party State without charge or cost; and provided further that any two or more party States may enter into supplementary agreements establishing a different allocation of costs as among those States. The United States Government may relieve the party State receiving aid from any liability and reimburse the party State supplying civil defense forces for the compensation paid to and the transportation, subsistence and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the State and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment or facilities so utilized or consumed.

Article 9. Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party States and the various local civil defense areas thereof. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party State receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care and like items. Such expenditures shall be reimbursed by the party State of which the evacuees are residents, or by the United States Government under plans approved by it. After the termination of the emergency or disaster the party State

of which the evacuees are resident shall assume the responsibility for the ultimate support or repatriation of such evacuees.

Article 10. This compact shall be available to any State, territory or possession of the United States, and the District of Columbia. The term "State" may also include any neighboring foreign country or province or state thereof.

Article 11. The committee established pursuant to Article 1 of this compact may request the Civil Defense Agency of the United States Government to act as an informational and coordinating body under this compact, and representatives of such agency of the United States Government may attend meetings of such committee.

Article 12. This compact shall become operative immediately upon its ratification by any State as between it and any other State or States so ratifying and shall be subject to approval by Congress unless prior Congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party States and with the Civil Defense Agency and other appropriate agencies of the United States Government.

Article 13. This compact shall continue in force and remain binding on each party State until the legislature or the Governor of such party State takes action to withdraw therefrom. Such action shall not be effective until 30 days after notice thereof has been sent by the Governor of the party State desiring to withdraw to the Governors of all other party States.

Article 14. This compact shall be construed to effectuate the purposes stated in Article 1 hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be effected thereby.

Article 15. (a) This Article shall be in effect only as among those states which have enacted it into law or in which the Governors have adopted it pursuant to constitutional or statutory authority sufficient to give it the force of law as part of this compact. Nothing contained in this Article or in any supplementary agreement made in implementation thereof shall be construed to abridge, impair or supersede any other provision of this compact or any obligation undertaken by a State pursuant thereto, except that if its terms so provide, a supplementary agreement in implementation of this Article may modify, expand or add to any such obligation as among the parties to the supplementary agreement.

(b) In addition to the occurrences, circumstances and subject matters to which preceding articles of this compact make it applicable, this compact and the authorizations, entitlements and procedures thereof shall apply to:

1. Searches for and rescue of person who are lost, marooned, or otherwise in danger.

2. Action useful in coping with disasters arising from any cause or designed to increase the capability to cope with any such disasters.

3. Incidents, or the imminence thereof, which endanger the health or safety of the public and which require the use of special equipment, trained personnel or personnel in larger

numbers than are locally available in order to reduce, counteract or remove the danger.

4. The giving and receiving of aid by subdivisions of party States.

5. Exercises, drills or other training or practice activities designed to aid personnel to prepare for, cope with or prevent any disaster or other emergency to which this compact applies.

(c) Except as expressly limited by this compact or a supplementary agreement in force pursuant thereto, any aid authorized by this compact or such supplementary agreement may be furnished by any agency of a party State, a subdivision of such State, or by a joint agency providing such aid shall be entitled to reimbursement therefor to the same extent and in the same manner as a State. The personnel of such a joint agency, when rendering aid pursuant to this compact shall have the same rights, authority and immunity as personnel of party States.

(d) Nothing in this Article shall be construed to exclude from the coverage of Articles 1-15 of this compact any matter which, in the absence of this Article, could reasonably be construed to be covered thereby.

(b) The compact language contained in this subsection (2)(b) is intended to deal comprehensively with emergencies requiring assistance from other states.

INTERSTATE MUTUAL AID COMPACT

Purpose

The purpose of this Compact is to provide voluntary assistance among participating states in responding to any disaster or imminent disaster, that over extends the ability of local and state governments to reduce, counteract or remove the danger. Assistance may include, but not be limited to, rescue, fire, police, medical, communication, transportation services and facilities to cope with problems which require use of special equipment, trained personnel or personnel in large numbers not locally available.

Authorization

Article I, Section 10 of the Constitution of the United States permits a state to enter into an agreement or compact with another state, subject to the consent of Congress. Congress, through enactment of Title 50 U.S.C. Sections 2281(g), 2283 and the Executive Department, by issuance of Executive Orders No. 10186 of December 1, 1950, encourages the states to enter into emergency, disaster and civil defense mutual aid agreements or pacts.

Implementation

It is agreed by participating states that the following conditions will guide implementation of the Compact:

1. Participating states through their designated officials are authorized to request and to receive assistance from a participating state. Requests will be granted only if the requesting state is committed to the mitigation of the emergency, and other resources are not immediately available.

2. Requests for assistance may be verbal or in writing. If the request is made by other than written communication, it shall be confirmed in writing as soon as practical after the request. A written request shall provide an itemization of

equipment and operators, types of expertise, personnel or other resources needed. Each request must be signed by an authorized official.

3. Personnel and equipment of the aiding party made available to the requesting party shall, whenever possible, remain under the control and direction of the aiding party. The activities of personnel and equipment of the aiding party must be coordinated by the requesting party.

4. An aiding state shall have the right to withdraw some or all of their personnel and/or equipment whenever the personnel or equipment are needed by that state. Notice of intention to withdraw should be communicated to the requesting party as soon as possible.

General Fiscal Provisions

The state government of the requesting party shall reimburse the state government of the aiding party. It is understood that reimbursement shall be made as soon as possible after the receipt by the requesting party of an itemized voucher requesting reimbursement of costs.

1. Any party rendering aid pursuant to this Agreement shall be reimbursed by the state receiving such aid for any damage to, loss of, or expense incurred in the operation of any equipment used in responding to a request for aid, and for the cost incurred in connection with such requests.

2. Any state rendering aid pursuant to this Agreement shall be reimbursed by the state receiving such aid for the cost of payment of compensation and death benefits to injured officers, agents, or employees and their dependents or representatives in the event such officers, agents, or employees sustain injuries or are killed while rendering aid pursuant to this arrangement, provided that such payments are made in the same manner and on the same terms as if the injury or death were sustained within such state.

Privileges and Immunities

1. All privileges and immunities from liability, exemptions from law, ordinances, rules, all pension, relief disability, workers' compensation, and other benefits which apply to the activity of officers, agents, or employees when performing their respective functions within the territorial limits of their respective political subdivisions, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extra-territorially under the provisions of this Agreement.

2. All privileges and immunities from liability, exemptions from law, ordinances, and rules, workers' compensation and other benefits which apply to duly enrolled or registered volunteers when performing their respective functions at the request of their state and within its territorial limits, shall apply to the same degree and extent while performing their functions extra-territorially under the provisions of this Agreement. Volunteers may include, but not be limited to, physicians, surgeons, nurses, dentists, structural engineers, and trained search and rescue volunteers.

3. The signatory states, their political subdivisions, municipal corporations and other public agencies shall hold harmless the corresponding entities and personnel thereof from the other state with respect to the acts and omissions of its own agents and employees that occur while providing assistance pursuant to the common plan.

4. Nothing in this arrangement shall be construed as repealing or impairing any existing Interstate Mutual Aid Agreements.

5. Upon enactment of this Agreement by two or more states, and by January 1, annually thereafter, the participating states will exchange with each other the names of officials designated to request and/or provide services under this arrangement. In accordance with the cooperative nature of this arrangement, it shall be permissible and desirable for the parties to exchange operational procedures to be followed in requesting assistance and reimbursing expenses.

6. This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

7. This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate official of all other party states. An actual withdrawal shall not take effect until the thirtieth consecutive day after the notice provided in the statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. [1995 c 391 § 3; 1987 c 185 § 6; 1986 c 266 § 29; 1984 c 38 § 9; 1974 ex.s. c 171 § 11; 1951 c 178 § 10.]

Effective date—1995 c 391: See note following RCW 38.52.005.

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.100 Appropriations—Acceptance of funds, services, etc. (1) Each political subdivision shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organization for emergency management.

(2) Whenever the federal government or any agency or officer thereof shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of emergency management, the state, acting through the governor, or such political subdivision, acting with the consent of the governor and through its executive head, may accept such offer and upon such acceptance the governor of the state or executive head of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

(3) Whenever any person, firm, or corporation shall offer to the state or to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for the purposes of emergency management, the state, acting through the governor, or such political subdivision, acting through its executive head, may accept

such offer and upon such acceptance the governor of the state or executive head of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer. [1984 c 38 § 10; 1974 ex.s. c 171 § 12; 1951 c 178 § 12.]

38.52.110 Use of existing services and facilities—Impressment of citizenry. (1) In carrying out the provisions of this chapter, the governor and the executive heads of the political subdivisions of the state are directed to utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state, political subdivisions, and all other municipal corporations thereof including but not limited to districts and quasi municipal corporations organized under the laws of the state of Washington to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the governor and to the emergency management organizations of the state upon request notwithstanding any other provision of law.

(2) The governor, the chief executive of counties, cities and towns and the emergency management directors of local political subdivisions appointed in accordance with this chapter, in the event of a disaster, after proclamation by the governor of the existence of such disaster, shall have the power to command the service and equipment of as many citizens as considered necessary in the light of the disaster proclaimed: PROVIDED, That citizens so commandeered shall be entitled during the period of such service to all privileges, benefits and immunities as are provided by this chapter and federal and state emergency management regulations for registered emergency workers. [1984 c 38 § 11; 1974 ex.s. c 171 § 13; 1971 ex.s. c 8 § 1; 1955 c 210 § 1; 1951 c 178 § 13.]

38.52.120 Political activity prohibited. No organization for emergency management established under the authority of this chapter shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes. [1984 c 38 § 12; 1974 ex.s. c 171 § 14; 1951 c 178 § 14.]

38.52.140 Status of civil service employee preserved. Any civil service employee of the state of Washington or of any political subdivision thereof while on leave of absence and on duty with any emergency management agency authorized under the provisions of this chapter shall be preserved in his civil service status as to seniority and retirement rights so long as he regularly continues to make the usual contributions incident to the retention of such beneficial rights as if he were not on leave of absence. [1984 c 38 § 13; 1974 ex.s. c 171 § 16; 1951 c 178 § 16.]

38.52.150 Orders, rules, regulations—Enforcement—Availability—Penalty. (1) It shall be the duty of every organization for emergency management established pursuant to this chapter and of the officers thereof to

execute and enforce such orders, rules, and regulations as may be made by the governor under authority of this chapter. Each such organization shall have available for inspection at its office all orders, rules, and regulations made by the governor, or under his authority.

(2) Every violation of any rule, regulation or order issued under the authority of this chapter shall constitute a misdemeanor and shall be punishable as such: PROVIDED, That whenever any person shall commit a second offense hereunder the same shall constitute a gross misdemeanor and shall be punishable as such. [1984 c 38 § 14; 1974 ex.s. c 171 § 17; 1951 c 178 § 18.]

38.52.160 Matching funds from political subdivision may be required. The emergency management agency is hereby authorized to require of any political subdivision to which funds are allocated under this chapter for any project, use or activity that such subdivision shall provide matching funds in equal amounts with respect to such project, use or activity. [1984 c 38 § 15; 1974 ex.s. c 171 § 18; 1951 c 178 § 19.]

38.52.170 Plan for federal area. Whenever the director finds that it will be in the interest of the emergency management of this state or of the United States, the director may, with the approval of the governor, agree with the federal government, or any agency thereof carrying on activities within this state, upon a plan of emergency management applicable to a federally owned area, which plan may or may not conform to all of the other provisions of this chapter with the view to integrating federally owned areas into the comprehensive plan and program of the emergency management of this state. Such plan may confer upon persons carrying out such plan any or all of the rights, powers, privileges and immunities granted employees or representatives of the state and/or its political subdivisions by this chapter. The plan of emergency management authorized under this section may not include preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack. [1986 c 266 § 30; 1984 c 38 § 16; 1974 ex.s. c 171 § 19; 1951 c 178 § 20.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.180 Liability for property damage, bodily injury, death—Immunity—Assumption by state—Indemnification. (1) There shall be no liability on the part of anyone including any person, partnership, corporation, the state of Washington or any political subdivision thereof who owns or maintains any building or premises which have been designated by a local organization for emergency management as a shelter from destructive operations or attacks by enemies of the United States for any injuries sustained by any person while in or upon said building or premises, as a result of the condition of said building or premises or as a result of any act or omission, or in any way arising from the designation of such premises as a shelter, when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge therein during destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority, except for an act of

wilful negligence by such owner or occupant or his servants, agents, or employees.

(2) All legal liability for damage to property or injury or death to persons (except an emergency worker, regularly enrolled and acting as such), caused by acts done, or attempted, under the color of this chapter in a bona fide attempt to comply therewith shall be the obligation of the state of Washington. Suits may be instituted and maintained against the state for the enforcement of such liability, or for the indemnification of persons appointed and regularly enrolled as emergency workers while actually engaged in emergency management duties, or as members of any agency of the state or political subdivision thereof engaged in emergency management activity, or their dependents, for damage done to their private property, or for any judgment against them for acts done in good faith in compliance with this chapter: PROVIDED, That the foregoing shall not be construed to result in indemnification in any case of wilful misconduct, gross negligence or bad faith on the part of any agent of emergency management: PROVIDED, That should the United States or any agency thereof, in accordance with any federal statute, rule or regulation, provide for the payment of damages to property and/or for death or injury as provided for in this section, then and in that event there shall be no liability or obligation whatsoever upon the part of the state of Washington for any such damage, death, or injury for which the United States government assumes liability.

(3) Any requirement for a license to practice any professional, mechanical or other skill shall not apply to any authorized emergency worker who shall, in the course of performing his duties as such, practice such professional, mechanical or other skill during an emergency described in this chapter.

(4) The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the workers' compensation law, or under any pension or retirement law, nor the right of any such person to receive any benefits or compensation under any act of congress. [1987 c 185 § 7; 1984 c 38 § 17; 1974 ex.s. c 171 § 20; 1971 ex.s. c 8 § 2; 1953 c 145 § 1; 1951 c 178 § 11.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

38.52.190 Compensation for injury or death—Chapter exclusive. Except as provided in this chapter, an emergency worker and his dependents shall have no right to receive compensation from the state, from the agency, from the local organization for emergency management with which he is registered, or from the county or city which has empowered the local organization for emergency management to register him and direct his activities, for an injury or death arising out of and occurring in the course of his activities as an emergency worker. [1984 c 38 § 18; 1974 ex.s. c 171 § 21; 1953 c 223 § 3.]

38.52.195 Exemption from liability while providing construction, equipment or work. Notwithstanding any other provision of law, no person, firm, corporation, or other entity acting under the direction or control of the proper

authority to provide construction, equipment, or work as provided for in RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390 while complying with or attempting to comply with RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390 or any rule or regulation promulgated pursuant to the provisions of RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390 shall be liable for the death of or any injury to persons or damage to property as a result of any such activity: PROVIDED, That said exemption shall only apply where all of the following conditions occur:

(1) Where, at the time of the incident the worker is performing services as an emergency worker, and is acting within the course of his duties as an emergency worker;

(2) Where, at the time of the injury, loss, or damage, the organization for emergency management which the worker is assisting is an approved organization for emergency management;

(3) Where the injury, loss, or damage is proximately caused by his service either with or without negligence as an emergency worker;

(4) Where the injury, loss, or damage is not caused by the intoxication of the worker; and

(5) Where the injury, loss, or damage is not due to wilful misconduct or gross negligence on the part of a worker. [1984 c 38 § 19; 1974 ex.s. c 171 § 22; 1971 ex.s. c 8 § 7.]

38.52.1951 Application of exemption from liability for architects and engineers. For purposes of the liability of an architect or engineer serving as a volunteer emergency worker, the exemption from liability provided under RCW 38.52.195 extends to all damages, so long as the conditions specified in RCW 38.52.195 (1) through (5) occur. [1993 c 206 § 2.]

38.52.198 Emergency care, rescue, assistance, or recovery services in mine rescue or recovery work—Immunity from liability. No person engaged in mine rescue or recovery work who, in good faith, renders emergency care, rescue, assistance, or recovery services at the scene of any emergency at or in a mine in this state or who employs, sponsors, or represents any person rendering emergency care, rescue, assistance, or recovery services shall be liable for any civil damages as a result of any act or omission by any person in rendering emergency care, rescue, assistance, or recovery service. [1985 c 459 § 9.]

Severability—1985 c 459: See note following RCW 79.01.668.

38.52.200 Liability for compensation is in lieu of other liability—Exception. Liability for the compensation provided by this chapter, as limited by the provisions thereof, is in lieu of any other liability whatsoever to an emergency worker or his dependents or any other person on the part of the state, the agency, the local organization for emergency management with which the emergency worker is registered, and the county or city which has empowered the local organization for emergency management to register him and direct his activities, for injury or death arising out of and in the course of his activities while on duty as an

emergency worker: PROVIDED, That nothing in this chapter shall limit or bar the liability of the state or its political subdivisions engaged in proprietary functions as distinguished from governmental functions that may exist by reason of injury or death sustained by an emergency worker. [1984 c 38 § 20; 1974 ex.s. c 171 § 23; 1953 c 223 § 9.]

38.52.205 Claims arising from emergency management related activities—Filing—Contents. All claims against the state for property damages or indemnification therefor arising from emergency management related activities will be presented to and filed with the director of financial management. Contents of all such claims shall conform to the tort claim filing requirements found in RCW 4.92.100 as now or hereafter amended. [1984 c 38 § 21; 1979 c 151 § 43; 1977 ex.s. c 144 § 6; 1974 ex.s. c 171 § 24; 1971 ex.s. c 8 § 4.]

38.52.207 Claims arising from emergency management related activities—Filing—Consideration, adjustment, settlement, etc., by director—Effect. The director, with the approval of the attorney general, may consider, ascertain, adjust, determine, compromise and settle property loss or damage claims arising out of conduct or circumstances for which the state of Washington would be liable in law for money damages of two thousand dollars or less. The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant; and upon the state of Washington, unless procured by fraud, and shall constitute a complete release of any claim against the state of Washington. A request for administrative settlement shall not preclude a claimant from filing court action pending administrative determination, or limit the amount recoverable in such a suit, or constitute an admission against interest of either the claimant or the state. [1986 c 266 § 31; 1984 c 38 § 22; 1974 ex.s. c 171 § 25; 1971 ex.s. c 8 § 5.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.210 Compensation boards—Established. (1) In each local organization for emergency management established by the legislative authority of the county in accordance with the provisions of RCW 38.52.070, there is hereby created and established a compensation board for the processing of claims as provided in this chapter. The compensation board shall be composed of: (a) The county executive if the county has an elected county executive or, if it does not, one member of the county legislative authority selected by the authority. The executive or the member will serve as the chair of the compensation board; (b) the county director of emergency services; (c) the prosecuting attorney; (d) the emergency services coordinator for medical and health services; and (e) the county auditor who will serve as secretary of the compensation board.

(2) In each local organization for emergency management established by cities and towns in accordance with RCW 38.52.070, there is hereby created and established a compensation board for the processing of claims as provided in this chapter. The compensation board shall be composed of the mayor; the city director of emergency management; one councilmember or commissioner selected by the council

or the commission; the city attorney or corporation counsel; and the local coordinator of medical and health services. The councilmember or commissioner so selected shall serve as the chair of the compensation board and the city director of emergency management shall serve as secretary of the board. [1986 c 266 § 32; 1984 c 38 § 23; 1981 c 213 § 6; 1974 ex.s. c 171 § 26; 1953 c 223 § 4.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.220 Compensation boards—Meetings—Claims not necessitating board meeting. Said compensation board shall meet on the call of its chairman on a regular monthly meeting day when there is business to come before it. The chairman shall be required to call a meeting on any monthly meeting day when any claim for compensation under this chapter has been submitted to the board: PROVIDED, That as to claims involving amounts of two thousand dollars or less, the local organization director shall submit recommendations directly to the state without convening a compensation board. [1984 c 38 § 24; 1971 ex.s. c 8 § 3; 1953 c 223 § 5.]

38.52.230 Compensation boards—Attendance of witnesses, oaths, rules—Members uncompensated. The compensation board, in addition to other powers herein granted, shall have the power to compel the attendance of witnesses to testify before it on all matters connected with the operation of this chapter and its chairman or any member of said board may administer oath to such witnesses; to make all necessary rules and regulations for its guidance in conformity with the provisions of this chapter: PROVIDED, HOWEVER, That no compensation or emoluments shall be paid to any member of said board for any duties performed as a member of said compensation board. [1953 c 223 § 6.]

38.52.240 Compensation boards—Duties as to compensation applications. The compensation board shall hear and decide all applications for compensation under this chapter. The board shall submit its recommendations to the director on such forms as he or she may prescribe. In case the decision of the director is different from the recommendation of the compensation board, the matter shall be submitted to the state emergency management council for action. [1986 c 266 § 33; 1984 c 38 § 25; 1974 ex.s. c 171 § 27; 1953 c 223 § 7.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.250 Compensation boards—Quorum—Transmittal of minutes, claims—Appeal to department. A majority of the compensation board shall constitute a quorum, and no business shall be transacted when a majority is not present, and no claim shall be allowed when a majority of the board has not voted favorably thereon.

The board shall send a copy of the minutes of all meetings to the department with copies of all material pertaining to each claim submitted and noting the action of the board on each claim. Appeals may be made by the emergency worker from any action by the board within one year by writing to the department. [1986 c 266 § 34; 1984 c 38 § 26; 1974 ex.s. c 171 § 28; 1953 c 223 § 8.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.260 When compensation furnished. Compensation shall be furnished to an emergency worker either within or without the state for any injury arising out of and occurring in the course of his activities as an emergency worker, and for the death of any such worker if the injury proximately causes death, in those cases where the following conditions occur:

(1) Where, at the time of the injury the emergency worker is performing services as an emergency worker, and is acting within the course of his duties as an emergency worker.

(2) Where, at the time of the injury the local organization for emergency management with which the emergency worker is registered is an approved local organization for emergency management.

(3) Where the injury is proximately caused by his service as an emergency worker, either with or without negligence.

(4) Where the injury is not caused by the intoxication of the injured emergency worker.

(5) Where the injury is not intentionally self-inflicted. [1984 c 38 § 27; 1974 ex.s. c 171 § 29; 1953 c 223 § 10.]

38.52.270 Minors entitled to benefits. Emergency workers who are minors shall have the same rights as adults for the purpose of receiving benefits under the provisions of this chapter, but this provision shall not prevent the requirements that a guardian be appointed to receive and administer such benefits until the majority of such minor. Work as an emergency worker shall not be deemed as employment or in violation of any of the provisions of chapter 49.12 RCW. [1984 c 38 § 28; 1974 ex.s. c 171 § 30; 1953 c 223 § 11.]

38.52.280 Compensation and benefits limited by appropriation. No compensation or benefits shall be paid or furnished to emergency workers or their dependents pursuant to the provisions of this chapter except from money appropriated for the purpose of this chapter. [1984 c 38 § 29; 1974 ex.s. c 171 § 31; 1953 c 223 § 12.]

38.52.290 Applicability of workers' compensation law. Insofar as not inconsistent with the provisions of this chapter, the maximum amount payable to a claimant shall be not greater than the amount allowable for similar disability under the workers' compensation act, chapter 51.32 RCW as amended by chapter 289, Laws of 1971 ex.sess., and any amendments thereto. "Employee" as used in said title shall include an emergency worker when liability for the furnishing of compensation and benefits exists pursuant to the provisions of this chapter and as limited by the provisions of this chapter. Where liability for compensation and benefits exists, such compensation and benefits shall be provided in accordance with the applicable provisions of said sections of chapter 51.32 RCW and at the maximum rate provided therein, subject, however, to the limitations set forth in this chapter. [1987 c 185 § 8; 1984 c 38 § 30; 1974 ex.s. c 171 § 32; 1971 ex.s. c 289 § 71; 1953 c 223 § 13.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Severability—Effective dates—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

38.52.300 Right of action against third party. If the injury to an emergency worker is due to the negligence or wrong of another not on emergency duty, the injured worker, or if death results from the injury, the surviving spouse, children, parents or dependents, as the case may be, shall elect whether to take under this chapter or seek a remedy against such other, such election to be in advance of any suit under this chapter; and if the surviving spouse takes under this chapter, the cause of action against such other shall be assigned to the department; if the other choice is made, the compensation under this chapter shall be only the deficiency, if any, between the amount of recovery against such third person actually collected, and the compensation provided or estimated for such case under authority of this chapter: **PROVIDED**, That the department shall prosecute all claims assigned to it and do any and all things necessary to recover on behalf of the state any and all amounts which an employer or insurance carrier might recover under the provisions of the law. [1986 c 266 § 35; 1984 c 38 § 31; 1973 1st ex.s. c 154 § 59; 1953 c 223 § 14.]

Severability—1986 c 266: See note following RCW 38.52.005.

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

38.52.310 Coverage, classification, registration, of workers. The department shall establish by rule and regulation various classes of emergency workers, the scope of the duties of each class, and the conditions under which said workers shall be deemed to be on duty and covered by the provisions of this chapter. The department shall also adopt rules and regulations prescribing the manner in which emergency workers of each class are to be registered. [1986 c 266 § 36; 1984 c 38 § 32; 1974 ex.s. c 171 § 33; 1953 c 223 § 15.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.320 Schedule of payments. The department shall provide each compensation board with the approved maximum schedule of payments for injury or death prescribed in chapter 51.32 RCW: **PROVIDED**, That nothing in this chapter shall be construed as establishing any liability on the part of the department of labor and industries. [1986 c 266 § 37; 1984 c 38 § 33; 1974 ex.s. c 171 § 34; 1953 c 223 § 16.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.330 Expenditures authorized—Claims, payment and disposition—Appeals. The department is authorized to make all expenditures necessary and proper to carry out the provisions of this chapter including payments to claimants for compensation as emergency workers and their dependents; to adjust and dispose of all claims submitted by a local compensation board. When medical treatment is necessary, the department is authorized to make medical and compensation payments on an interim basis. Nothing herein shall be construed to mean that the department or the state emergency management council or its officers or agents shall have the final decision with respect to the compensability of any case or the amount of compensation or benefits due, but any emergency worker or his or her dependents shall have the same right of appeal from any order, decision,

or award to the same extent as provided in chapter 51.32 RCW. [1986 c 266 § 38; 1984 c 38 § 34; 1979 ex.s. c 268 § 3; 1974 ex.s. c 171 § 35; 1971 ex.s. c 289 § 72; 1953 c 223 § 17.]

Severability—1986 c 266: See note following RCW 38.52.005.

Severability—Effective dates—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

38.52.340 Benefits under other compensation plans. Nothing in this chapter shall deprive any emergency worker or his or her dependents of any right to compensation for injury or death sustained in the course of his or her regular employment even though his or her regular work is under direction of emergency management authorities: **PROVIDED**, That such worker, if he or she is eligible for some other compensation plan, and receives the benefits of such plan shall not also receive any compensation under this chapter. The department shall adopt such rules and regulations as may be necessary to protect the rights of such workers and may enter into agreements with authorities in charge of other compensation plans to insure protection of such workers: **PROVIDED**, That if the compensation from some other plan is less than would have been available under this chapter, he or she shall be entitled to receive the deficiency between the amount received under such other plan and the amount available under this chapter. [1986 c 266 § 39; 1984 c 38 § 35; 1974 ex.s. c 171 § 36; 1953 c 223 § 18.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.350 Benefits furnished under federal law—Reduction of state benefits. Should the United States or any agent thereof, in accordance with any federal statute or rule or regulation, furnish monetary assistance, benefits, or other temporary or permanent relief to emergency workers or to their dependents for injuries arising out of and occurring in the course of their activities as emergency workers, then the amount of compensation which any emergency worker or his dependents are otherwise entitled to receive from the state of Washington as provided herein, shall be reduced by the amount of monetary assistance, benefits, or other temporary or permanent relief the emergency worker or his dependents have received and will receive from the United States or any agent thereof as a result of his injury. [1984 c 38 § 36; 1974 ex.s. c 171 § 37; 1953 c 223 § 19.]

38.52.360 Medical, surgical or hospital treatment. If, in addition to monetary assistance, benefits or other temporary or permanent relief, the United States or any agent thereof furnishes medical, surgical or hospital treatment or any combination thereof to an injured emergency worker, then the emergency worker has no right to receive similar medical, surgical or hospital treatment as provided in this chapter. However, the department may furnish medical, surgical or hospital treatment as part of the compensation provided under the provisions of this chapter. [1986 c 266 § 40; 1984 c 38 § 37; 1974 ex.s. c 171 § 38; 1953 c 223 § 20.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.370 Medical, surgical or hospital treatment—Reimbursement. If, in addition to monetary assistance,

benefits, or other temporary or permanent relief, the United States or any agent thereof, will reimburse an emergency worker or his or her dependents for medical, surgical or hospital treatment, or any combination thereof, furnished to the injured emergency worker, the emergency worker has no right to receive similar medical, surgical or hospital treatment as provided in this chapter, but the department, may furnish a medical, surgical or hospital treatment as part of the compensation provided under the provisions of this chapter and apply to the United States or its agent for the reimbursement which will be made to the emergency worker or his or her dependents. As a condition to the furnishing of such medical, surgical or hospital treatment, the department shall require the emergency worker and his dependents to assign to the state of Washington, for the purpose of reimbursing for any medical, surgical or hospital treatment furnished or to be furnished by the state, any claim or right such emergency worker or his or her dependents may have to reimbursement from the United States or any agent thereof. [1986 c 266 § 41; 1984 c 38 § 38; 1974 ex.s. c 171 § 39; 1953 c 223 § 21.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.380 State compensation denied if payment prevents federal benefits. If the furnishing of compensation under the provisions of this chapter to an emergency worker or his dependents prevents such emergency worker or his dependents from receiving assistance, benefits or other temporary or permanent relief under the provisions of a federal statute or rule or regulation, then the emergency worker and his dependents shall have no right to, and shall not receive, any compensation from the state of Washington under the provisions of this chapter for any injury for which the United States or any agent thereof will furnish assistance, benefits or other temporary or permanent relief in the absence of the furnishing of compensation by the state of Washington. [1984 c 38 § 39; 1974 ex.s. c 171 § 40; 1953 c 223 § 22.]

38.52.390 Contracts or work on cost basis for emergency management activities. The governor, or upon his or her direction, the director, or any political subdivision of the state, is authorized to contract with any person, firm, corporation, or entity to provide construction or work on a cost basis to be used in emergency management functions or activities as defined in RCW 38.52.010(1) or as hereafter amended, said functions or activities to expressly include natural disasters, as well as all other emergencies of a type contemplated by RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390. All funds received for purposes of RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390, whether appropriated funds, local funds, or from whatever source, may be used to pay for the construction, equipment, or work contracted for under this section. [1986 c 266 § 42; 1984 c 38 § 40; 1971 ex.s. c 8 § 6.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.400 Search and rescue activities—Powers and duties of local officials. (1) The chief law enforcement officer of each political subdivision shall be responsible for

local search and rescue activities. Operation of search and rescue activities shall be in accordance with state and local operations plans adopted by the elected governing body of each local political subdivision. The local emergency management director shall notify the department of all search and rescue missions. The local director of emergency management shall work in a coordinating capacity directly supporting all search and rescue activities in that political subdivision and in registering emergency search and rescue workers for employee status. The chief law enforcement officer of each political subdivision may restrict access to a specific search and rescue area to personnel authorized by him. Access shall be restricted only for the period of time necessary to accomplish the search and rescue mission. No unauthorized person shall interfere with a search and rescue mission.

(2) When search and rescue activities result in the discovery of a deceased person or search and rescue workers assist in the recovery of human remains, the chief law enforcement officer of the political subdivision shall insure compliance with *chapter 68.08 RCW. [1986 c 266 § 43; 1984 c 38 § 41; 1979 ex.s. c 268 § 4.]

***Reviser's note:** Chapter 68.08 RCW was recodified as chapter 68.50 RCW pursuant to 1987 c 331 § 89.

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.410 Search and rescue activities—Distribution of funds for compensation and reimbursement of volunteers. Funds received by the department specifically for the purposes of compensating search and rescue volunteers shall be distributed by the director to help fund medical and compensation coverage provided by this chapter and provide reimbursement by the state for: (1) Costs involved in extraordinary search and rescue operations such as search and rescue operations lasting over twenty-four hours where food and lodging for workers is necessary; (2) excessive transportation and rescue costs incurred by out-of-county residents which would not be otherwise collectible; and (3) compensation as provided in RCW 38.52.020(1)(d) as now or hereafter amended. [1986 c 266 § 44; 1984 c 38 § 42; 1979 ex.s. c 268 § 5.]

Severability—1986 c 266: See note following RCW 38.52.005.

38.52.420 Model contingency plan for pollution control facilities and hazardous waste management. (1) The department, in consultation with appropriate federal agencies, the departments of natural resources, fish and wildlife, and ecology, representatives of local government, and any other person the director may deem appropriate, shall develop a model contingency plan, consistent with other plans required for hazardous materials by federal and state law, to serve as a draft plan for local governments which may be incorporated into the state and local emergency management plans.

(2) The model contingency plan shall:

(a) Include specific recommendations for pollution control facilities which are deemed to be most appropriate for the control, collection, storage, treatment, disposal, and recycling of oil and other spilled material and furthering the prevention and mitigation of such pollution;

(b) Include recommendations for the training of local personnel consistent with other training proposed, funded, or required by federal or state laws for hazardous materials;

(c) Suggest cooperative training exercises between the public and private sector consistent with other training proposed, funded, or required by federal or state laws for hazardous materials;

(d) Identify federal and state laws requiring contingency or management plans applicable or related to prevention of pollution, emergency response capabilities, and hazardous waste management, together with a list of funding sources that local governments may use in development of their specific plans;

(e) Promote formal agreements between the department and local entities for effective spill response; and

(f) Develop policies and procedures for the augmentation of emergency services and agency spill response personnel through the use of volunteers: PROVIDED, That no contingency plan may require the use of volunteers by a responding responsible party without that party's consent. [1995 c 391 § 4; 1994 c 264 § 11; 1988 c 36 § 11; 1987 c 479 § 3.]

Effective date—1995 c 391: See note following RCW 38.52.005.

38.52.430 Emergency response caused by person's intoxication—Recovery of costs from convicted person.

A person whose intoxication causes an incident resulting in an appropriate emergency response, and who, in connection with the incident, has been found guilty of or has had their prosecution deferred for (1) driving while under the influence of intoxicating liquor or any drug, RCW 46.61.502; (2) operating an aircraft under the influence of intoxicants or drugs, RCW 47.68.220; (3) use of a vessel while under the influence of alcohol or drugs, *RCW 88.12.100; (4) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a); or (5) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), is liable for the expense of an emergency response by a public agency to the incident.

The expense of an emergency response is a charge against the person liable for expenses under this section. The charge constitutes a debt of that person and is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

In no event shall a person's liability under this section for the expense of an emergency response exceed one thousand dollars for a particular incident.

If more than one public agency makes a claim for payment from an individual for an emergency response to a single incident under the provisions of this section, and the sum of the claims exceeds the amount recovered, the division of the amount recovered shall be determined by an interlocal agreement consistent with the requirements of chapter 39.34 RCW. [1993 c 251 § 2.]

***Reviser's note:** RCW 88.12.100 was recodified as RCW 88.12.025 pursuant to 1993 c 244 § 45.

Finding—Intent—1993 c 251: "The legislature finds that a public agency incurs expenses in an emergency response. It is the intent of the legislature to allow a public agency to recover the expenses of an emergency response to an incident involving persons who operate a motor vehicle, boat or vessel, or a civil aircraft while under the influence of an alcoholic

beverage or a drug, or the combined influence of an alcoholic beverage and a drug. It is the intent of the legislature that the recovery of expenses of an emergency response under this act shall supplement and shall not supplant other provisions of law relating to the recovery of those expenses." [1993 c 251 § 1.]

38.52.500 State-wide 911 enhanced service—Finding.

The legislature finds that a state-wide emergency communications network of enhanced 911 telephone service, which allows an immediate display of a caller's identification and location, would serve to further the safety, health, and welfare of the state's citizens, and would save lives. The legislature, after reviewing the study outlined in section 1, chapter 260, Laws of 1990, further finds that state-wide implementation of enhanced 911 telephone service is feasible and should be accomplished as soon as practicable. [1991 c 54 § 1.]

Referral to electorate—1991 c 54: See note following RCW 38.52.030.

38.52.510 State-wide 911 enhanced service—Funding by counties.

By December 31, 1998, each county, singly or in combination with adjacent counties, shall implement district-wide, county-wide, or multicounty-wide enhanced 911 emergency communications systems so that enhanced 911 is available throughout the state. The county shall provide funding for the enhanced 911 communication system in the county or district in an amount equal to the amount the maximum tax under RCW 82.14B.030(1) would generate in the county or district or the amount necessary to provide full funding of the system in the county or district, whichever is less. The state enhanced 911 coordination office established by RCW 38.52.520 shall assist and facilitate enhanced 911 implementation throughout the state. [1991 c 54 § 3.]

Referral to electorate—1991 c 54: See note following RCW 38.52.030.

38.52.520 State enhanced 911 coordination office.

A state enhanced 911 coordination office, headed by the state enhanced 911 coordinator, is established in the emergency management division of the department. Duties of the office shall include:

(1) Coordinating and facilitating the implementation and operation of enhanced 911 emergency communications systems throughout the state;

(2) Seeking advice and assistance from, and providing staff support for, the enhanced 911 advisory committee; and

(3) Recommending to the utilities and transportation commission by August 31st of each year the level of the state enhanced 911 excise tax for the following year. [1991 c 54 § 4.]

Referral to electorate—1991 c 54: See note following RCW 38.52.030.

38.52.525 State enhanced 911 coordination office—Public education materials.

The state enhanced 911 coordination office may develop and implement public education materials regarding the capability of specific equipment used as part of a private telecommunications system or in the provision of private shared telecommunica-

tions services to forward automatic location identification and automatic number identification. [1995 c 243 § 9.]

Findings—Severability—1995 c 243: See notes following RCW 80.36.555.

38.52.530 Enhanced 911 advisory committee—Expiration of section. The enhanced 911 advisory committee is created to advise and assist the state enhanced 911 coordinator in coordinating and facilitating the implementation and operation of enhanced 911 throughout the state. The director shall appoint members of the committee who represent diverse geographical areas of the state and include state residents who are members of the national emergency number association, the associated public communications officers northwest, the Washington state fire chiefs association, the Washington association of sheriffs and police chiefs, the Washington state council of fire fighters, the Washington state council of police officers, the Washington ambulance association, the state fire policy board, the Washington fire commissioners association, the Washington state patrol, the association of Washington cities, the Washington state association of counties, the utilities and transportation commission or commission staff, and representatives of large and small local exchange telephone companies. This section shall expire December 31, 2000. [1991 c 54 § 5.]

Referral to electorate—1991 c 54: See note following RCW 38.52.030.

38.52.535 State enhanced 911 coordination office and advisory committee—Uniform national standards. The state enhanced 911 coordination office and the enhanced 911 advisory committee may participate in efforts to set uniform national standards for automatic number identification and automatic location identification data transmission for private telecommunications systems and private shared telecommunications services. The enhanced 911 advisory committee shall report to the legislature by January 1, 1997, the progress of such standards development and shall make recommendations on steps to be taken if such standards have not been adopted. [1995 c 243 § 10.]

Findings—Severability—1995 c 243: See notes following RCW 80.36.555.

38.52.540 Enhanced 911 account. The enhanced 911 account is created in the state treasury. All receipts from the state enhanced 911 excise tax imposed by RCW 82.14B.030 shall be deposited into the account. Moneys in the account shall be used only to help implement and operate enhanced 911 state-wide, and to conduct a *study of the tax base and rate for the 911 excise tax. The state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, shall specify by rule the purposes for which moneys may be expended from this account. [1994 c 96 § 7; 1991 c 54 § 6.]

***Reviser's note:** See 1994 c 96 § 6.

Finding—Intent—Effective dates—1994 c 96: See notes following RCW 82.14B.020.

Referral to electorate—1991 c 54: See note following RCW 38.52.030.

38.52.550 Emergency communications systems and information—Immunity from civil liability. A telecommunications company providing emergency communications systems or services or a business or individual providing data base information to emergency communication system personnel shall not be liable for civil damages caused by an act or omission of the company, business, or individual in the:

(1) Good faith release of information not in the public record, including unpublished or unlisted subscriber information to emergency service providers responding to calls placed to a 911 or enhanced 911 emergency service; or

(2) Design, development, installation, maintenance, or provision of consolidated 911 or enhanced 911 emergency communication systems or services other than an act or omission constituting gross negligence or wanton or willful misconduct. [1991 c 329 § 7.]

38.52.560 Automatic number identification—Wireless two-way telecommunications service. Any person as defined in RCW 82.04.030 owning, operating, or managing any facilities used to provide wireless two-way telecommunications services for hire, sale, or resale which allow access to 911 emergency services shall provide a system of automatic number identification which allows the 911 operator to automatically identify the number of the caller. [1994 c 96 § 5.]

Finding—Intent—Effective dates—1994 c 96: See notes following RCW 82.14B.020.

38.52.900 Short title. This chapter may be cited as the Washington Emergency Management Act. [1984 c 38 § 43; 1974 ex.s. c 171 § 41; 1951 c 178 § 1.]

38.52.920 Repeal and saving. Chapter 177, Laws of 1941, chapters 6 and 24, Laws of 1943, and chapter 88, Laws of 1949 are repealed: PROVIDED, That this section shall not affect the validity of any order, rule, regulation, contract, or agreement made or promulgated under authority of the repealed acts, which orders, rules, regulations, contracts, or agreements shall remain in force until they may be repealed, amended, or superseded by orders, rules, regulations, contracts, or agreements made or promulgated under this chapter: PROVIDED FURTHER, That this section shall not affect the tenure of any officer, employee, or person serving under authority of any repealed act and such officer, employee, or person shall continue in his position until such time as a successor is appointed or employed under the provisions of this chapter. [1951 c 178 § 17.]

38.52.930 Transfer of powers, duties, and functions to state military department. All powers, duties, and functions of the department of community, trade, and economic development pertaining to emergency management are transferred to the state military department. All references to the director or the department of community development or the department of community, trade, and economic development in the Revised Code of Washington shall be construed to mean the adjutant general or the state military

department when referring to the functions transferred in this section. [1995 c 391 § 10.]

Effective date—1995 c 391: See note following RCW 38.52.005.

Chapter 38.54

STATE FIRE SERVICES MOBILIZATION

Sections

- 38.54.010 Definitions (*as amended by 1995 c 369*).
- 38.54.010 Definitions (*as amended by 1995 c 391*).
- 38.54.020 Legislative declaration and intent.
- 38.54.030 State fire protection policy board—State fire services mobilization plan—State fire resources coordinator.
- 38.54.040 Regional fire defense boards—Regional fire service plans—Regions established.
- 38.54.050 Development of reimbursement procedures.
- 38.54.900 Findings—1992 c 117.

38.54.010 Definitions (*as amended by 1995 c 369*). Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) (~~"Department"~~) means the department of community development.

(2) (~~"Director"~~) means the director of the department of community development.

(3) "State fire marshal" means the assistant director of the division of fire protection services in the (~~department of community development~~) Washington state patrol.

(4) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.

(5) "Jurisdiction" means state, county, city, fire district, or port district (~~fire~~) fire fighting units, or other units covered by this chapter.

(6) "Mobilization" means that fire fighting resources beyond those available through existing agreements will be requested and, when available, sent to fight a fire that has or soon will exceed the capabilities of available local resources. During a large scale fire emergency, mobilization includes redistribution of regional or state-wide fire fighting resources to either direct fire fighting assignments or to assignment in communities where fire fighting resources are needed. This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

(7) "Mutual aid" means emergency interagency assistance provided without compensation under (~~and for~~) an agreement between jurisdictions under chapter 39.34 RCW. [1995 c 369 § 10; 1992 c 117 § 9.]

Effective date—1995 c 369: See note following RCW 43.43.930.

38.54.010 Definitions (*as amended by 1995 c 391*). Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "State fire marshal" means the assistant director of the division of fire protection services in the department of community, trade, and economic development.

(4) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.

(5) "Jurisdiction" means state, county, city, fire district, or port district (~~fire~~) fire fighting units, or other units covered by this chapter.

(6) "Mobilization" means that fire fighting resources beyond those available through existing agreements will be requested and, when available, sent (~~to fight a fire~~) in response to an emergency or disaster situation that has (~~or soon will exceed~~) exceeded the capabilities of available local resources. During a large scale (~~fire~~) emergency, mobilization includes the redistribution of regional or state-wide fire fighting resources to either direct (~~fire fighting~~) emergency incident assignments or to assignment in communities where fire fighting resources are needed.

(1996 Ed.)

When mobilization is declared and authorized as provided in this chapter, all fire fighting resources except those of the host fire protection authorities, i.e. incident jurisdiction, shall be deemed as mobilized under this chapter, including those that responded earlier under existing mutual aid or other agreement. All nonhost fire protection authorities providing fire fighting resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter from the time of the mobilization declaration.

This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

(7) "Mutual aid" means emergency interagency assistance provided without compensation under (~~and for~~) an agreement between jurisdictions under chapter 39.34 RCW. [1995 c 391 § 5; 1992 c 117 § 9.]

Reviser's note: RCW 38.54.010 was amended twice during the 1995 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—1995 c 391: See note following RCW 38.52.005.

38.54.020 Legislative declaration and intent.

Because of the possibility of the occurrence of disastrous fires or other disasters of unprecedented size and destructiveness, the need to insure that the state is adequately prepared to respond to such a fire or disaster, the need to establish a mechanism and a procedure to provide for reimbursement to fire fighting agencies that respond to help others in time of need or to a host fire district that experiences expenses beyond the resources of the fire district, and generally to protect the public peace, health, safety, lives, and property of the people of Washington, it is hereby declared necessary to:

(1) Provide the policy and organizational structure for large scale mobilization of fire fighting resources in the state through creation of the Washington state fire services mobilization plan;

(2) Confer upon the director the powers provided herein;

(3) Provide a means for reimbursement to fire jurisdictions that incur expenses when mobilized by the director under the Washington state fire services mobilization plan; and

(4) Provide for reimbursement of host district fire fighting resources when the local district has: (a) Exhausted all of its resources; and (b) invoked its local mutual aid network and exhausted those resources. Upon implementation of state fire mobilization, the host district resources shall become state fire mobilization resources consistent with the fire mobilization plan.

It is the intent of the legislature that mutual aid and other interlocal agreements providing for enhanced emergency response be encouraged as essential to the public peace, safety, health, and welfare, and for the protection of the lives and property of the people of the state of Washington. If possible, mutual aid agreements should be without stated limitations as to resources available, time, or area. Nothing in this chapter shall be construed or interpreted to limit the eligibility of any nonhost fire protection authority for reimbursement of expenses incurred in providing fire fighting resources for mobilization. [1995 c 391 § 6; 1992 c 117 § 10.]

Effective date—1995 c 391: See note following RCW 38.52.005.

38.54.030 State fire protection policy board—State fire services mobilization plan—State fire resources coordinator. The state fire protection policy board shall

review and make recommendations to the director on the refinement and maintenance of the Washington state fire services mobilization plan, which shall include the procedures to be used during fire and other emergencies for coordinating local, regional, and state fire jurisdiction resources. In carrying out this duty, the fire protection policy board shall consult with and solicit recommendations from representatives of state and local fire and emergency management organizations, regional fire defense boards, and the department of natural resources. The Washington state fire services mobilization plan shall be consistent with, and made part of, the Washington state comprehensive emergency management plan. The director shall review the fire services mobilization plan as submitted by the state fire defense board and after consultation with the fire protection policy board, recommend changes that may be necessary, and approve the fire services mobilization plan for inclusion within the state comprehensive emergency management plan.

It is the responsibility of the director to mobilize jurisdictions under the Washington state fire services mobilization plan. The state fire marshal shall serve as the state fire resources coordinator when the Washington state fire services mobilization plan is mobilized. [1995 c 269 § 1101; 1992 c 117 § 11.]

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

38.54.040 Regional fire defense boards—Regional fire service plans—Regions established. Regions within the state are initially established as follows but may be adjusted as necessary by the director:

- (1) Northwest region - Whatcom, Skagit, Snohomish, San Juan, and Island counties;
- (2) Northeast region - Okanogan, Ferry, Stevens, Pend Oreille, Spokane, and Lincoln counties;
- (3) Olympic region - Clallam and Jefferson counties;
- (4) South Puget Sound region - Kitsap, Mason, King, and Pierce counties;
- (5) Southeast region - Chelan, Douglas, Kittitas, Grant, Adams, Whitman, Yakima, Klickitat, Benton, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties;
- (6) Central region - Grays Harbor, Thurston, Pacific, and Lewis counties; and
- (7) Southwest region - Wahkiakum, Cowlitz, Clark, and Skamania counties.

Within each of these regions there is created a regional fire defense board. The regional fire defense boards shall consist of two members from each county in the region. One member from each county shall be appointed by the county fire chiefs' association or, in the event there is no such county association, by the county's legislative authority. Each county's office of emergency management or, in the event there is no such office, the county's legislative authority shall select the second representative to the regional board. The department of natural resources fire control chief shall appoint a representative from each department of natural resources region to serve as a member of the appropriate regional fire defense board. Members of each regional board will select a chairperson and secretary as officers. Members serving on the regional boards do so

in a voluntary capacity and are not eligible for reimbursement for meeting-related expenses from the state.

Regional defense boards shall develop regional fire service plans that include provisions for organized fire agencies to respond across municipal, county, or regional boundaries. Each regional plan shall be consistent with the incident command system, the Washington state fire services mobilization plan, and regional response plans already adopted and in use in the state. The regional boards shall work with the relevant local government entities to facilitate development of intergovernmental agreements if any such agreements are required to implement a regional fire service plan. Each regional plan shall be approved by the state fire defense board before implementation. [1992 c 117 § 12.]

38.54.050 Development of reimbursement procedures. The department in consultation with the office of financial management shall develop procedures to facilitate reimbursement to jurisdictions from appropriate federal and state funds when jurisdictions are mobilized by the director under the Washington state fire services mobilization plan. The department shall ensure that these procedures provide reimbursement to the host district in as timely a manner as possible. [1995 c 391 § 7; 1992 c 117 § 13.]

Effective date—1995 c 391: See note following RCW 38.52.005.

38.54.900 Findings—1992 c 117. See note following RCW 35.21.775.

Title 39

PUBLIC CONTRACTS AND INDEBTEDNESS

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Chapter 39.04 PUBLIC WORKS

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39.04.010 Definitions. The term state shall include the state of Washington and all departments, supervisors, commissioners and agencies thereof.

The term municipality shall include every city, county, town, district or other public agency thereof which is authorized by law to require the execution of public work,

except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts or any such other districts as shall from time to time be authorized by law for the reclamation or development of waste or undeveloped lands.

The term public work shall include all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein. All public works, including maintenance when performed by contract shall comply with the provisions of RCW 39.12.020.

The term contract shall mean a contract in writing for the execution of public work for a fixed or determinable amount duly awarded after advertisement and competitive bid. However, a contract which is awarded from a small works roster under the authority of RCW 39.04.150, 35.22.620, 28B.10.355, 35.82.075, and 57.08.050 need not be advertised. [1993 c 174 § 1; 1989 c 363 § 5; 1986 c 282 § 1; 1982 c 98 § 1; 1977 ex.s. c 177 § 1; 1923 c 183 § 1; RRS § 10322-1.]

Severability—1986 c 282: See RCW 82.18.900.

39.04.015 Adjustment to bid price—Conditions. Notwithstanding the provisions of RCW 39.04.010, a state contracting authority is authorized to negotiate an adjustment to a bid price, based upon agreed changes to the contract plans and specifications, with a low responsive bidder under the following conditions:

(1) All bids for a state public works project involving buildings and any associated building utilities and appendants exceed the available funds, as certified by the appropriate fiscal officer;

(2) The apparent low responsive bid does not exceed the available funds by: (a) Five percent on projects valued under one million dollars; (b) the greater of fifty thousand dollars or two and one-half percent for projects valued between one million dollars and five million dollars; or (c) the greater of one hundred twenty-five thousand dollars or one percent for projects valued over five million dollars; and

(3) The negotiated adjustment will bring the bid price within the amount of available funds. [1989 c 59 § 1.]

39.04.020 Plans and specifications—Estimates—Publication—Emergencies. Whenever the state or any municipality shall determine that any public work is necessary to be done, it shall cause plans, specifications, or both thereof and an estimate of the cost of such work to be made and filed in the office of the director, supervisor, commissioner, trustee, board, or agency having by law the authority to require such work to be done. The plans, specifications, and estimates of cost shall be approved by the director, supervisor, commissioner, trustee, board, or agency and the original draft or a certified copy filed in such office before further action is taken.

If the state or such municipality shall determine that it is necessary or advisable that such work shall be executed by any means or method other than by contract or by a small

works roster process, and it shall appear by such estimate that the probable cost of executing such work will exceed the sum of twenty-five thousand dollars, then the state or such municipality shall at least fifteen days before beginning work cause such estimate, together with a description of the work, to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which such work is to be done. When any emergency shall require the immediate execution of such public work, upon a finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work. [1994 c 243 § 1; 1993 c 379 § 111; 1986 c 282 § 2; 1982 c 98 § 4; 1975 1st ex.s. c 230 § 2; 1967 c 70 § 1; 1923 c 183 § 2; RRS § 10322-2. Formerly RCW 39.04.020 and 39.04.030.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Severability—1986 c 282: See RCW 82.18.900.

39.04.040 Work to be executed according to plans—Supplemental plans. Whenever plans and specifications shall have been filed the work to be done shall be executed in accordance with such plans and specifications unless supplemental plans and specifications of the alterations to be made therein shall be made and filed in the office where the original plans and specifications are filed.

In the event that the probable cost of executing such work in accordance with the supplemental plans and specifications shall be increased or decreased from the estimated cost as shown by the original estimate to an amount in excess of ten percent of such estimate, then a supplemental estimate shall be made of the increased or decreased cost of executing the work in accordance with the supplemental plans and specifications and filed in the office where the original estimate is filed. [1923 c 183 § 3; RRS § 10322-3.]

39.04.050 Contents of original estimates. Original estimates shall show in detail the estimated cost of the work; the estimated quantities of each class of work; the estimated unit cost for each class; the estimated total cost for each class; the time limit, allowed for the completion of the work and the estimated dates of commencement and completion. [1986 c 282 § 3; 1923 c 183 § 4; RRS § 10322-4.]

Severability—1986 c 282: See RCW 82.18.900.

39.04.060 Supplemental estimates. Supplemental estimates shall show the estimated increase or decrease in the total quantities of each class, in the unit cost of each class, in the total cost for each class and in the total cost of the work as shown by the original estimate, together with any change in the time limit and in the estimated dates of commencing and completing the work. [1923 c 183 § 5; RRS § 10322-5.]

39.04.070 Account and record of cost. Whenever the state or any municipality shall execute any public work by any means or method other than by contract or small works roster, it shall cause to be kept and preserved a full, true and accurate account and record of the costs of execut-

ing such work in accordance with the budgeting, accounting, and reporting system provisions prescribed by law for the state agency or municipality. [1986 c 282 § 4; 1923 c 183 § 6; RRS § 10322-6.]

Severability—1986 c 282: See RCW 82.18.900.

State auditor to prescribe standard form for costs of public works: RCW 43.09.205.

39.04.080 Certified copy to be filed—Engineers' certificate. A true copy of such account or record, duly certified by the officer or officers having by law authority to direct such work to be done, to be a full, true and accurate account of the costs of executing such work shall be filed in the office where the original plans and specifications are filed within sixty days after the completion of the work.

The engineer or other officer having charge of the execution of such work shall execute a certificate which shall be attached to and filed with such certified copy, certifying that such work was executed in accordance with the plans and specifications on file and the times of commencement and completion of such work. If the work is not in accordance with such plans and specifications he shall set forth the manner and extent of the variance therefrom. [1923 c 183 § 7; RRS § 10322-7.]

39.04.100 Records open to public inspection—Certified copies. All plans, specifications, estimates, and copies of accounts or records and all certificates attached thereto shall, when filed, become public records and shall at all reasonable times be subject to public inspection.

Certified copies of any estimate, account or record shall be furnished by the officer having the custody thereof to any person on demand and the payment of the legal fees for making and certifying the same. [1923 c 183 § 9; RRS § 10322-9.]

39.04.110 Penalty for false entries. Any director, supervisor, officer or employee of the state and any commissioner, trustee, supervisor, officer or employee of any municipality who shall knowingly make any false entry in any account or record required by this chapter or who shall knowingly certify to any false statement in any certificate required by this chapter, shall be guilty of a misdemeanor. [1923 c 183 § 10; RRS § 10322-10.]

Falsifying accounts: RCW 42.20.070.

Misconduct of public officers: Chapter 42.20 RCW.

39.04.120 Pollution and preservation of natural resources laws to be included in bidding invitations—Change orders—Costs—Arbitration. All invitations for bid proposals for public construction projects issued by the state of Washington, its authorities or agencies, or any political subdivision of the state, shall set forth in the contract documents to the extent they are reasonably obtainable by the public awarding authority those provisions of federal, state and local statutes, ordinances and regulations dealing with the prevention of environmental pollution and the preservation of public natural resources that affect or are affected by the projects. If the successful bidder must undertake additional work due to the enactment of new or the amendment of existing statutes, ordinances, rules or

regulations occurring after the submission of the successful bid, the awarding agency shall issue a change order setting forth the additional work that must be undertaken, which shall not invalidate the contract. The cost of such a change order to the awarding agency shall be determined in accordance with the provisions of the contract for change orders or force accounts or, if no such provision is set forth in the contract, then the cost to the awarding agency shall be the contractor's costs for wages, labor costs other than wages, wage taxes, materials, equipment rentals, insurance, and subcontracts attributable to the additional activity plus a reasonable sum for overhead and profit: PROVIDED, That such additional costs to undertake work not specified in the contract documents shall not be approved unless written authorization is given the successful bidder prior to his undertaking such additional activity. In the event of a dispute between the awarding agency and the successful bidder, arbitration procedures may be commenced under the applicable terms of the construction contract, or, if the contract contains no such provision for arbitration, the then obtaining rules of the American arbitration association. [1973 1st ex.s. c 62 § 1.]

Severability—1973 1st ex.s. c 62: "If any provision or part of this 1973 act shall be judged to be invalid or unconstitutional, such adjudication shall not affect the validity of any provision or part of this 1973 act not adjudged invalid or unconstitutional." [1973 1st ex.s. c 62 § 4.]

Delay due to litigation, change orders, costs, arbitration, termination:
RCW 60.28.080.

39.04.130 Application of RCW 39.04.120. RCW 39.04.120 shall take effect in ninety days but shall not apply to any contract awarded pursuant to an invitation for bids issued on or before the date it takes effect, or to any persons or bonds in respect of any such contract. [1973 1st ex.s. c 62 § 2.]

Severability—1973 1st ex.s. c 62: See note following RCW 39.04.120.

39.04.133 State capital improvement or construction projects—Use of recycled content products in design or specifications. (1) The state's preferences for the purchase and use of recycled content products shall be included as a factor in the design and development of state capital improvement projects.

(2) Specifications for materials in state construction projects shall include the use of recycled content products and recyclable products whenever practicable.

(3) This section does not apply to contracts entered into by a municipality. [1996 c 198 § 5.]

39.04.135 Demolition projects—Recycling or reuse of materials. Material from demolition projects shall be recycled or reused whenever practicable. [1996 c 198 § 6.]

39.04.140 Contracts affected by increase in price of petroleum products—Termination—Continuation with contracting agency sharing increased costs—Conditions. (1) The legislature finds (a) that the increase in the price of petroleum products resulting from the world wide shortage of crude oil has created a condition which has rendered performance by contractors of many public works contracts economically impossible and (b) that provision should be

made to provide for the orderly termination of such contracts; the deletion of work affected by petroleum prices without the necessity of litigation; or, alternatively at the election of any contracting agency, the continuation of the contract with the agency assuming a share of the increased petroleum costs.

(2) Whenever the state or any municipality shall have awarded any public works contract during the performance of which (a) any legally enforceable private agreement or contractual arrangement between either the contractor or a first tier subcontractor and his suppliers of crude oil, residual fuel oil, refined petroleum products, or asphalt required in order to complete performance of the public works contract are superseded, with resulting increased costs of performance of the public works contract, by force majeure regulations, rules, allocations, or rulings issued by any federal, state, or other agency acting pursuant to any federal or state economic stabilization act, petroleum allocation act, or other legislation authorizing the same; or (b) the cost of petroleum products for which has increased by more than twenty percent over the current market price thereof as the date of contract award, then the contractor may elect to terminate the contract in its entirety or to delete such portions of the work from the contract, and the state or municipality shall pay the contractor for all work performed prior to the date of termination of the contract or deletion of such work. The state or municipality shall also pay the contractor for all acceptable materials ordered by the contractor and delivered on the work site prior to the termination of the contract or deletion of such work by the contractor. Such materials shall be purchased from the contractor by the state or the municipality at the actual cost of such material to the contractor and shall thereupon become the property of the state or municipality. No payment shall be made to the contractor for overhead costs or anticipated profits as to work not performed as a result of deletion of such work or termination of the contract. Amounts retained and accumulated under RCW 60.28.010 shall be held for a period of thirty days following the election of the contractor to terminate the contract in its entirety: PROVIDED, That if the contractor elects to terminate or delete such portions of the work and the state or such municipality finds that it is in the public interest to complete performance on such public works contract then the state or such municipality shall require the contractor to complete performance of the public works contract and the state or such municipality shall modify the provisions of that public works contract to increase the contract price so that the state or municipality shall bear eighty percent of such increased costs over the contractor's estimated cost at the time of contract bid opening and the contractor shall bear the balance thereof. Upon request by the state or municipality the contractor shall make his records available for audit by the state or municipality to verify such increased costs.

(3) This section shall apply only to public works contracts awarded prior to November 1, 1973, and only to work under such contracts which has not been performed on the date the contractor elects to terminate the contract or delete such work from the contract. [1974 ex.s. c 194 § 1.]

Severability—1974 ex.s. c 194: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of

the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 194 § 2.]

39.04.150 State agencies authorized to establish small works roster—Procedure for soliciting quotations—Rules. (1) As used in this section, "agency" means the department of general administration, the department of fish and wildlife, the department of natural resources, and the state parks and recreation commission.

(2) In addition to any other power or authority that an agency may have, each agency, alone or in concert, may establish a small works roster consisting of all qualified contractors who have requested to be included on the roster.

(3) The small works roster may make distinctions between contractors based on the geographic areas served and the nature of the work the contractor is qualified to perform. At least once every year, the agency shall advertise in a newspaper of general circulation the existence of the small works roster and shall add to the roster those contractors who request to be included on the roster.

(4) Construction, repair, or alteration projects estimated to cost less than one hundred thousand dollars are exempt from the requirement that the contracts be awarded after advertisement and competitive bid as defined by RCW 39.04.010. In lieu of advertisement and competitive bid, the agency shall solicit at least five quotations, confirmed in writing, from contractors chosen from the small works roster for the category of job type involved and shall award the work to the party with the lowest quotation or reject all quotations. If the agency does not receive at least two responsive quotations for a particular project, then the project shall be advertised and competitively bid. The agency shall solicit quotations from contractors selected randomly from the small works roster in a manner which will equitably distribute the opportunity for these contracts among contractors on the roster. The agency shall invite at least one proposal each from a certified minority and a certified women-owned contractor who shall otherwise qualify to perform such work. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone request. If the work is executed by competitive bid, the agency shall invite at least one proposal each from a certified minority and a certified women-owned contractor who shall otherwise qualify to perform such work.

(5) The breaking down of any public work or improvement into units or accomplishing any public work or improvement by phases for the purpose of avoiding the minimum dollar amount for bidding is contrary to public policy and is prohibited.

(6) The director of general administration shall adopt by rule a procedure to prequalify contractors for inclusion on the small works roster. Each agency shall follow the procedure adopted by the director of general administration. No agency shall be required to make available for public inspection or copying under chapter 42.17 RCW financial information required to be provided by the prequalification procedure.

(7) An agency may adopt by rule procedures to implement this section which shall not be inconsistent with the procedures adopted by the director of the department of general administration pursuant to subsection (6) of this

section. [1994 c 264 § 12; 1994 c 243 § 2; 1993 c 379 § 112; 1988 c 36 § 12; 1987 c 218 § 1; 1982 c 98 § 2.]

Reviser's note: This section was amended by 1994 c 243 § 2 and by 1994 c 264 § 12, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1994 c 243 § 2: "Section 2 of this act shall take effect July 1, 1994." [1994 c 243 § 3.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Director of general administration authorized to delegate to other state agencies under RCW 39.04.150: RCW 43.19.450.

39.04.155 Small works roster contract awards process. (1) This section provides a uniform process to award contracts for public works projects by those municipalities that are authorized to use a small works roster in lieu of the requirements for formal sealed bidding. The state statutes governing a specific type of municipality shall establish the maximum dollar thresholds of the contracts that can be awarded under this process, and may include other matters concerning the small works roster process, for the municipality.

(2) Such municipalities may create a single general small works roster, or may create a small works roster for different categories of anticipated work. The small works roster or rosters shall consist of all responsible contractors who have requested to be on the list, and where required by law are properly licensed or registered to perform such work in this state. At least twice a year, the municipality shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters.

The governing body of the municipality shall establish a procedure for securing telephone or written quotations from the contractors on the general small works roster, or a specific small works roster for the appropriate category of work, to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW 43.19.1911. Such invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. Whenever possible at least five contractors shall be invited to submit bids. Once a contractor has been afforded an opportunity to submit a proposal, that contractor shall not be offered another opportunity until all other appropriate contractors on the small works roster have been afforded an opportunity to submit a proposal on a contract. Proposals may be invited from all appropriate contractors on the small works roster.

A contract awarded from a small works roster under this section need not be advertised.

Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. [1993 c 198 § 1; 1991 c 363 § 109.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Competitive bids—Contract procedure: RCW 36.32.250.

39.04.160 Contracts subject to requirements established under office of minority and women's business enterprises. All contracts entered into under this chapter by the state on or after September 1, 1983, are subject to the requirements established under chapter 39.19 RCW. [1983 c 120 § 11.]

Effective date—Applicability—Severability—Conflict with federal requirements—1983 c 120: See RCW 39.19.910, 39.19.920.

39.04.170 Application of chapter to performance-based contracts for energy equipment. This chapter shall not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW. [1985 c 169 § 5.]

39.04.175 Application of chapter to certain agreements relating to water pollution control, solid waste handling facilities. This chapter does not apply to the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control services under RCW 70.150.040 or the selection of persons or entities to construct or develop solid waste handling facilities or to provide solid waste handling services under RCW 35.21.156 or under RCW 36.58.090. [1989 c 399 § 11; 1986 c 244 § 13.]

Severability—1986 c 244: See RCW 70.150.905.

39.04.180 Trench excavations—Safety systems required. On public works projects in which trench excavation will exceed a depth of four feet, any contract therefor shall require adequate safety systems for the trench excavation that meet the requirements of the Washington industrial safety and health act, chapter 49.17 RCW. This requirement shall be included in the cost estimates and bidding forms as a separate item. The costs of trench safety systems shall not be considered as incidental to any other contract item and any attempt to include the trench safety systems as an incidental cost is prohibited. [1988 c 180 § 1.]

39.04.190 Purchase contract process—Other than formal sealed bidding. (1) This section provides a uniform process to award contracts for the purchase of any materials, equipment, supplies, or services by those municipalities that are authorized to use this process in lieu of the requirements for formal sealed bidding. The state statutes governing a specific type of municipality shall establish the maximum dollar thresholds of the contracts that can be awarded under this process, and may include other matters concerning the awarding of contracts for purchases, for the municipality.

(2) At least twice per year, the municipality shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of vendor lists and solicit the names of vendors for the lists. Municipalities shall by resolution establish a procedure for securing telephone or written quotations, or both, from at least three different vendors whenever possible to assure that a competitive price is established and for awarding the contracts for the purchase of any materials, equipment, supplies, or services to the lowest responsible bidder as defined in RCW 43.19.1911. Immediately after the award is made, the bid

quotations obtained shall be recorded, open to public inspection, and shall be available by telephone inquiry. A contract awarded pursuant to this section need not be advertised. [1993 c 198 § 2; 1991 c 363 § 110.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

39.04.200 Posting of small works roster or purchase awards. Any municipality that utilizes the small works roster process established in RCW 39.04.155 to award contracts for public works projects, or the uniform process established in RCW 39.04.190 to award contracts for purchases, must post a list of the contracts awarded under RCW 39.04.155 and 39.04.190 at least once every two months. The list shall contain the name of the contractor or vendor awarded the contract, the amount of the contract, a brief description of the type of work performed or items purchased under the contract, and the date it was awarded. The list shall also state the location where the bid quotations for these contracts are available for public inspection. [1993 c 198 § 3; 1991 c 363 § 111.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

39.04.210 Correctional facilities construction and repair—Findings. The legislature recognizes that fair and open competition is a basic tenet of public works procurement, that such competition reduces the appearance of and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically, and that effective monitoring mechanisms are important means of curbing any improprieties and establishing public confidence in the process by which contractual services are procured. The legislature finds that there will continue to exist a need for additional correctional facilities due to the inadequate capacity of existing correctional facilities to accommodate the predicted growth of offender populations and that it is necessary to provide public works contract options for the effective construction and repair of additional department of corrections facilities. [1994 c 80 § 1; 1991 c 130 § 1.]

Severability—1994 c 80: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 80 § 4.]

Effective date—1994 c 80: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 23, 1994]." [1994 c 80 § 5.]

Severability—1991 c 130: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 130 § 4.]

39.04.220 Correctional facilities construction and repair—Use of general contractor/construction manager method for awarding contracts—Demonstration projects. (1) In addition to currently authorized methods of public works contracting, and in lieu of the requirements of RCW 39.04.010 and 39.04.020 through 39.04.060, capital projects funded for over ten million dollars authorized by the legislature for the department of corrections to construct or repair facilities may be accomplished under contract using the general contractor/construction manager method de-

scribed in this section. In addition, the general contractor/construction manager method may be used for up to two demonstration projects under ten million dollars for the department of corrections. Each demonstration project shall aggregate capital projects authorized by the legislature at a single site to total no less than three million dollars with the approval of the office of financial management. The department of general administration shall present its plan for the aggregation of projects under each demonstration project to the oversight advisory committee established under subsection (2) of this section prior to soliciting proposals for general contractor/construction manager services for the demonstration project.

(2) For the purposes of this section, "general contractor/construction manager" means a firm with which the department of general administration has selected and negotiated a maximum allowable construction cost to be guaranteed by the firm, after competitive selection through a formal advertisement, and competitive bids to provide services during the design phase that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work, and to act as the construction manager and general contractor during the construction phase. The department of general administration shall establish an independent oversight advisory committee with representatives of interest groups with an interest in this subject area, the department of corrections, and the private sector, to review selection and contracting procedures and contracting documents. The oversight advisory committee shall discuss and review the progress of the demonstration projects. The general contractor/construction manager method is limited to projects authorized on or before July 1, 1997.

(3) Contracts for the services of a general contractor/construction manager awarded under the authority of this section shall be awarded through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. Minority and women enterprise total project goals shall be specified in the bid instructions to the general contractor/construction manager finalists. The director of general administration is authorized to include an incentive clause in any contract awarded under this section for savings of either time or cost or both from that originally negotiated. No incentives granted shall exceed five percent of the maximum allowable construction cost. The director of general administration or his or her designee shall establish a committee to evaluate the proposals considering such factors as: Ability of professional personnel; past performance in negotiated and complex projects; ability to meet time and budget requirements; location; recent, current, and projected work loads of the firm; and the concept of their proposal. After the committee has selected the most qualified finalists, these finalists shall submit sealed bids for the percent fee, which is the percentage amount to be earned by the general contractor/construction manager as overhead and profit, on the estimated maximum allowable construction cost and the fixed amount for the detailed specified general conditions work. The maximum allowable construction cost may be negotiated between the department of general administration and the selected firm after the scope of the project is

adequately determined to establish a guaranteed contract cost for which the general contractor/construction manager will provide a performance and payment bond. The guaranteed contract cost includes the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, the percent fee on the negotiated maximum allowable construction cost, and sales tax. If the department of general administration is unable to negotiate a satisfactory maximum allowable construction cost with the firm selected that the department of general administration determines to be fair, reasonable, and within the available funds, negotiations with that firm shall be formally terminated and the department of general administration shall negotiate with the next low bidder and continue until an agreement is reached or the process is terminated. If the maximum allowable construction cost varies more than fifteen percent from the bid estimated maximum allowable construction cost due to requested and approved changes in the scope by the state, the percent fee shall be renegotiated. All subcontract work shall be competitively bid with public bid openings. Specific contract requirements for women and minority enterprise participation shall be specified in each subcontract bid package that exceeds ten percent of the department's estimated project cost. All subcontractors who bid work over two hundred thousand dollars shall post a bid bond and the awarded subcontractor shall provide a performance and payment bond for their contract amount if required by the general contractor/construction manager. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project. Bidding on subcontract work by the general contractor/construction manager or its subsidiaries is prohibited. The general contractor/construction manager may negotiate with the low-responsive bidder only in accordance with RCW 39.04.015 or, if unsuccessful in such negotiations, rebid.

(4) If the project is completed for less than the agreed upon maximum allowable construction cost, any savings not otherwise negotiated as part of an incentive clause shall accrue to the state. If the project is completed for more than the agreed upon maximum allowable construction cost, excepting increases due to any contract change orders approved by the state, the additional cost shall be the responsibility of the general contractor/construction manager.

(5) The powers and authority conferred by this section shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained in this section may be construed as limiting any other powers or authority of the department of general administration. However, all actions taken pursuant to the powers and authority granted to the director or the department of general administration under this section may only be taken with the concurrence of the department of corrections. [1996 c 18 § 5; 1994 c 80 § 2; 1991 c 130 § 2.]

Severability—Effective date—1994 c 80: See notes following RCW 39.04.210.

Severability—1991 c 130: See note following RCW 39.04.210.

39.04.230 Correctional facilities construction and repair—Alternative contracting method to remain in force until contracts completed. Methods of public works

contracting authorized by RCW 39.04.210 and 39.04.220 shall remain in full force and effect until completion of projects authorized on or before July 1, 1997. [1994 c 80 § 3; 1991 c 130 § 3.]

Severability—Effective date—1994 c 80: See notes following RCW 39.04.210.

Severability—1991 c 130: See note following RCW 39.04.210.

39.04.240 Public works contracts—Awarding of attorneys' fees. (1) The provisions of RCW 4.84.250 through 4.84.280 shall apply to an action arising out of a public works contract in which the state or a municipality, or other public body that contracts for public works, is a party, except that: (a) The maximum amount of the pleading shall be two hundred fifty thousand dollars; and (b) in applying RCW 4.84.280, the time period for serving offers of settlement on the adverse party shall be the period not less than thirty days and not more than one hundred twenty days after completion of the service and filing of the summons and complaint.

(2) The rights provided for under this section may not be waived by the parties to a public works contract that is entered into on or after June 11, 1992, and a provision in such a contract that provides for waiver of these rights is void as against public policy. However, this subsection shall not be construed as prohibiting the parties from mutually agreeing to a clause in a public works contract that requires submission of a dispute arising under the contract to arbitration. [1992 c 171 § 1.]

39.04.250 Payments received on account of work performed by subcontractor—Disputed amounts—Remedies. (1) When payment is received by a contractor or subcontractor for work performed on a public work, the contractor or subcontractor shall pay to any subcontractor not later than ten days after the receipt of the payment, amounts allowed the contractor on account of the work performed by the subcontractor, to the extent of each subcontractor's interest therein.

(2) In the event of a good faith dispute over all or any portion of the amount due on a payment from the state or a municipality to the prime contractor, or from the prime contractor or subcontractor to a subcontractor, then the state or the municipality, or the prime contractor or subcontractor, may withhold no more than one hundred fifty percent of the disputed amount. Those not a party to a dispute are entitled to full and prompt payment of their portion of a draw, progress payment, final payment, or released retainage.

(3) In addition to all other remedies, any person from whom funds have been withheld in violation of this section shall be entitled to receive from the person wrongfully withholding the funds, for every month and portion thereof that payment including retainage is not made, interest at the highest rate allowed under RCW 19.52.025. In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to costs of suit and reasonable attorneys' fees. [1992 c 223 § 5.]

Effective date—1992 c 223: See note following RCW 39.76.011.

Waiver of rights, construction—Application—1992 c 223: See RCW 39.04.900 and 39.04.901.

39.04.260 Private construction performed pursuant to contract for rental, lease, or purchase by state—Must comply with prevailing wage law. Any work, construction, alteration, repair, or improvement, other than ordinary maintenance, that the state or a municipality causes to be performed by a private party through a contract to rent, lease, or purchase at least fifty percent of the project by one or more state agencies or municipalities shall comply with chapter 39.12 RCW. [1993 c 110 § 1.]

Application—1993 c 110: "Section 1 of this act shall not apply to any project for which a call for competitive bids was made before July 25, 1993." [1993 c 110 § 2.]

39.04.270 Electronic data processing and telecommunications systems—Municipalities—Acquisition method—Competitive negotiation—Findings, intent. (1) The legislature finds that the unique aspects of electronic data processing and telecommunications systems and the importance of these systems for effective administration warrant separate acquisition authority for electronic data processing and telecommunication systems. It is the intent of the legislature that municipalities utilize an acquisition method for electronic data processing and telecommunication systems that is both competitive and compatible with the needs of the municipalities.

(2) A municipality may acquire electronic data processing or telecommunication equipment, software, or services through competitive negotiation rather than through competitive bidding.

(3) "Competitive negotiation," for the purposes of this section, shall include, as a minimum, the following requirements:

(a) A request for proposal shall be prepared and submitted to an adequate number of qualified sources, as determined by the municipality in its discretion, to permit reasonable competition consistent with the requirements of the procurement. Notice of the request for the proposal must be published in a newspaper of general circulation in the municipality at least thirteen days before the last date upon which proposals will be received. The request for proposal shall identify significant evaluation factors, including price, and their relative importance.

(b) The municipality shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for awarding the contract.

(c) The award shall be made to the qualified bidder whose proposal is most advantageous to the municipality with price and other factors considered. The municipality may reject any and all proposals for good cause and request new proposals. [1996 c 257 § 1.]

39.04.900 Rights may not be waived—Construction—1992 c 223. (1) The rights provided in chapter 223, Laws of 1992 may not be waived by the parties and a contract provision that provides for waiver of the rights provided in chapter 223, Laws of 1992 is void as against public policy.

(2) Chapter 223, Laws of 1992 is to be liberally construed to provide security for all parties intended to be protected by its provisions. [1992 c 223 § 6.]

Effective date—1992 c 223: See note following RCW 39.76.011.

Application—1992 c 223: See RCW 39.04.901.

39.04.901 Application—1992 c 223. (1) RCW 39.76.011, 60.28.011, 60.28.021, 60.28.051, 39.04.250, and 39.04.900 are applicable to all public works contracts entered into on or after September 1, 1992, relating to the construction of any work of improvement.

(2) RCW 39.76.010, 60.28.010, 60.28.020, and 60.28.050 are applicable to all public works contracts entered into prior to September 1, 1992, relating to the construction of any work of improvement. [1992 c 223 § 7.]

Effective date—1992 c 223: See note following RCW 39.76.011.

Chapter 39.06

PUBLIC WORKS—REGISTRATION, LICENSING, OF CONTRACTORS

Sections

39.06.010 Contracts with unregistered or unlicensed contractors prohibited.

39.06.010 Contracts with unregistered or unlicensed contractors prohibited. No agency of the state or any of its political subdivisions may execute a contract with any contractor who is not registered or licensed as may be required by the laws of this state other than contractors on highway projects who have been prequalified as required by RCW 47.28.070, with the department of transportation to perform highway construction, reconstruction, or maintenance. [1984 c 7 § 43; 1967 c 70 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

Construction building permits—Cities, towns or counties prohibited from issuing without verification of registration: RCW 18.27.110.

Chapter 39.08

CONTRACTOR'S BOND

Sections

39.08.010 Bond required—Conditions—Retention of contract amount in lieu of bond—Contracts of one hundred thousand dollars or less.

39.08.015 Liability for failure to take bond.

39.08.030 Conditions of bond—Notice of claim—Action on bond—Attorney's fees.

39.08.065 Notice to contractor condition to suit on bond when supplies are furnished to subcontractor.

39.08.080 Liens for labor, materials, taxes, on public works.

39.08.100 Marine vessel construction—Security in lieu of bond.

Public officer requiring bond or insurance from particular insurer, agent or broker, procuring bond or insurance, violations: RCW 48.30.270.

39.08.010 Bond required—Conditions—Retention of contract amount in lieu of bond—Contracts of one hundred thousand dollars or less. Whenever any board, council, commission, trustees, or body acting for the state or any county or municipality or any public body shall contract with any person or corporation to do any work for the state, county, or municipality, or other public body, city, town, or district, such board, council, commission, trustees, or body shall require the person or persons with whom such contract is made to make, execute, and deliver to such board, council,

commission, trustees, or body a good and sufficient bond, with a surety company as surety, conditioned that such person or persons shall faithfully perform all the provisions of such contract and pay all laborers, mechanics, and subcontractors and materialmen, and all persons who supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work, which bond in cases of cities and towns shall be filed with the clerk or comptroller thereof, and any person or persons performing such services or furnishing material to any subcontractor shall have the same right under the provisions of such bond as if such work, services or material was furnished to the original contractor: **PROVIDED, HOWEVER,** That the provisions of RCW 39.08.010 through 39.08.030 shall not apply to any money loaned or advanced to any such contractor, subcontractor or other person in the performance of any such work: **PROVIDED FURTHER,** That on contracts of twenty-five thousand dollars or less, at the option of the contractor the respective public entity may, in lieu of the bond, retain fifty percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later: **PROVIDED FURTHER,** That for contracts of one hundred thousand dollars or less, the public entity may accept a full payment and performance bond from an individual surety or sureties: **AND PROVIDED FURTHER,** That the surety must agree to be bound by the laws of the state of Washington and subjected to the jurisdiction of the state of Washington. [1989 c 145 § 1; 1982 c 98 § 5; 1975 1st ex.s. c 278 § 23; 1967 c 70 § 2; 1915 c 28 § 1; 1909 c 207 § 1; RRS § 1159. Prior: 1897 c 44 § 1; 1888 p 15 § 1.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Liens for labor, material, taxes on public works—Reserve fund required: RCW 60.28.010.

State highway construction and maintenance, bond and surety requirements: Chapter 47.28 RCW.

39.08.015 Liability for failure to take bond. If any board of county commissioners of any county, or mayor and common council of any incorporated city or town, or tribunal transacting the business of any municipal corporation shall fail to take such bond as herein required, such county, incorporated city or town, or other municipal corporation, shall be liable to the persons mentioned in RCW 39.08.010, to the full extent and for the full amount of all such debts so contracted by such contractor. [1909 c 207 § 2; RRS § 1160. Prior: 1888 p 15 § 2. Formerly RCW 39.08.070.]

39.08.030 Conditions of bond—Notice of claim—Action on bond—Attorney's fees. The bond mentioned in RCW 39.08.010 shall be in an amount equal to the full contract price agreed to be paid for such work or improvement, and shall be to the state of Washington, except as otherwise provided in RCW 39.08.100, and except in cases of cities and towns, in which cases such municipalities may by general ordinance fix and determine the amount of such bond and to whom such bond shall run: **PROVIDED,** The same shall not be for a less amount than twenty-five percent of the contract price of any such improvement, and may

designate that the same shall be payable to such city, and not to the state of Washington, and all such persons mentioned in RCW 39.08.010 shall have a right of action in his, her, or their own name or names on such bond for work done by such laborers or mechanics, and for materials furnished or provisions and goods supplied and furnished in the prosecution of such work, or the making of such improvements: PROVIDED, That such persons shall not have any right of action on such bond for any sum whatever, unless within thirty days from and after the completion of the contract with an acceptance of the work by the affirmative action of the board, council, commission, trustees, officer, or body acting for the state, county or municipality, or other public body, city, town or district, the laborer, mechanic or subcontractor, or materialman, or person claiming to have supplied materials, provisions or goods for the prosecution of such work, or the making of such improvement, shall present to and file with such board, council, commission, trustees or body acting for the state, county or municipality, or other public body, city, town or district, a notice in writing in substance as follows:

To (here insert the name of the state, county or municipality or other public body, city, town or district):

Notice is hereby given that the undersigned (here insert the name of the laborer, mechanic or subcontractor, or materialman, or person claiming to have furnished labor, materials or provisions for or upon such contract or work) has a claim in the sum of dollars (here insert the amount) against the bond taken from (here insert the name of the principal and surety or sureties upon such bond) for the work of (here insert a brief mention or description of the work concerning which said bond was taken).

(here to be signed)

Such notice shall be signed by the person or corporation making the claim or giving the notice, and said notice, after being presented and filed, shall be a public record open to inspection by any person, and in any suit or action brought against such surety or sureties by any such person or corporation to recover for any of the items hereinbefore specified, the claimant shall be entitled to recover in addition to all other costs, attorney's fees in such sum as the court shall adjudge reasonable: PROVIDED, HOWEVER, That no attorney's fees shall be allowed in any suit or action brought or instituted before the expiration of thirty days following the date of filing of the notice hereinbefore mentioned: PROVIDED FURTHER, That any city may avail itself of the provisions of RCW 39.08.010 through 39.08.030, notwithstanding any charter provisions in conflict herewith: AND PROVIDED FURTHER, That any city or town may impose any other or further conditions and obligations in such bond as may be deemed necessary for its proper protection in the fulfillment of the terms of the contract secured thereby, and not in conflict herewith. [1989 c 58 § 1; 1977 ex.s. c 166 § 4; 1915 c 28 § 2; 1909 c 207 § 3; RRS § 1161. Prior: 1899 c 105 § 1; 1888 p 16 § 3. Formerly RCW 39.08.030 through 39.08.060.]

Severability—1977 ex.s. c 166: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to the other persons or circumstances is not affected." [1977 ex.s. c 166 § 9.]

39.08.065 Notice to contractor condition to suit on bond when supplies are furnished to subcontractor. Every person, firm or corporation furnishing materials, supplies or provisions to be used in the construction, performance, carrying on, prosecution or doing of any work for the state, or any county, city, town, district, municipality or other public body, shall, not later than ten days after the date of the first delivery of such materials, supplies or provisions to any subcontractor or agent of any person, firm or corporation having a subcontract for the construction, performance, carrying on, prosecution or doing of such work, deliver or mail to the contractor a notice in writing stating in substance and effect that such person, firm or corporation has commenced to deliver materials, supplies or provisions for use thereon, with the name of the subcontractor or agent ordering or to whom the same is furnished and that such contractor and his bond will be held for the payment of the same, and no suit or action shall be maintained in any court against the contractor or his bond to recover for such material, supplies or provisions or any part thereof unless the provisions of this section have been complied with. [1915 c 167 § 1; RRS § 1159-1. Formerly RCW 39.08.020.]

39.08.080 Liens for labor, materials, taxes, on public works. See chapter 60.28 RCW.

39.08.100 Marine vessel construction—Security in lieu of bond. On contracts for construction, maintenance, or repair of a marine vessel, the department of transportation may permit, subject to specified format and conditions, the substitution of one or more of the following alternate forms of security in lieu of all or part of the bond: Certified check, replacement bond, cashier's check, treasury bills, an irrevocable bank letter of credit, assignment of a savings account, or other liquid assets specifically approved by the secretary of transportation. The secretary of transportation shall predetermine and include in the special provisions of the bid package the amount of this alternative form of security or bond, or a combination of the two, on a case-by-case basis, in an amount adequate to protect one hundred percent of the state's exposure to loss. Assets used as an alternative form of security shall not be used to secure the bond. By October 1, 1989, the department shall develop and adopt rules under chapter 34.05 RCW that establish the procedures for determining the state's exposure to loss on contracts for construction, maintenance, or repair of a marine vessel. [1989 c 58 § 2.]

Chapter 39.10

ALTERNATIVE PUBLIC WORKS CONTRACTING PROCEDURES

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39.10.900	Captions not law—1994 c 132.
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39.10.902	Repealer.

39.10.010 Finding—Purpose. (*Effective until July 1, 1997.*) The legislature finds that the traditional process of awarding public works contracts in lump sum to the lowest responsible bidder is a fair and objective method of selecting a contractor. However, under certain circumstances, alternative public works contracting procedures may best serve the public interest if such procedures are implemented in an open and fair process based on objective and equitable criteria. The purpose of this chapter is to authorize the use of certain supplemental alternative public works contracting procedures by state agencies and large municipalities under limited circumstances, to prescribe appropriate requirements to ensure that such contracting procedures serve the public interest, and to establish a process for evaluation of such contracting procedures. [1994 c 132 § 1.]

39.10.020 Definitions. (*Effective until July 1, 1997.*) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Alternative public works contracting procedure" means the design-build and the general contractor/construction manager contracting procedures authorized in RCW 39.10.050 and 39.10.060, respectively.

(2) "Public body" means the state department of general administration; the University of Washington; Washington State University; every city with a population greater than one hundred fifty thousand; every county with a population greater than four hundred fifty thousand; and every port district with a population greater than five hundred thousand.

(3) "Public works project" means any work for a public body within the definition of the term public work in RCW 39.04.010. [1994 c 132 § 2.]

39.10.030 Public notification and review process. (*Effective until July 1, 1997.*) (1) An alternative public works contracting procedure authorized under this chapter may be used for a specific public works project only after a public body determines that use of the alternative procedure will serve the public interest by providing a substantial fiscal benefit, or that use of the traditional method of awarding contracts in lump sum to the low responsive bidder is not practical for meeting desired quality standards or delivery schedules.

(2) Whenever a public body determines to use one of the alternative public works contracting procedures authorized under this chapter for a public works project, it shall first ensure adequate public notification and opportunity for public review and comment as follows:

(a) The public body shall conduct a public hearing to receive public comment on its preliminary determination to

use the alternative public works contracting procedure. At least twenty days before the public hearing, the public body shall cause notice of such hearing to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done. The notice shall clearly describe the proposed project and the preliminary determination to use the alternative public works contracting procedure. The notice shall also indicate when, where, and how persons may present their comments on the preliminary determination, and where persons may obtain additional written information describing the project.

(b) The public body shall summarize in a written statement its reasons for using the alternative public works contracting procedure. This statement, along with other relevant information describing the project, shall be made available upon request to interested parties at least twenty days before the public hearing.

(c) The public body shall receive and record both written and oral comments concerning the preliminary determination at the public hearing.

(3) Final determinations to use an alternative public works contracting procedure may be made only by the legislative or governing authority of the public body, or, in the case of state agencies, by the agency director or chief administrative officer. Final determinations shall be accompanied by a concise statement of the principal reasons for overruling any considerations urged against the determination. Final determinations are subject to appeal to superior court within thirty days of the determination, provided that notice of such appeal shall be provided to the public body within seven days of the determination. The court may award reasonable attorneys' fees to the prevailing party.

(4) Following completion of a public works project using one of the alternative public works contracting procedures under this chapter, a report shall be submitted to the legislative or governing authority of the public body reviewing the utilization and performance of the alternative public works contracting procedure. Such report shall be made available to the public. [1994 c 132 § 3.]

39.10.040 Baseball stadium project—Alternative procedure may be used. (*Effective until July 1, 1997.*) An alternative public works contracting procedure authorized in this chapter may be used by a special agency, authority, or other district established by a county for construction of a baseball stadium provided that:

(1) The county is authorized to use the alternative public works contracting procedure under this chapter;

(2) The special agency, authority, or district complies with all the requirements of this chapter related to the alternative public works contracting procedure utilized; and

(3) The county itself complies with RCW 39.10.030 with respect to the baseball stadium project to be undertaken by the special agency, authority, or district. [1994 c 132 § 4.]

39.10.050 Design-build procedure—Which public bodies may use. (*Effective until July 1, 1997.*) (1) Notwithstanding any other provision of law, and after complying with RCW 39.10.030, the following public bodies

may utilize the design-build procedure of public works contracting for public works projects authorized under this section: The state department of general administration; the University of Washington; Washington State University; every city with a population greater than one hundred fifty thousand; and every county with a population greater than four hundred fifty thousand. For the purposes of this section, "design-build procedure" means a contract between a public body and another party in which the party agrees to both design and build the structure, facility, or other item specified in the contract.

(2) Public bodies authorized under this section may utilize the design-build procedure for public works projects valued over ten million dollars where:

(a) The construction activities are highly specialized and a design-build approach is critical in developing the construction methodology;

(b) The project design is repetitive in nature and is an incidental part of the installation or construction; or

(c) The program elements of the project design are simple and do not involve complex functional interrelationships.

(3) The state department of general administration may use the design-build procedure authorized in subsection (2)(c) of this section for one project.

(4) Contracts for design-build services shall be awarded through a competitive process utilizing public solicitation of proposals for design-build services. The public body shall publish at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done, a notice of its request for proposals for design-build services and the availability and location of the request for proposal documents. The request for proposal documents shall include:

(a) A detailed description of the project including programmatic, performance, and technical requirements and specifications, functional and operational elements, and minimum and maximum net and gross areas of any building;

(b) The reasons for using the design-build procedure;

(c) A description of the qualifications, if any, to be required of the proposer;

(d) A description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors. Evaluation factors shall include, but not be limited to: Proposal price; ability of professional personnel; past performance on similar projects; ability to meet time and budget requirements; ability to provide a performance and payment bond for the project; recent, current, and projected work loads of the firm; and the concept of the proposal;

(e) The form of the contract to be awarded;

(f) The maximum allowable construction cost and minority and women enterprise total project goals;

(g) The amount to be paid to finalists submitting best and final proposals who are not awarded a design-build contract; and

(h) Other information relevant to the project.

(5) The public body shall establish a committee to evaluate the proposals based on the factors, weighting, and process identified in the request for proposals. Based on its evaluation, the public body shall select not fewer than three nor more than five finalists to submit best and final propos-

als. Best and final proposals shall be evaluated and scored based on the factors, weighting, and process identified in the initial request for proposals. Final proposals may not be considered if the proposal cost is greater than the maximum allowable construction cost identified in the initial request for proposals.

(6) The public body shall initiate negotiations with the firm submitting the highest scored final proposal. If the public body is unable to execute a contract with that firm, negotiations with that firm may be suspended or terminated and the public body may proceed to negotiate with the next highest scored firm. Public bodies shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated. The public body may, in its sole discretion, reject all proposals. The finalist awarded the contract shall provide a performance and payment bond for the contracted amount. The public body shall provide appropriate honorarium payments to finalists submitting best and final proposals who are not awarded a design-build contract. Honorarium payments shall be sufficient to generate meaningful competition among potential proposers on design-build projects. [1994 c 132 § 5.]

39.10.060 General contractor/construction manager procedure—Which public bodies may use. (Effective until July 1, 1997.)

(1) Notwithstanding any other provision of law, and after complying with RCW 39.10.030, the following public bodies may utilize the general contractor/construction manager procedure of public works contracting for public works projects authorized under subsection (2) of this section: The state department of general administration; the University of Washington; Washington State University; every city with a population greater than one hundred fifty thousand; every county with a population greater than four hundred fifty thousand; and every port district with a population greater than five hundred thousand. For the purposes of this section, "general contractor/construction manager" means a firm with which a public body has selected and negotiated a maximum allowable construction cost to be guaranteed by the firm, after competitive selection through formal advertisement and competitive bids, to provide services during the design phase that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work, and to act as the construction manager and general contractor during the construction phase.

(2) Public bodies authorized under this section may utilize the general contractor/construction manager procedure for public works projects valued over ten million dollars where:

(a) Implementation of the project involves complex scheduling requirements;

(b) The project involves construction at an existing facility which must continue to operate during construction; or

(c) The involvement of the general contractor/construction manager during the design stage is critical to the success of the project.

(3) Contracts for the services of a general contractor/construction manager under this section shall be awarded

through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. Minority and women business enterprise total project goals shall be specified in the public solicitation of proposals and the bid instructions to the general contractor/construction manager finalists. A public body is authorized to include an incentive clause in any contract awarded under this section for savings of either time or cost or both from that originally negotiated. No incentives granted shall exceed five percent of the maximum allowable construction cost. A public body shall establish a committee to evaluate the proposals considering such factors as: Ability of professional personnel; past performance in negotiated and complex projects; ability to meet time and budget requirements; location; recent, current, and projected work loads of the firm; and the concept of their proposal. After the committee has selected the most qualified finalists, these finalists shall submit sealed bids for the percent fee, which is the percentage amount to be earned by the general contractor/construction manager as overhead and profit, on the estimated maximum allowable construction cost and the fixed amount for the detailed specified general conditions work. The maximum allowable construction cost may be negotiated between the public body and the selected firm after the scope of the project is adequately determined to establish a guaranteed contract cost for which the general contractor/construction manager will provide a performance and payment bond. The guaranteed contract cost includes the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, the percent fee on the negotiated maximum allowable construction cost, and sales tax. If the public body is unable to negotiate a satisfactory maximum allowable construction cost with the firm selected that the public body determines to be fair, reasonable, and within the available funds, negotiations with that firm shall be formally terminated and the public body shall negotiate with the next low bidder and continue until an agreement is reached or the process is terminated. If the maximum allowable construction cost varies more than fifteen percent from the bid estimated maximum allowable construction cost due to requested and approved changes in the scope by the public body, the percent fee shall be renegotiated. All subcontract work shall be competitively bid with public bid openings. Specific contract requirements for women and minority enterprise participation shall be specified in each subcontract bid package that exceeds ten percent of the public body's estimated project cost. All subcontractors who bid work over two hundred thousand dollars shall post a bid bond and all subcontractors who are awarded a contract over two hundred thousand dollars shall provide a performance and payment bond for their contract amount. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project. All other subcontractors shall provide a performance and payment bond if required by the general contractor/construction manager. Bidding on subcontract work by the general contractor/construction manager or its subsidiaries is prohibited. The general contractor/construction manager may negotiate with the low-responsive bidder in accordance with RCW 39.10.080 or, if unsuccessful in such negotiations, rebid.

(4) If the project is completed for less than the agreed upon maximum allowable construction cost, any savings not otherwise negotiated as part of an incentive clause shall accrue to the public body. If the project is completed for more than the agreed upon maximum allowable construction cost, excepting increases due to any contract change orders approved by the public body, the additional cost shall be the responsibility of the general contractor/construction manager. [1996 c 18 § 6; 1994 c 132 § 6.]

Expiration date—1996 c 18 § 6: "Section 6 of this act shall expire July 1, 1997." [1996 c 18 § 17.]

39.10.070 Project management and contracting requirements. (Effective until July 1, 1997.) (1) A public body utilizing the alternative public works contracting procedures authorized under RCW 39.10.050 and 39.10.060 shall provide for:

(a) The preparation of appropriate, complete, and coordinated design documents consistent with the procedure utilized;

(b) To the extent appropriate, an independent review of the contract documents through value engineering or constructability studies prior to bid or proposal solicitation;

(c) Reasonable budget contingencies totaling not less than five percent of the anticipated contract value;

(d) To the extent appropriate, on-site architectural or engineering representatives during major construction or installation phases;

(e) Employment of staff or consultants with expertise and prior experience in the management of comparable projects; and

(f) Contract documents that include alternative dispute resolution procedures to be attempted prior to the initiation of litigation.

(2) A public body utilizing the alternative public works contracting procedures under RCW 39.10.050 and 39.10.060 may provide incentive payments to contractors for early completion, cost savings, or other goals if such payments are identified in the request for proposals. [1994 c 132 § 7.]

39.10.080 Negotiated adjustments to lowest bid or proposal—When allowed. (Effective until July 1, 1997.) Notwithstanding the provisions of RCW 39.04.015, a public body is authorized to negotiate an adjustment to the lowest bid or proposal price for a public works project awarded under RCW 39.10.050 and 39.10.060 based upon agreed changes to the contract plans and specifications under the following conditions:

(1) All responsive bids or proposal prices exceed the available funds, as certified by an appropriate fiscal officer;

(2) The apparent low-responsive bid or proposal does not exceed the available funds by the greater of one hundred twenty-five thousand dollars or two percent for projects valued over ten million dollars; and

(3) The negotiated adjustment will bring the bid or proposal price within the amount of available funds. [1994 c 132 § 8.]

39.10.090 Construction of chapter—Waiver of other limits and requirements. (Effective until July 1, 1997.) This chapter shall not be construed to affect or modify the

existing statutory, regulatory, or charter powers of public bodies except to the extent that a procedure authorized by this chapter is adopted by a public body for a particular public works project. In that event, the normal contracting or procurement limits or requirements of a public body as imposed by statute, ordinance, resolution, or regulation shall be deemed waived or amended only to the extent necessary to accommodate such procedures for a particular public works project. [1994 c 132 § 9.]

39.10.100 Public inspection of certain records—Protection of trade secrets. (*Effective until July 1, 1997.*) (1) Except as provided in subsection (2) of this section, all proceedings, records, contracts, and other public records relating to alternative public works transactions under this chapter shall be open to the inspection of any interested person, firm, or corporation in accordance with chapter 42.17 RCW.

(2) Trade secrets, as defined in RCW 19.108.010, or other proprietary information submitted by a bidder, offeror, or contractor in connection with an alternative public works transaction under this chapter shall not be subject to chapter 42.17 RCW if the bidder, offeror, or contractor specifically states in writing the reasons why protection is necessary, and identifies the data or materials to be protected. [1994 c 132 § 10.]

39.10.110 Temporary independent oversight committee. (*Effective until July 1, 1997.*) (1) There is established a temporary independent oversight committee to review the utilization of the alternative public works contracting procedures authorized under this chapter and to evaluate potential future utilization of other alternative contracting procedures, including, but not limited to, contractor prequalification. The membership of the committee shall include: Two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives; two members of the senate, one from each major caucus, appointed by the president of the senate; representatives from the appropriate segments of the construction and design industries, appointed by the governor; representatives from appropriate labor organizations, appointed by the governor; representatives from public bodies authorized to use the alternative public works contracting procedures under this chapter, appointed by the governor; and a representative from the office of financial management, appointed by the governor. The governor shall consider the recommendations of the established organizations representing the construction and design industries and organized labor in making the industry and labor appointments to the committee.

(2) The committee shall meet quarterly beginning after July 1, 1994. At the first meeting of the committee, a chair or cochair shall be selected from among the committee's membership. Staff support for the committee shall be provided by the agencies and organizations represented on the committee.

(3) Public bodies utilizing the alternative contracting procedures authorized under this chapter shall provide any requested information concerning implementation of projects

under this chapter to the committee in a timely manner, excepting any trade secrets or proprietary information.

(4) The committee shall report to the appropriate standing committees of the legislature by December 10, 1996, concerning its findings and recommendations. [1994 c 132 § 11.]

39.10.120 Application of chapter. (1) Except as provided in subsection (2) of this section, the alternative public works contracting procedures authorized under this chapter are limited to public works contracts signed before July 1, 1997. Methods of public works contracting authorized by RCW 39.10.050 and 39.10.060 shall remain in full force and effect until completion of contracts signed before July 1, 1997.

(2) For the purposes of a baseball stadium as defined in RCW 82.14.0485, the design-build contracting procedures under RCW 39.10.050 shall remain in full force and effect until completion of contracts signed before December 31, 1997. [1995 3rd sp.s. c 1 § 305; 1994 c 132 § 12.]

Part headings not law—Effective date—1995 3rd sp.s. c 1: See notes following RCW 82.14.0485.

39.10.900 Captions not law—1994 c 132. (*Effective until July 1, 1997.*) Captions as used in this act do not constitute any part of law. [1994 c 132 § 13.]

39.10.901 Severability—1994 c 132. (*Effective until July 1, 1997.*) If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1994 c 132 § 14.]

39.10.902 Repealer. (*Effective until July 1, 1997.*) The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 1997:

- (1) RCW 39.10.010 and 1994 c 132 § 1;
- (2) RCW 39.10.020 and 1994 c 132 § 2;
- (3) RCW 39.10.030 and 1994 c 132 § 3;
- (4) RCW 39.10.040 and 1994 c 132 § 4;
- (5) RCW 39.10.050 and 1994 c 132 § 5;
- (6) RCW 39.10.060 and 1994 c 132 § 6;
- (7) RCW 39.10.070 and 1994 c 132 § 7;
- (8) RCW 39.10.080 and 1994 c 132 § 8;
- (9) RCW 39.10.090 and 1994 c 132 § 9;
- (10) RCW 39.10.100 and 1994 c 132 § 10;
- (11) RCW 39.10.110 and 1994 c 132 § 11;
- (12) RCW 39.10.900 and 1994 c 132 § 13;
- (13) RCW 39.10.901 and 1994 c 132 § 14; and
- (14) RCW 39.10.902 and 1994 c 132 § 15. [1995 3rd sp.s. c 1 § 306; 1994 c 132 § 15.]

Part headings not law—Effective date—1995 3rd sp.s. c 1: See notes following RCW 82.14.0485.

Chapter 39.12

PREVAILING WAGES ON PUBLIC WORKS

Sections

- 39.12.010 Definitions.
- 39.12.015 Industrial statistician to make determinations of prevailing rate.
- 39.12.020 Prevailing rate to be paid on public works and under public building service maintenance contracts—Posting of statement of intent.
- 39.12.021 Prevailing rate to be paid on public works—Apprentice workers.
- 39.12.022 Vocationally handicapped—Exemption from RCW 39.12.020—Procedure.
- 39.12.030 Contract specifications must state minimum hourly rate—Stipulation for payment.
- 39.12.040 Statement of intent to pay prevailing wages, affidavit of wages paid—Duty of public agencies to require—Approval—Prerequisite to payment—Alternative procedure.
- 39.12.042 Compliance with RCW 39.12.040—Liability of public agencies to workers, laborers, or mechanics.
- 39.12.050 False statement or failure to file—Penalty—Unpaid wages lien against bond and retainage—Prohibitions on bidding on future contracts—Hearing.
- 39.12.060 Director of labor and industries to arbitrate disputes.
- 39.12.065 Investigation of complaints—Hearing—Remedies—Penalties.
- 39.12.070 Fees authorized for approvals, certifications, and arbitrations.
- 39.12.080 Public works administration account—Created.
- 39.12.900 Severability—1945 c 63.

Enforcement of wage claims: RCW 49.48.040.

Hours of labor on public works: Chapter 49.28 RCW.

Workers' compensation applicable to public works contracts: RCW 51.12.050, 51.12.070.

39.12.010 Definitions. (1) The "prevailing rate of wage", for the intents and purposes of this chapter, shall be the rate of hourly wage, usual benefits, and overtime paid in the locality, as hereinafter defined, to the majority of workers, laborers, or mechanics, in the same trade or occupation. In the event that there is not a majority in the same trade or occupation paid at the same rate, then the average rate of hourly wage and overtime paid to such laborers, workers, or mechanics in the same trade or occupation shall be the prevailing rate. If the wage paid by any contractor or subcontractor to laborers, workers, or mechanics on any public work is based on some period of time other than an hour, the hourly wage for the purposes of this chapter shall be mathematically determined by the number of hours worked in such period of time.

(2) The "locality" for the purposes of this chapter shall be the largest city in the county wherein the physical work is being performed.

(3) The "usual benefits" for the purposes of this chapter shall include the amount of:

(a) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(b) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to workers, laborers, and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the workers, laborers, and mechanics affected, for medical or hospital care, pensions on retirement or death, compensation for

injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of such benefits.

(4) An "interested party" for the purposes of this chapter shall include a contractor, subcontractor, an employee of a contractor or subcontractor, an organization whose members' wages, benefits, and conditions of employment are affected by this chapter, and the director of labor and industries or the director's designee. [1989 c 12 § 6; 1985 c 15 § 1; 1965 ex.s. c 133 § 1; 1945 c 63 § 3; Rem. Supp. 1945 § 10322-22.]

Severability—1985 c 15: See note following RCW 39.12.065.

39.12.015 Industrial statistician to make determinations of prevailing rate. All determinations of the prevailing rate of wage shall be made by the industrial statistician of the department of labor and industries. [1965 ex.s. c 133 § 2.]

39.12.020 Prevailing rate to be paid on public works and under public building service maintenance contracts—Posting of statement of intent. The hourly wages to be paid to laborers, workers, or mechanics, upon all public works and under all public building service maintenance contracts of the state or any county, municipality or political subdivision created by its laws, shall be not less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality within the state where such labor is performed. For a contract in excess of ten thousand dollars, a contractor required to pay the prevailing rate of wage shall post in a location readily visible to workers at the job site: PROVIDED, That on road construction, sewer line, pipeline, transmission line, street, or alley improvement projects for which no field office is needed or established, a contractor may post the prevailing rate of wage statement at the contractor's local office, gravel crushing, concrete, or asphalt batch plant as long as the contractor provides a copy of the wage statement to any employee on request:

(1) A copy of a statement of intent to pay prevailing wages approved by the industrial statistician of the department of labor and industries under RCW 39.12.040; and

(2) The address and telephone number of the industrial statistician of the department of labor and industries where a complaint or inquiry concerning prevailing wages may be made.

This chapter shall not apply to workers or other persons regularly employed on monthly or per diem salary by the state, or any county, municipality, or political subdivision created by its laws. [1989 c 12 § 7; 1982 c 130 § 1; 1981 c 46 § 1; 1967 ex.s. c 14 § 1; 1945 c 63 § 1; Rem. Supp. 1945 § 10322-20.]

39.12.021 Prevailing rate to be paid on public works—Apprentice workers. Apprentice workers employed upon public works projects for whom an apprentice-

ship agreement has been registered and approved with the state apprenticeship council pursuant to chapter 49.04 RCW, must be paid at least the prevailing hourly rate for an apprentice of that trade. Any worker for whom an apprenticeship agreement has not been registered and approved by the state apprenticeship council shall be considered to be a fully qualified journey level worker, and, therefore, shall be paid at the prevailing hourly rate for journey level workers. [1989 c 12 § 8; 1963 c 93 § 1.]

39.12.022 Vocationally handicapped—Exemption from RCW 39.12.020—Procedure. The director of the department of labor and industries, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations provide for the employment of individuals whose earning capacity is impaired by physical or mental deficiency or injury, under special certificates issued by the director, at such wages lower than the prevailing rate applicable under RCW 39.12.020 and for such period as shall be fixed in such certificates. [1972 ex.s. c 91 § 1.]

39.12.030 Contract specifications must state minimum hourly rate—Stipulation for payment. The specifications for every contract for the construction, reconstruction, maintenance or repair of any public work to which the state or any county, municipality, or political subdivision created by its laws is a party, shall contain a provision stating the hourly minimum rate of wage, not less than the prevailing rate of wage, which may be paid to laborers, workers, or mechanics in each trade or occupation required for such public work employed in the performance of the contract either by the contractor, subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by the contract, and the contract shall contain a stipulation that such laborers, workers, or mechanics shall be paid not less than such specified hourly minimum rate of wage. [1989 c 12 § 9; 1945 c 63 § 2; Rem. Supp. 1945 § 10322-21.]

39.12.040 Statement of intent to pay prevailing wages, affidavit of wages paid—Duty of public agencies to require—Approval—Prerequisite to payment—Alternative procedure. (1) Except as provided in subsection (2) of this section, before payment is made by or on behalf of the state, or any county, municipality, or political subdivision created by its laws, of any sum or sums due on account of a public works contract, it shall be the duty of the officer or person charged with the custody and disbursement of public funds to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer a "Statement of Intent to Pay Prevailing Wages". For a contract in excess of ten thousand dollars, the statement of intent to pay prevailing wages shall include:

- (a) The contractor's registration certificate number; and
- (b) The prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020 and the estimated number of workers in each classification.

Each statement of intent to pay prevailing wages must be approved by the industrial statistician of the department

of labor and industries before it is submitted to said officer. Unless otherwise authorized by the department of labor and industries, each voucher claim submitted by a contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the prefiled statement or statements of intent to pay prevailing wages on file with the public agency. Following the final acceptance of a public works project, it shall be the duty of the officer charged with the disbursement of public funds, to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer an "Affidavit of Wages Paid" before the funds retained according to the provisions of RCW 60.28.010 are released to the contractor. Each affidavit of wages paid must be certified by the industrial statistician of the department of labor and industries before it is submitted to said officer.

(2) As an alternate to the procedures provided for in subsection (1) of this section, for public works projects of two thousand five hundred dollars or less:

(a) An awarding agency may authorize the contractor or subcontractor to submit the statement of intent to pay prevailing wages directly to the officer or person charged with the custody or disbursement of public funds in the awarding agency without approval by the industrial statistician of the department of labor and industries. The awarding agency shall retain such statement of intent to pay prevailing wages for a period of not less than three years.

(b) Upon final acceptance of the public works project, the awarding agency shall require the contractor or subcontractor to submit an affidavit of wages paid. Upon receipt of the affidavit of wages paid, the awarding agency may pay the contractor or subcontractor in full, including funds that would otherwise be retained according to the provisions of RCW 60.28.010. Within thirty days of receipt of the affidavit of wages paid, the awarding agency shall submit the affidavit of wages paid to the industrial statistician of the department of labor and industries for approval.

(c) A statement of intent to pay prevailing wages and an affidavit of wages paid shall be on forms approved by the department of labor and industries.

(d) In the event of a wage claim and a finding for the claimant by the department of labor and industries where the awarding agency has used the alternative process provided for in subsection (2) of this section, the awarding agency shall pay the wages due directly to the claimant. If the contractor or subcontractor did not pay the wages stated in the affidavit of wages paid, the awarding agency may take action at law to seek reimbursement from the contractor or subcontractor of wages paid to the claimant, and may prohibit the contractor or subcontractor from bidding on any public works contract of the awarding agency for up to one year.

(e) Nothing in this section shall be interpreted to allow an awarding agency to subdivide any public works project of more than two thousand five hundred dollars for the purpose of circumventing the procedures required by RCW 39.12.040(1). [1991 c 15 § 1; 1982 c 130 § 2; 1981 c 46 § 2; 1975-'76 2nd ex.s. c 49 § 1; 1965 ex.s. c 133 § 3; 1945 c 63 § 4; Rem. Supp. 1945 § 10322-23.]

39.12.042 Compliance with RCW 39.12.040—Liability of public agencies to workers, laborers, or mechanics. If any agency of the state, or any county, municipality, or political subdivision created by its laws shall knowingly fail to comply with the provisions of RCW 39.12.040 as now or hereafter amended, such agency of the state, or county, municipality, or political subdivision created by its laws, shall be liable to all workers, laborers, or mechanics to the full extent and for the full amount of wages due, pursuant to the prevailing wage requirements of RCW 39.12.020. [1993 c 404 § 3; 1989 c 12 § 11; 1975-'76 2nd ex.s. c 49 § 2.]

Effective date—1993 c 404: See note following RCW 39.12.070.

39.12.050 False statement or failure to file—Penalty—Unpaid wages lien against bond and retainage—Prohibitions on bidding on future contracts—Hearing. (1) Any contractor or subcontractor who files a false statement or fails to file any statement or record required to be filed under this chapter and the rules adopted under this chapter, shall, after a determination to that effect has been issued by the director after hearing under chapter 34.05 RCW, forfeit as a civil penalty the sum of five hundred dollars for each false filing or failure to file, and shall not be permitted to bid, or have a bid considered, on any public works contract until the penalty has been paid in full to the director. The civil penalty under this subsection shall not apply to a violation determined by the director to be an inadvertent filing or reporting error.

To the extent that a contractor or subcontractor has not paid wages at the rate due pursuant to RCW 39.12.020, and a finding to that effect has been made as provided by this subsection, such unpaid wages shall constitute a lien against the bonds and retainage as provided in RCW 18.27.040, 19.28.120, 39.08.010, and 60.28.010.

(2) If a contractor or subcontractor is found to have violated the provisions of subsection (1) of this section for a second time within a five year period, the contractor or subcontractor shall be subject to the sanctions prescribed in subsection (1) of this section and shall not be allowed to bid on any public works contract for one year. The one year period shall run from the date of notice by the director of the determination of noncompliance. When an appeal is taken from the director's determination, the one year period shall commence from the date of the final determination of the appeal.

The director shall issue his or her findings that a contractor or subcontractor has violated the provisions of this subsection after a hearing held subject to the provisions of chapter 34.05 RCW. [1985 c 15 § 3; 1977 ex.s. c 71 § 1; 1973 c 120 § 1; 1945 c 63 § 5; Rem. Supp. 1945 § 10322-24.]

Severability—1985 c 15: See note following RCW 39.12.065.

39.12.060 Director of labor and industries to arbitrate disputes. Such contract shall contain a further provision that in case any dispute arises as to what are the prevailing rates of wages for work of a similar nature and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the director of the depart-

ment of labor and industries of the state and his or her decision therein shall be final and conclusive and binding on all parties involved in the dispute. [1989 c 12 § 10; 1965 ex.s. c 133 § 4; 1945 c 63 § 6; Rem. Supp. 1945 § 10322-25.]

Arbitration: Chapters 7.04 and 49.08 RCW.

39.12.065 Investigation of complaints—Hearing—Remedies—Penalties. (1) Upon complaint by an interested party, the director of labor and industries shall cause an investigation to be made to determine whether there has been compliance with this chapter and the rules adopted hereunder, and if the investigation indicates that a violation may have occurred, a hearing shall be held in accordance with chapter 34.05 RCW. The director shall issue a written determination including his or her findings after the hearing. A judicial appeal from the director's determination may be taken in accordance with chapter 34.05 RCW, with the prevailing party entitled to recover reasonable costs and attorneys fees.

A complaint concerning nonpayment of the prevailing rate of wage shall be filed with the department of labor and industries no later than thirty days from the acceptance date of the public works project. The failure to timely file such a complaint shall not prohibit a claimant from pursuing a private right of action against a contractor or subcontractor for unpaid prevailing wages. The remedy provided by this section is not exclusive and is concurrent with any other remedy provided by law.

(2) To the extent that a contractor or subcontractor has not paid the prevailing rate of wage under a determination issued as provided in subsection (1) of this section, the director shall notify the agency awarding the public works contract of the amount of the violation found, and the awarding agency shall withhold, or in the case of a bond, the director shall proceed against the bond in accordance with the applicable statute to recover, such amount from the following sources in the following order of priority until the total of such amount is withheld:

(a) The retainage or bond in lieu of retainage as provided in RCW 60.28.010;

(b) If the claimant was employed by the contractor or subcontractor on the public works project, the bond filed by the contractor or subcontractor with the department of labor and industries as provided in RCW 18.27.040 and 19.28.120;

(c) A surety bond, or at the contractor's or subcontractor's option an escrow account, running to the director in the amount of the violation found; and

(d) That portion of the progress payments which is properly allocable to the contractor or subcontractor who is found to be in violation of this chapter. Under no circumstances shall any portion of the progress payments be withheld that are properly allocable to a contractor, subcontractor, or supplier, that is not found to be in violation of this chapter.

The amount withheld shall be released to the director to distribute in accordance with the director's determination.

(3) A contractor or subcontractor that is found, in accordance with subsection (1) of this section, to have violated the requirement to pay the prevailing rate of wage shall be subject to a civil penalty of not less than one thousand

dollars or an amount equal to twenty percent of the total prevailing wage violation found on the contract, whichever is greater, and shall not be permitted to bid, or have a bid considered, on any public works contract until such civil penalty has been paid in full to the director. If a contractor or subcontractor is found to have participated in a violation of the requirement to pay the prevailing rate of wage for a second time within a five-year period, the contractor or subcontractor shall be subject to the sanctions prescribed in this subsection and as an additional sanction shall not be allowed to bid on any public works contract for two years. If a previous or subsequent violation of a requirement to pay a prevailing rate of wage under federal or other state law is found against the contractor or subcontractor within five years from a violation under this section, the contractor or subcontractor shall not be allowed to bid on any public works contract for two years. A contractor or subcontractor shall not be barred from bidding on any public works contract if the contractor or subcontractor relied upon written information from the department to pay a prevailing rate of wage that is later determined to be in violation of this chapter. The civil penalty and sanctions under this subsection shall not apply to a violation determined by the director to be an inadvertent filing or reporting error. To the extent that a contractor or subcontractor has not paid the prevailing wage rate under a determination issued as provided in subsection (1) of this section, the unpaid wages shall constitute a lien against the bonds and retainage as provided herein and in RCW 18.27.040, 19.28.120, 39.08.010, and 60.28.010. [1994 c 88 § 1; 1985 c 15 § 2.]

Severability—1985 c 15: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 15 § 4.]

39.12.070 Fees authorized for approvals, certifications, and arbitrations. The department of labor and industries may charge fees to awarding agencies on public works for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid. The department may also charge fees to persons or organizations requesting the arbitration of disputes under RCW 39.12.060. The amount of the fees shall be established by rules adopted by the department under the procedures in the administrative procedure act, chapter 34.05 RCW. The fees shall apply to all approvals, certifications, and arbitration requests made after the effective date of the rules. All fees shall be deposited in the public works administration account. On the fifteenth day of the first month of each quarterly period, an amount equalling thirty percent of the revenues received into the public works administration account shall be transferred into the general fund. The department may refuse to arbitrate for contractors, subcontractors, persons, or organizations which have not paid the proper fees. The department may, if necessary, request the attorney general to take legal action to collect delinquent fees.

The department shall set the fees permitted by this section at a level that generates revenue that is as near as practicable to the amount of the appropriation to administer this chapter, including, but not limited to, the performance of adequate wage surveys, and to investigate and enforce all

alleged violations of this chapter, including, but not limited to, incorrect statements of intent to pay prevailing wage, incorrect certificates of affidavits of wages paid, and wage claims, as provided for in this chapter and chapters 49.48 and 49.52 RCW. However, the fees charged for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid shall be no greater than twenty-five dollars. [1993 c 404 § 1; 1982 1st ex.s. c 38 § 1.]

Effective date—1993 c 404: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 404 § 4.]

39.12.080 Public works administration account—Created. The public works administration account is created in the state treasury. The department of labor and industries shall deposit in the account all moneys received from fees collected under RCW 39.12.070. Appropriations from the account, not including moneys transferred to the general fund pursuant to RCW 39.12.070, may be made only for the purposes of administration of this chapter, including, but not limited to, the performance of adequate wage surveys, and for the investigation and enforcement of all alleged violations of this chapter as provided for in this chapter and chapters 49.48 and 49.52 RCW. [1993 c 404 § 2.]

Effective date—1993 c 404: See note following RCW 39.12.070.

39.12.900 Severability—1945 c 63. If any section or provision of this chapter shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional. [1945 c 63 § 7.]

Chapter 39.19

OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

Sections

- 39.19.010 Intent.
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120.
- 39.19.921 Severability—1987 c 328.

Minority and women business development office: RCW 43.31.0925.

39.19.010 Intent. The legislature finds that minority and women-owned businesses are significantly under-represented and have been denied equitable competitive opportunities in contracting. It is the intent of this chapter to mitigate societal discrimination and other factors in participating in public works and in providing goods and services and to delineate a policy that an increased level of participation by minority and women-owned and controlled businesses is desirable at all levels of state government. The purpose and intent of this chapter are to provide the maximum practicable opportunity for increased participation by minority and women-owned and controlled businesses in participating in public works and the process by which goods and services are procured by state agencies and educational institutions from the private sector. [1987 c 328 § 1; 1983 c 120 § 1.]

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

(1) "Advisory committee" means the advisory committee on minority and women's business enterprises.

(2) "Broker" means a person that provides a bona fide service, such as professional, technical, consultant, brokerage, or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of a contract.

(3) "Director" means the director of the office of minority and women's business enterprises.

(4) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.

(5) "Goals" means annual overall agency goals, expressed as a percentage of dollar volume, for participation by minority and women-owned and controlled businesses and shall not be construed as a minimum goal for any particular contract or for any particular geographical area. It is the intent of this chapter that such overall agency goals shall be achievable and shall be met on a contract-by-contract or class-of-contract basis.

(6) "Goods and/or services" includes professional services and all other goods and services.

(7) "Office" means the office of minority and women's business enterprises.

(8) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons.

(9) "Procurement" means the purchase, lease, or rental of any goods or services.

(10) "Public works" means all work, construction, highway and ferry construction, alteration, repair, or im-

provement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.

(11) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. [1996 c 69 § 4; 1987 c 328 § 2; 1983 c 120 § 2.]

Intent—1996 c 69: See note following RCW 39.19.030.

39.19.030 Office of minority and women's business enterprises—Director—Powers and duties. There is hereby created the office of minority and women's business enterprises. The governor shall appoint a director for the office, subject to confirmation by the senate. The director may employ a deputy director and a confidential secretary, both of which shall be exempt under chapter 41.06 RCW, and such staff as are necessary to carry out the purposes of this chapter.

The office shall consult with the minority and women's business enterprises advisory committee to:

(1) Develop, plan, and implement programs to provide an opportunity for participation by qualified minority and women-owned and controlled businesses in public works and the process by which goods and services are procured by state agencies and educational institutions from the private sector;

(2) Develop a comprehensive plan insuring that qualified minority and women-owned and controlled businesses are provided an opportunity to participate in public contracts for public works and goods and services;

(3) Identify barriers to equal participation by qualified minority and women-owned and controlled businesses in all state agency and educational institution contracts;

(4) Establish annual overall goals for participation by qualified minority and women-owned and controlled businesses for each state agency and educational institution to be administered on a contract-by-contract basis or on a class-of-contracts basis;

(5) Develop and maintain a central minority and women's business enterprise certification list for all state agencies and educational institutions. No business is entitled to certification under this chapter unless it meets the definition of small business concern as established by the office. All applications for certification under this chapter shall be sworn under oath;

(6) Develop, implement, and operate a system of monitoring compliance with this chapter;

(7) Adopt rules under chapter 34.05 RCW, the Administrative Procedure Act, governing: (a) Establishment of agency goals; (b) development and maintenance of a central minority and women's business enterprise certification program, including a definition of "small business concern" which shall be consistent with the small business requirements defined under section 3 of the Small Business Act, 15 U.S.C. Sec. 632, and its implementing regulations as guidance; (c) procedures for monitoring and enforcing compliance with goals, regulations, contract provisions, and this chapter; (d) utilization of standard clauses by state agencies and educational institutions, as specified in RCW 39.19.050; and (e) determination of an agency's or educational

institution's goal attainment consistent with the limitations of RCW 39.19.075;

(8) Submit an annual report to the governor and the legislature outlining the progress in implementing this chapter;

(9) Investigate complaints of violations of this chapter with the assistance of the involved agency or educational institution; and

(10) Cooperate and act jointly or by division of labor with the United States or other states, and with political subdivisions of the state of Washington and their respective minority, socially and economically disadvantaged and women business enterprise programs to carry out the purposes of this chapter. However, the power which may be exercised by the office under this subsection permits investigation and imposition of sanctions only if the investigation relates to a possible violation of chapter 39.19 RCW, and not to violation of local ordinances, rules, regulations, however denominated, adopted by political subdivisions of the state. [1996 c 69 § 5; 1989 c 175 § 85; 1987 c 328 § 3; 1983 c 120 § 3.]

Intent—1996 c 69: "It is the intent of the legislature to ensure that the counting of the dollar value of an agency's or educational institution's expenditures to certified minority and women's business enterprises meaningfully reflects the actual financial participation of the certified businesses." [1996 c 69 § 3.]

Effective date—1989 c 175: See note following RCW 34.05.010.

39.19.041 Ad hoc advisory committees. The director may establish ad hoc advisory committees, as necessary, to assist in the development of policies to carry out the purposes of this chapter. [1995 c 269 § 1302.]

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

39.19.050 Standard clauses required in requests for proposals, advertisements, and bids. The rules adopted under RCW 39.19.030 shall include requirements for standard clauses in requests for proposals, advertisements, bids, or calls for bids, necessary to carry out the purposes of this chapter, which shall include notice of the statutory penalties under RCW 39.19.080 and 39.19.090 for noncompliance. [1983 c 120 § 5.]

39.19.060 Compliance with public works and procurement goals—Plan to maximize opportunity for minority and women-owned businesses. Each state agency and educational institution shall comply with the annual goals established for that agency or institution under this chapter for public works and procuring goods or services. This chapter applies to all public works and procurement by state agencies and educational institutions, including all contracts and other procurement under chapters 28B.10, 39.04, 39.29, 43.19, and 47.28 RCW. Each state agency shall adopt a plan, developed in consultation with the director and the advisory committee, to insure that minority and women-owned businesses are afforded the maximum practicable opportunity to directly and meaningfully participate in the execution of public contracts for public works and goods and services. The plan shall include specific measures the agency will undertake to increase the participa-

tion of certified minority and women-owned businesses. The office shall annually notify the governor, the state auditor, and the joint legislative audit and review committee of all agencies and educational institutions not in compliance with this chapter. [1996 c 288 § 28; 1993 c 512 § 9; 1983 c 120 § 6.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Compliance with chapter 39.19 RCW: RCW 28B.10.023, 39.04.160, 39.29.050, 43.19.536, 47.28.030, 47.28.050, 47.28.090.

39.19.070 Compliance with goals—Bidding procedures. It is the intent of this chapter that the goals established under this chapter for participation by minority and women-owned and controlled businesses be achievable. If necessary to accomplish this intent, contracts may be awarded to the next lowest responsible bidder in turn, or all bids may be rejected and new bids obtained, if the lowest responsible bidder does not meet the goals established for a particular contract under this chapter. The dollar value of the total contract used for the calculation of the specific contract goal may be increased or decreased to reflect executed change orders. An apparent low-bidder must be in compliance with the contract provisions required under this chapter as a condition precedent to the granting of a notice of award by any state agency or educational institution. [1994 c 15 § 1; 1987 c 328 § 4; 1983 c 120 § 7.]

39.19.075 Compliance with goals—Valuation of goods or services. For purposes of measuring an agency's or educational institution's goal attainment, any regulations adopted under RCW 39.19.030(7)(e) must provide that if a certified minority and women's business enterprise is a broker of goods or materials required under a contract, the contracting agency or educational institution may count only the dollar value of the fee or commission charged and not the value of goods or materials provided. The contracting agency or educational institution may, at its discretion, fix the dollar value of the fee or commission charged at either the actual dollar value of the fee or commission charged or at a standard percentage of the total value of the brokered goods, which percentage must reflect the fees or commissions generally paid to brokers for providing such services. [1996 c 69 § 6.]

Intent—1996 c 69: See note following RCW 39.19.030.

39.19.080 Prohibited activities—Penalties. (1) A person, firm, corporation, business, union, or other organization shall not:

(a) Prevent or interfere with a contractor's or subcontractor's compliance with this chapter, or any rule adopted under this chapter;

(b) Submit false or fraudulent information to the state concerning compliance with this chapter or any such rule;

(c) Fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a minority or women's business enterprise for the purpose of this chapter;

(d) Knowingly make a false statement, whether by affidavit, verified statement, report, or other representation,

to a state official or employee for the purpose of influencing the certification or denial of certification of any entity as a minority or women's business enterprise;

(e) Knowingly obstruct, impede, or attempt to obstruct or impede any state official or employee who is investigating the qualification of a business entity that has requested certification as a minority or women's business enterprise;

(f) Fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public moneys to which the person is not entitled under this chapter; or

(g) Knowingly make false statements that any entity is or is not certified as a minority or women's business enterprise for purposes of obtaining a contract governed by this chapter.

(2) Any person or entity violating this chapter or any rule adopted under this chapter shall be subject to the penalties in RCW 39.19.090. Nothing in this section prevents the state agency or educational institution from pursuing such procedures or sanctions as are otherwise provided by statute, rule, or contract provision. [1987 c 328 § 5; 1983 c 120 § 8.]

39.19.090 Compliance with chapter or contract—Remedies. If a person, firm, corporation, or business does not comply with any provision of this chapter or with a contract requirement established under this chapter, the state may withhold payment, debar the contractor, suspend, or terminate the contract and subject the contractor to civil penalties of up to ten percent of the amount of the contract or up to five thousand dollars for each violation. The office shall adopt, by rule, criteria for the imposition of penalties under this section. Wilful repeated violations, exceeding a single violation, may disqualify the contractor from further participation in state contracts for a period of up to three years. An apparent low-bidder must be in compliance with the contract provisions required under this chapter as a condition precedent to the granting of a notice of award by any state agency or educational institution.

The office shall follow administrative procedures under chapter 34.05 RCW in determining a violation and imposing penalties under this chapter.

The procedures and sanctions in this section are not exclusive; nothing in this section prevents the state agency or educational institution administering the contracts from pursuing such procedures or sanctions as are otherwise provided by statute, rule, or contract provision. [1987 c 328 § 6; 1983 c 120 § 9.]

39.19.100 Enforcement by attorney general—Injunctive relief. The attorney general may bring an action in the name of the state against any person to restrain and prevent the doing of any act prohibited or declared to be unlawful in this chapter. The attorney general may, in the discretion of the court, recover the costs of the action including reasonable attorneys' fees and the costs of investigation. [1987 c 328 § 12.]

39.19.110 Enforcement by attorney general—Investigative powers. (1) Whenever the attorney general believes that any person (a) may be in possession, custody,

or control of any original or copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situated, that the attorney general believes to be relevant to the subject matter of an investigation, the attorney general may require such person to answer written interrogatories or give oral testimony regarding a possible violation of this chapter, or of any provision of a contract as required by this chapter, or (b) may have knowledge of any information that the attorney general believes relevant to the subject matter of such an investigation, the attorney general may, before instituting a civil proceeding thereon, execute in writing and cause to be served upon such a person, a civil investigative demand requiring the person to produce the documentary material and permit inspection and copying, to answer in writing written interrogatories, to give oral testimony, or any combination of demands pertaining to the documentary material or information. Documents and information obtained under this section shall not be admissible in criminal prosecutions.

(2) Each such demand shall:

(a) State the statute, the alleged violation of which is under investigation, and the general subject matter of the investigation;

(b) State with reasonable specificity what documentary material is required, if the demand is for the production of documentary material;

(c) Prescribe a return date governed by the court rules within which the documentary material is to be produced, the answers to written interrogatories are to be made, or a date, time, and place at which oral testimony is to be taken; and

(d) Identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying, to whom answers to written interrogatories are to be made, or who are to conduct the examination for oral testimony.

(3) No such demand may:

(a) Contain any requirement that would be unreasonable or improper if contained in a subpoena duces tecum, a request for answers to written interrogatories, or a notice of deposition upon oral examination issued under the court rules of this state; or

(b) Require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of this state.

(4) Service of any such demand may be made by:

(a) Delivering a duly executed copy thereof to the person to be served, or, if that person is not a natural person, to any officer or managing agent of the person to be served;

(b) Delivering a duly executed copy thereof to the principal place of business in this state of the person to be served; or

(c) Mailing by registered or certified mail a duly executed copy thereof addressed to the person to be served at the principal place of business in this state, or, if that person has no place of business in this state, to the person's principal office or place of business.

(5)(a) Documentary material demanded under this section shall be produced for inspection and copying during normal business hours at the principal office or place of

business of the person served, or at such other times and places as may be agreed upon by the person served and the attorney general;

(b) Written interrogatories in a demand served under this section shall be answered in the same manner as provided in the civil rules for superior court;

(c) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the same manner as provided in the civil rules for superior court for the taking of depositions. In the course of the deposition, the assistant attorney general conducting the examination may exclude all persons other than the person being examined, the person's counsel, and the officer before whom the testimony is to be taken from the place where the examination is held;

(d) Any person compelled to appear pursuant to a demand for oral testimony under this section may be accompanied by counsel;

(e) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the county within which the person resides, is found, or transacts business, or in such other place as may be agreed upon between the person served and the attorney general.

(6) No documentary material, answers to written interrogatories, or transcripts of oral testimony produced pursuant to a demand, or copies thereof, may, unless otherwise ordered by a superior court for good cause shown, be produced for inspection or copying by, nor may the contents thereof be disclosed to, anyone other than an authorized employee or agent of the attorney general, without the consent of the person who produced such material, answered written interrogatories, or gave oral testimony: PROVIDED, That under such reasonable terms and conditions as the attorney general shall prescribe, the copies of such documentary material, answers to written interrogatories, or transcripts of oral testimony shall be available for inspection and copying by the person who produced the material, answered written interrogatories, or gave oral testimony, or any duly authorized representative of that person. The attorney general or any assistant attorney general may use such copies of documentary material, answers to written interrogatories, or transcripts of oral testimony as he or she determines necessary to enforce this chapter, including presentation before any court: PROVIDED FURTHER, That any such material, answers to written interrogatories, or transcripts of oral testimony that contain material designated by the declarant to be trade secrets shall not be presented except with the approval of the court in which the action is pending after adequate notice to the person furnishing the material, answers to written interrogatories, or oral testimony.

(7) At any time before the return date specified in the demand, or within twenty days after the demand has been served, whichever period is shorter, a petition to extend the return date for, or to modify or set aside a demand issued pursuant to subsection (1) of this section, stating good cause, may be filed in the superior court for Thurston county, or in any other county where the parties reside or are found. A petition, by the person on whom the demand is served, stating good cause, to require the attorney general or any person to perform any duty imposed by this section, and all other petitions in connection with a demand, may be filed in the superior court for Thurston county, or in the county

where the parties reside. The court shall have jurisdiction to impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions.

(8) Whenever any person fails to comply with any civil investigative demand for documentary material, answers to written interrogatories, or oral testimony duly served upon that person under this section, or whenever satisfactory copying or reproduction of any such material cannot be done and the person refuses to surrender such material, the attorney general may file, in the trial court of general jurisdiction in the county in which the person resides, is found, or transacts business, and serve upon that person a petition for an order of the court for the enforcement of this section, except that if such person transacts business in more than one county, the petition shall be filed in the county in which the person maintains his or her principal place of business or in such other county as may be agreed upon by the parties to the petition. Whenever any petition is filed under this section in the trial court of general jurisdiction in any county, the court shall have jurisdiction to hear and determine the matter so presented and to enter such order or orders as may be required to carry into effect this section, and may impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions. [1987 c 328 § 13.]

39.19.120 Certification of business enterprises. The office shall be the sole authority to perform certification of minority business enterprises, socially and economically disadvantaged business enterprises, and women's business enterprises throughout the state of Washington. Certification by the state office will allow these firms to participate in programs for these enterprises administered by the state of Washington, any city, town, county, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation within the state of Washington.

This state-wide certification process will prevent duplication of effort, achieve efficiency, and permit local jurisdictions to further develop, implement, and/or enhance comprehensive systems of monitoring and compliance for contracts issued by their agencies. [1987 c 328 § 7.]

39.19.140 Implementation of state-wide certification. Implementation of state-wide certification shall be effective January 1, 1988, following consultation by the office with appropriate state and local officials who currently administer similar certification programs. Any business having been certified under any of the programs identified pursuant to *RCW 39.19.130 as a minority and women's business enterprise shall be deemed certified by the office as of January 1, 1988. [1987 c 328 § 9.]

*Reviser's note: RCW 39.19.130 expired June 30, 1991.

39.19.150 Local government may petition for reconsideration of business certification. (1) Any city, county, town, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation having reason to believe that a particular minority and women's business enterprise should not have been certified under RCW 39.19.140 may petition the office

for reconsideration. The basis for the petition may be one or more of the following:

(a) The office's rules or regulations were improperly applied; or

(b) Material facts relating to the minority and women's business enterprise's certification application to the office are untrue.

(2) The petitioner shall carry the burden of persuasion. The affected minority or women's business enterprise shall receive notice of the petition and an opportunity to respond.

(3) After reviewing the information presented in support of and in opposition to the petition, the office shall issue a written decision, granting or denying the petition. If the office grants the petition, it may revoke, suspend, or refuse to renew the certification or impose sanctions under this chapter as appropriate.

(4) The office's decision on a petition is administratively final and the rights of appeal set out in the office regulations shall apply. A certification shall remain in effect while a petition is pending. [1987 c 328 § 10.]

39.19.160 Local government responsible for monitoring compliance. Any city, town, county, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation within the state of Washington utilizing the certification by the office retains the responsibility for monitoring compliance with the programs under its jurisdiction. The office shall not be responsible for enforcement of local ordinances, rules, or regulations, however titled. [1987 c 328 § 11.]

39.19.170 Prequalification of minority and women-owned businesses—Waiver of performance bond. (1) State agencies shall not require a performance bond for any public works project that does not exceed twenty-five thousand dollars awarded to a prequalified and certified minority or woman-owned business that has been prequalified as provided under subsection (2) of this section.

(2) A limited prequalification questionnaire shall be required assuring:

(a) That the bidder has adequate financial resources or the ability to secure such resources;

(b) That the bidder can meet the performance schedule;

(c) That the bidder is experienced in the type of work to be performed; and

(d) That all equipment to be used is adequate and functioning and that all equipment operators are qualified to operate such equipment. [1993 c 512 § 10.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

39.19.200 Minority and women's business enterprises account—Created. The minority and women's business enterprises account is created in the custody of the state treasurer. All receipts from RCW 39.19.210, 39.19.220, and 39.19.230 shall be deposited in the account. Expenditures from the account may be used only for the purposes defraying all or part of the costs of the office in administering this chapter. Only the director or the director's designee may authorize expenditures from the account. Moneys in the

account may be spent only after appropriation. [1993 c 195 § 1.]

Effective date of 1993 c 195—1993 sp.s. c 24: "Chapter 195, Laws of 1993 is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 sp.s. c 24 § 930.]

39.19.210 Businesses using the office—Fees. The office may charge a reasonable fee or other appropriate charge, to be set by rule adopted by the office under chapter 34.05 RCW, to a business using the services of the office. [1993 c 195 § 2.]

Effective date of 1993 c 195—1993 sp.s. c 24: See note following RCW 39.19.200.

39.19.220 Political subdivisions—Fees. The office may charge to a political subdivision in this state a reasonable fee or other appropriate charge, to be set by rule adopted by the office under chapter 34.05 RCW, prorated on the relative benefit to the political subdivision, for the certification under this chapter of a business. [1993 c 195 § 3.]

Effective date of 1993 c 195—1993 sp.s. c 24: See note following RCW 39.19.200.

39.19.230 State agencies and educational institutions—Fees. The office may charge to a state agency and educational institutions, as both are defined in RCW 39.19.020, a reasonable fee or other appropriate charge, to be set by rule adopted by the office under chapter 34.05 RCW, based upon the state agency's or educational institution's expenditure level of funds subject to the office. [1993 c 195 § 4.]

Effective date of 1993 c 195—1993 sp.s. c 24: See note following RCW 39.19.200.

39.19.910 Effective date—Applicability—1983 c 120. (1) This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983.

(2) Contracts entered into before September 1, 1983, are not subject to this act. [1983 c 120 § 21.]

39.19.920 Severability—Conflict with federal requirements—1983 c 120. (1) If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

(2) If any part of this chapter is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state the conflicting part of this chapter is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The rules under this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1983 c 120 § 18.]

39.19.921 Severability—1987 c 328. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 328 § 17.]

Chapter 39.23

PURCHASE OF PRODUCTS AND SERVICES OF SHELTERED WORKSHOPS, DSHS PROGRAMS

Sections

- 39.23.005 Declaration of intent.
 39.23.010 Definitions.
 39.23.020 Products and/or services, purchase of—Authorization—Determining fair market price.

39.23.005 Declaration of intent. It is the intent of the legislature to encourage municipalities to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services which operate facilities serving the handicapped and disadvantaged. [1975 c 20 § 1.]

39.23.010 Definitions. As used in RCW 39.23.005 and 39.23.020 the term "sheltered workshops" shall have the meaning ascribed to it by RCW 82.04.385 and "programs of the department of social and health services" shall mean the group training homes and day training centers defined in *RCW 72.33.800 and "municipality" shall have the meaning ascribed to it by RCW 39.04.010. [1975 c 20 § 2.]

*Reviser's note: RCW 72.33.800 was repealed by 1988 c 176 § 1007. See Title 71A RCW.

39.23.020 Products and/or services, purchase of—Authorization—Determining fair market price. Municipalities are hereby authorized to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services. Such purchases shall be at the fair market price of such products and services as determined by a municipality. To determine the fair market price a municipality shall use the last comparable bid on the products and/or services or in the alternative the last price paid for the products and/or services. The increased cost of labor, materials, and other documented costs since the last comparable bid or the last price paid are additional cost factors which shall be considered in determining fair market price. Upon the establishment of the fair market price as provided for in this section a municipality is hereby empowered to negotiate directly with sheltered workshops or officials in charge of the programs of the department of social and health services for the purchase of the products or services. [1977 ex.s. c 10 § 1; 1975 c 20 § 3.]

Chapter 39.24

PUBLIC PURCHASE PREFERENCES

Sections

- 39.24.050 Purchase of paper products meeting certain specifications required.

Powers and duties of division of purchasing: RCW 43.19.190.

Purchase of correctional industries produced products: Chapter 72.60 RCW.

Reciprocity in bidding: RCW 43.19.704.

39.24.050 Purchase of paper products meeting certain specifications required. A governmental unit shall, to the maximum extent economically feasible, purchase paper products which meet the specifications established by the department of general administration under RCW 43.19.538. [1982 c 61 § 3.]

Chapter 39.28

EMERGENCY PUBLIC WORKS

Sections

- 39.28.010 Definitions.
 39.28.020 Powers conferred.
 39.28.030 Construction of act.
 39.28.040 Loans and grants to finance preliminary public works expenditures.

39.28.010 Definitions. The following terms wherever used or referred to in RCW 39.28.010 through 39.28.030 shall have the following meaning unless a different meaning appears from the context.

(1) The term "municipality" shall mean the state, a county, city, town, district or other municipal corporation or political subdivision;

(2) The term "governing body" shall mean the body, a board charged with the governing of the municipality;

(3) The term "law" shall mean any act or statute, general, special or local, of this state, including, without being limited to, the charter of any municipality;

(4) The term "bonds" shall mean bonds, interim receipts, certificates, or other obligations of a municipality issued or to be issued by its governing body for the purpose of financing or aiding in the financing of any work, undertaking or project for which a loan or grant, or both, has heretofore been made or may hereafter be made by any federal agency;

(5) The term "Recovery Act" shall mean any acts of the congress of the United States of America to reduce and relieve unemployment or to provide for the construction of public works;

(6) The term "federal agency" shall include the United States of America, the president of the United States of America, and any agency or instrumentality of the United States of America, which has heretofore been or hereafter may be designated, created or authorized to make loans or grants;

(7) The term "public works project" shall mean any work, project, or undertaking which any municipality, is authorized or required by law to undertake or any lawful purpose for which any municipality is authorized or required by law to make an appropriation;

(8) The term "contract" or "agreement" between a federal agency and a municipality shall include contracts and agreements in the customary form and shall also be deemed to include an allotment of funds, resolution, unilateral promise, or commitment by a federal agency by which it shall undertake to make a loan or grant, or both, upon the performance of specified conditions or compliance with rules and regulations theretofore or thereafter promulgated, prescribed or published by a federal agency. In the case of such an allotment of funds, resolution, unilateral promise, or commitment by a federal agency, the terms, conditions and restrictions therein set forth and the rules and regulations theretofore or thereafter promulgated, prescribed or published shall, for the purpose of RCW 39.28.010 through 39.28.030, be deemed to constitute covenants of such a contract which shall be performed by the municipality, if the municipality accepts any money from such federal agency. [1971 c 76 § 4; 1937 c 107 § 2; RRS § 10322A-8. Prior: 1935 c 107 § 2; RRS § 10322A-2.]

Short title: "This act may be cited as 'The Municipal Emergency Procedure Act (Revision of 1937)'." [1937 c 107 § 1; RRS § 10322A-7. Prior: 1935 c 107 § 1; RRS § 10322A-1.]

Severability—1937 c 107: "If any provision of this act, or the application thereof to any person, body, or circumstances shall be held invalid, the remainder of the act and the application of each provision to persons, bodies, or circumstances other than those as to which it shall have been held invalid shall not be affected thereby." [1937 c 107 § 5; RRS § 10322A-11. Prior: 1935 c 107 § 5; RRS § 10322A-5.]

39.28.020 Powers conferred. Every municipality shall have power and is hereby authorized:

(1) To accept from any federal agency grants for or in aid of the construction of any public works project;

(2) To make contracts and execute instruments containing such terms, provisions, and conditions as in the discretion of the governing body of the municipality may be necessary, proper or advisable for the purpose of obtaining grants or loans, or both, from any federal agency pursuant to or by virtue of the Recovery Act; to make all other contracts and execute all other instruments necessary, proper or advisable in or for the furtherance of any public works project and to carry out and perform the terms and conditions of all such contracts or instruments;

(3) To subscribe to and comply with the Recovery Act and any rules and regulations made by any federal agency with regard to any grants or loans, or both, from any federal agency;

(4) To perform any acts authorized under RCW 39.28.010 through 39.28.030 through or by means of its own officers, agents and employees, or by contracts with corporations, firms or individuals;

(5) To award any contract for the construction of any public works project or part thereof upon any day at least fifteen days after one publication of a notice requesting bids upon such contract in a newspaper of general circulation in the municipality: PROVIDED, That in any case where publication of notice may be made in a shorter period of time under the provisions of existing statute or charter, such statute or charter shall govern;

(6) To sell bonds at private sale to any federal agency without any public advertisement;

(7) To issue interim receipts, certificates or other temporary obligations, in such form and containing such

terms, conditions and provisions as the governing body of the municipality issuing the same may determine, pending the preparation or execution of definite bonds for the purpose of financing the construction of a public works project;

(8) To issue bonds bearing the signatures of officers in office on the date of signing such bonds, notwithstanding that before delivery thereof any or all the persons whose signatures appear thereon shall have ceased to be the officers of the municipality issuing the same;

(9) To include in the cost of a public works project which may be financed by the issuance of bonds: (a) Engineering, inspection, accounting, fiscal and legal expenses; (b) the cost of issuance of the bonds, including engraving, printing, advertising, and other similar expenses; (c) any interest costs during the period of construction of such public works project and for six months thereafter on money borrowed or estimated to be borrowed;

(10) To stipulate in any contract for the construction of any public works project or part thereof the maximum hours that any laborer, worker, or mechanic should be permitted or required to work in any one calendar day or calendar week or calendar month, and the minimum wages to be paid to laborers, workers, or mechanics in connection with any public works project: PROVIDED, That no such stipulation shall provide for hours in excess of or for wages less than may now or hereafter be required by any other law;

(11) To exercise any power conferred by RCW 39.28.010 through 39.28.030 for the purpose of obtaining grants or loans, or both, from any federal agency pursuant to or by virtue of the Recovery Act, independently or in conjunction with any other power or powers conferred by RCW 39.28.010 through 39.28.030 or heretofore or hereafter conferred by any other law;

(12) To do all acts and things necessary or convenient to carry out the powers expressly given in RCW 39.28.010 through 39.28.030. [1989 c 12 § 12; 1937 c 107 § 3; RRS § 10322A-9. Prior: 1935 c 107 § 3; RRS § 10322A-3.]

Short title—Severability—1937 c 107: See notes following RCW 39.28.010.

39.28.030 Construction of act. The powers conferred by RCW 39.28.010 through 39.28.030 shall be in addition and supplemental to and not in substitution for the powers now or hereafter conferred upon any municipality by any other law. RCW 39.28.010 through 39.28.030 is intended to aid in relieving the existing emergency by simplifying the procedure for the construction and financing of public works projects. RCW 39.28.010 through 39.28.030 is remedial in nature and the powers hereby granted shall be liberally construed. Nothing in RCW 39.28.010 through 39.28.030 shall be construed to authorize the issuance of bonds for any purpose by any municipality not authorized to issue bonds for such purpose under any other law heretofore or hereafter enacted, nor to dispense with the approval by a state department, board, officer or commission of a public works project where such approval is necessary under provisions of existing law: PROVIDED, That any port district which is now indebted in an amount equal to or in excess of the indebtedness which may be contracted without a vote of the electors of the district is hereby authorized, for the purposes of RCW 39.28.010 through 39.28.030, through its governing

body, to contract a further indebtedness and borrow money for port purposes and issue general bonds therefor, as in RCW 39.28.010 through 39.28.030 provided, in an additional amount not exceeding three-sixteenths of one percent of the value of the taxable property in the district, as the term "value of the taxable property" is defined in RCW 39.36.015, without the assent of the voters of the district: PROVIDED, FURTHER, That such additional indebtedness together with the existing indebtedness of such port district shall not exceed the total indebtedness permitted to be incurred by such port district under existing laws. [1970 ex.s. c 42 § 25; 1937 c 107 § 4; RRS § 10322A-10. Prior: 1935 c 107 § 4; RRS § 10322A-4.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Short title—Severability—1937 c 107: See notes following RCW 39.28.010.

39.28.040 Loans and grants to finance preliminary public works expenditures. The state of Washington, its various counties, municipal corporations, quasi municipal corporations, cities, towns, villages and all other political subdivisions of the state are hereby authorized to accept from the federal government all loans, advances, grants in aid, or donations that may be made available by any federal agency for the purpose of financing the cost of architectural, engineering, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other acts preliminary to the construction of public works. [1971 c 76 § 5; 1945 c 106 § 1; Rem. Supp. 1945 § 10322-45.]

Chapter 39.29

PERSONAL SERVICE CONTRACTS

Sections

39.29.003	Intent.
39.29.006	Definitions.
39.29.008	Limitation on personal service contracts.
39.29.011	Competitive solicitation required—Exceptions.
39.29.016	Emergency contracts.
39.29.018	Sole source contracts.
39.29.020	Compliance—Expenditure of funds prohibited—Civil penalty.
39.29.025	Amendments.
39.29.035	Selection of subcontractors.
39.29.040	Exemption of certain contracts.
39.29.050	Contracts subject to requirements established under office of minority and women's business enterprises.
39.29.055	Contracts—Filing—Public inspection—Review and approval.
39.29.065	Office of financial management to establish procedures.
39.29.068	Office of financial management to maintain list of contracts—Report to legislature.
39.29.075	Summary reports on contracts.
39.29.900	Severability—1987 c 414.

39.29.003 Intent. It is the intent of this chapter to establish a policy of open competition for all personal service contracts and subcontracts to personal service contracts entered into by state agencies, unless specifically exempted under this chapter. It is further the intent to provide for legislative and executive review of all personal service contracts, to centralize the location of information

about personal service contracts for ease of public review, and ensure proper accounting of personal services expenditures. [1993 c 433 § 1; 1987 c 414 § 1; 1979 ex.s. c 61 § 1.]

39.29.006 Definitions. As used in this chapter:

(1) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, and educational, correctional, and other types of institutions.

(2) "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

(3) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

(4) "Consultant" means an independent individual or firm contracting with an agency to perform a service or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the agency except as to the result of the work. The agency monitors progress under the contract and authorizes payment.

(5) "Emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

(a) Present a real, immediate threat to the proper performance of essential functions; or

(b) May result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

(6) "Evidence of competition" means documentation demonstrating that the agency has solicited responses from multiple firms in selecting a consultant.

(7) "Personal service" means professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement. This term does not include purchased services as defined under subsection (9) of this section. This term does include client services.

(8) "Personal service contract" means an agreement, or any amendment thereto, with a consultant for the rendering of personal services to the state which is consistent with RCW 41.06.380.

(9) "Purchased services" means services provided by a vendor to accomplish routine, continuing and necessary functions. This term includes, but is not limited to, services acquired under RCW 43.19.190 or 43.105.041 for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time-sharing, contract programming, and analysis.

(10) "Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be

based on either the uniqueness of the service or sole availability at the location required.

(11) "Subcontract" means a contract assigning some of the work of a contract to a third party. [1993 c 433 § 2; 1987 c 414 § 2; 1981 c 263 § 1; 1979 ex.s. c 61 § 2.]

39.29.008 Limitation on personal service contracts.

Personal services may be procured only to resolve a particular agency problem or issue or to expedite a specific project that is temporary in nature. An agency may procure personal services only if it documents that:

(1) The service is critical to agency responsibilities or operations, or is mandated or authorized by the legislature;

(2) Sufficient staffing or expertise is not available within the agency to perform the service; and

(3) Other qualified public resources are not available to perform the service. [1993 c 433 § 6.]

39.29.011 Competitive solicitation required—

Exceptions. All personal service contracts shall be entered into pursuant to competitive solicitation, except for:

(1) Emergency contracts;

(2) Sole source contracts;

(3) Contract amendments;

(4) Contracts between a consultant and an agency of less than ten thousand dollars. However, contracts of two thousand five hundred dollars or greater but less than ten thousand dollars shall have documented evidence of competition. Agencies shall not structure contracts to evade these requirements; and

(5) Other specific contracts or classes or groups of contracts exempted from the competitive solicitation process by the director of the office of financial management when it has been determined that a competitive solicitation process is not appropriate or cost-effective. [1987 c 414 § 3.]

39.29.016 Emergency contracts.

Emergency contracts shall be filed with the office of financial management and the joint legislative audit and review committee and made available for public inspection within three working days following the commencement of work or execution of the contract, whichever occurs first. Documented justification for emergency contracts shall be provided to the office of financial management and the joint legislative audit and review committee when the contract is filed. [1996 c 288 § 29; 1987 c 414 § 4.]

39.29.018 Sole source contracts.

(1) Sole source contracts shall be filed with the office of financial management and the joint legislative audit and review committee and made available for public inspection at least ten working days prior to the proposed starting date of the contract. Documented justification for sole source contracts shall be provided to the office of financial management and the joint legislative audit and review committee when the contract is filed. For sole source contracts of ten thousand dollars or more that are state funded, documented justification shall include evidence that the agency attempted to identify potential consultants by advertising through state-wide or regional newspapers.

(2) The office of financial management shall approve sole source contracts of ten thousand dollars or more that are state funded, before any such contract becomes binding and before any services may be performed under the contract. These requirements shall also apply to sole source contracts of less than ten thousand dollars if the total amount of such contracts between an agency and the same consultant is ten thousand dollars or more within a fiscal year. Agencies shall ensure that the costs, fees, or rates negotiated in filed sole source contracts of ten thousand dollars or more are reasonable. [1996 c 288 § 30; 1993 c 433 § 5; 1987 c 414 § 5.]

39.29.020 Compliance—Expenditure of funds prohibited—Civil penalty.

No state officer or activity of state government subject to this chapter shall expend any funds for personal service contracts unless the agency has complied with the competitive procurement and other requirements of this chapter. The state officer or employee executing the personal service contracts shall be responsible for compliance with the requirements of this chapter. Failure to comply with the requirements of this chapter shall subject the state officer or employee to a civil penalty in the amount of three hundred dollars. A consultant who knowingly violates this chapter in seeking or performing work under a personal services contract shall be subject to a civil penalty of three hundred dollars or twenty-five percent of the amount of the contract, whichever is greater. The state auditor is responsible for auditing violations of this chapter. The attorney general is responsible for prosecuting violations of this chapter. [1987 c 414 § 6; 1974 ex.s. c 191 § 2.]

39.29.025 Amendments. (1) Substantial changes in either the scope of work specified in the contract or in the scope of work specified in the formal solicitation document must generally be awarded as new contracts. Substantial changes executed by contract amendments must be submitted to the office of financial management and the joint legislative audit and review committee, and are subject to approval by the office of financial management.

(2) An amendment or amendments to personal service contracts, if the value of the amendment or amendments, whether singly or cumulatively, exceeds fifty percent of the value of the original contract must be provided to the office of financial management and the joint legislative audit and review committee.

(3) The office of financial management shall approve amendments provided to it under this section before the amendments become binding and before services may be performed under the amendments.

(4) The amendments must be filed with the office of financial management and made available for public inspection at least ten working days prior to the proposed starting date of services under the amendments.

(5) The office of financial management shall approve amendments provided to it under this section only if they meet the criteria for approval of the amendments established by the director of the office of financial management. [1996 c 288 § 31; 1993 c 433 § 3.]

39.29.035 Selection of subcontractors. If subcontracts and subcontractors are specified in the contractor's response to a competitive solicitation, this constitutes a competitive solicitation of subcontract services. If subcontracts are authorized, but subcontractors are not specifically identified in a contractor's response to a competitive solicitation and the contractor later desires to issue subcontracts, the subcontracts must comply with the competitive solicitation requirements of this chapter, and selection of subcontractors is subject to prior agency approval. [1993 c 433 § 4.]

39.29.040 Exemption of certain contracts. This chapter does not apply to:

(1) Contracts specifying a fee of less than two thousand five hundred dollars if the total of the contracts from that agency with the contractor within a fiscal year does not exceed two thousand five hundred dollars;

(2) Contracts awarded to companies that furnish a service where the tariff is established by the utilities and transportation commission or other public entity;

(3) Intergovernmental agreements awarded to any governmental entity, whether federal, state, or local and any department, division, or subdivision thereof;

(4) Contracts awarded for services to be performed for a standard fee, when the standard fee is established by the contracting agency or any other governmental entity and a like contract is available to all qualified applicants;

(5) Contracts for services that are necessary to the conduct of collaborative research if prior approval is granted by the funding source;

(6) Contracts for client services;

(7) Contracts for architectural and engineering services as defined in RCW 39.80.020, which shall be entered into under chapter 39.80 RCW;

(8) Contracts for the employment of expert witnesses for the purposes of litigation; and

(9) Contracts for bank supervision authorized under RCW 30.38.040. [1996 c 2 § 19; 1995 c 80 § 1; 1987 c 414 § 7; 1986 c 33 § 3; 1979 ex.s. c 61 § 4.]

Severability—1996 c 2: See RCW 30.38.900.

39.29.050 Contracts subject to requirements established under office of minority and women's business enterprises. All contracts entered into under this chapter on or after September 1, 1983, are subject to the requirements established under chapter 39.19 RCW. [1983 c 120 § 12.]

Effective date—Applicability—Severability—Conflict with federal requirements—1983 c 120: See RCW 39.19.910, 39.19.920.

39.29.055 Contracts—Filing—Public inspection—Review and approval. (1) State-funded personal service contracts subject to competitive solicitation shall be filed with the office of financial management and the joint legislative audit and review committee and made available for public inspection at least ten working days before the proposed starting date of the contract.

(2) The office of financial management shall review and approve state-funded personal service contracts subject to competitive solicitation that provide services relating to management consulting, organizational development, market-

ing, communications, employee training, or employee recruiting. [1996 c 288 § 32; 1993 c 433 § 7.]

39.29.065 Office of financial management to establish procedures. To implement this chapter, the director of the office of financial management shall establish procedures for the competitive solicitation and award of personal service contracts, recordkeeping requirements, and procedures for the reporting and filing of contracts. For reporting purposes, the director may establish categories for grouping of contracts. The procedures required under this section shall also include the criteria for amending personal service contracts. [1987 c 414 § 8.]

39.29.068 Office of financial management to maintain list of contracts—Report to legislature. The office of financial management shall maintain a publicly available list of all personal service contracts entered into by state agencies during each fiscal year. The list shall identify the contracting agency, the contractor, the purpose of the contract, effective dates and periods of performance, the cost of the contract and funding source, any modifications to the contract, and whether the contract was competitively procured or awarded on a sole source basis. The office of financial management shall also ensure that state accounting definitions and procedures are consistent with RCW 39.29.006 and permit the reporting of personal services expenditures by agency and by type of service. Designations of type of services shall include, but not be limited to, management and organizational services, legal and expert witness services, financial services, computer and information services, social or technical research, marketing, communications, and employee training or recruiting services. The office of financial management shall report annually to the fiscal committees of the senate and house of representatives on sole source contracts filed under this chapter. The report shall describe: (1) The number and aggregate value of contracts for each category established in this section; (2) the number and aggregate value of contracts of two thousand five hundred dollars or greater but less than ten thousand dollars; (3) the number and aggregate value of contracts of ten thousand dollars or greater; (4) the justification provided by agencies for the use of sole source contracts; and (5) any trends in the use of sole source contracts. [1993 c 433 § 8.]

39.29.075 Summary reports on contracts. As requested by the legislative auditor, the office of financial management shall provide information on contracts filed under this chapter for use in preparation of summary reports on personal services contracts. [1987 c 414 § 9.]

39.29.900 Severability—1987 c 414. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 414 § 13.]

Chapter 39.30

CONTRACTS—INDEBTEDNESS LIMITATIONS—
COMPETITIVE BIDDING VIOLATIONS

Sections

- 39.30.010 Executory conditional sales contracts for purchase of property—Limit on indebtedness—Election, when.
- 39.30.020 Contracts requiring competitive bidding—Violations by municipal officer—Penalties.
- 39.30.040 Purchases—Competitive bidding—Local governments may consider tax revenues—Purchase of recycled or reused materials or products.
- 39.30.045 Purchase at auctions.
- 39.30.050 Contracts to require use of paper products meeting certain specifications.
- 39.30.060 Bids on public works—Subcontractors must be identified—When.

39.30.010 Executory conditional sales contracts for purchase of property—Limit on indebtedness—Election, when. Any city or town or metropolitan park district or county or library district may execute an executory conditional sales contract with a county or counties, the state or any of its political subdivisions, the government of the United States, or any private party for the purchase of any real or personal property, or property rights in connection with the exercise of any powers or duties which they now or hereafter are authorized to exercise, if the entire amount of the purchase price specified in such contract does not result in a total indebtedness in excess of three-fourths of one percent of the value of the taxable property in such city or town or metropolitan park district or county or library district: PROVIDED, That if such a proposed contract would result in a total indebtedness in excess of three-fourths of one percent of the value of the taxable property of such city or town or metropolitan park district or county or library district, as the case may be, a proposition in regard to whether or not such a contract may be executed shall be submitted to the voters for approval or rejection in the same manner that bond issues for capital purposes are submitted to the voters: PROVIDED FURTHER, That any city or town or metropolitan park district or county or library district may jointly execute contracts authorized by this section, if the entire amount of the purchase price does not result in a joint total indebtedness in excess of three-fourths of one percent of the value of the taxable property in such city or town or metropolitan park district or county or library district. The term "value of the taxable property" shall have the meaning set forth in RCW 39.36.015. [1970 ex.s. c 42 § 26; 1963 c 92 § 1; 1961 c 158 § 1.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

39.30.020 Contracts requiring competitive bidding—Violations by municipal officer—Penalties. In addition to any other remedies or penalties contained in any law, municipal charter, ordinance, resolution or other enactment, any municipal officer by or through whom or under whose supervision, in whole or in part, any contract is made in wilful and intentional violation of any law, municipal charter, ordinance, resolution or other enactment requiring competitive bidding upon such contract shall be held liable to a civil penalty of not less than three hundred dollars

and may be held liable, jointly and severally with any other such municipal officer, for all consequential damages to the municipal corporation. If, as a result of a criminal action, the violation is found to have been intentional, the municipal officer shall immediately forfeit his office. For purposes of this section, "municipal officer" shall mean an "officer" or "municipal officer" as those terms are defined in RCW 42.23.020(2). [1974 ex.s. c 74 § 1.]

Contracts by cities or towns, bidding requirements: RCW 35.23.352.

39.30.040 Purchases—Competitive bidding—Local governments may consider tax revenues—Purchase of recycled or reused materials or products. (1) Whenever a unit of local government is required to make purchases from the lowest bidder or from the supplier offering the lowest price for the items desired to be purchased, the unit of local government may, at its option when awarding a purchase contract, take into consideration tax revenue it would receive from purchasing the supplies, materials, or equipment from a supplier located within its boundaries. The unit of local government must award the purchase contract to the lowest bidder after such tax revenue has been considered. However, any local government may allow for preferential purchase of products made from recycled materials or products that may be recycled or reused. The tax revenues which units of local government may consider include sales taxes that the unit of local government imposes upon the sale of such supplies, materials, or equipment from the supplier to the unit of local government, and business and occupation taxes that the unit of local government imposes upon the supplier that are measured by the gross receipts of the supplier from such sale. Any unit of local government which considers tax revenues it would receive from the imposition of taxes upon a supplier located within its boundaries, shall also consider tax revenues it would receive from taxes it imposes upon a supplier located outside its boundaries.

(2) As used in this section, the term "unit of local government" means any county, city, town, metropolitan municipal corporation, public transit benefit area, county transportation authority, or other municipal or quasi-municipal corporation authorized to impose sales and use taxes or business and occupation taxes. [1989 c 431 § 58; 1985 c 72 § 1.]

Severability—1989 c 431: See RCW 70.95.901.

39.30.045 Purchase at auctions. Any municipality, as defined in RCW 39.04.010, may purchase any supplies, equipment, or materials at auctions conducted by the government of the United States or any agency thereof, any agency of the state of Washington, any municipality or other government agency, or any private party without being subject to public bidding requirements if the items can be obtained at a competitive price. [1993 c 198 § 4; 1991 c 363 § 112.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

39.30.050 Contracts to require use of paper products meeting certain specifications. Any contract by a governmental unit shall require the use of paper products to

the maximum extent economically feasible that meet the specifications established by the department of general administration under RCW 43.19.538. [1982 c 61 § 4.]

39.30.060 Bids on public works—Subcontractors must be identified—When. Every invitation to bid on a contract that is expected to cost in excess of one hundred thousand dollars for the construction, alteration, or repair of any public building or public work of the state or a state agency or municipality as defined under RCW 39.04.010, an institution of higher education as defined under RCW 28B.10.016, or a school district shall require each bidder to submit as part of the bid, or within one hour after the published bid submittal time, the names of the subcontractors whose subcontract amount is more than ten percent of the bid price with whom the bidder, if awarded the contract, will subcontract for performance of the work designated on the list to be submitted with the bid. Failure to name such subcontractors shall render the bidder's bid nonresponsive and, therefore, void. [1995 c 94 § 1; 1994 c 91 § 1; 1993 c 378 § 1.]

Application—1994 c 91: "This act applies prospectively only and not retroactively. It applies only to invitations to bid issued on or after June 9, 1994." [1994 c 91 § 2.]

Application—1993 c 378: "This act applies prospectively only and not retroactively. It applies only to invitations to bid issued on or after July 25, 1993." [1993 c 378 § 2.]

Chapter 39.32

PURCHASE OF FEDERAL PROPERTY

Sections

- 39.32.010 Definitions.
- 39.32.020 Acquisition of surplus property authorized.
- 39.32.030 "Surplus property purchase revolving fund" created.
- 39.32.035 Administration and use of revolving fund—Director's authority to lease and acquire surplus property.
- 39.32.040 Procedure to purchase—Requisitions—Price at which sold—Disposition of proceeds—Duties of governor.
- 39.32.050 Deposit of revolving fund—Bond or collateral.
- 39.32.060 Rules and regulations.
- 39.32.070 Purchase of property from federal government authorized—Authority to contract—Bidding—Payment.
- 39.32.080 Purchase of property from federal government authorized—Inconsistent provisions suspended.
- 39.32.090 Purchases by political subdivisions from or through United States authorized.

Authority of counties to receive and distribute federal surplus commodities to needy: RCW 36.39.040.

State purchasing and material control director: RCW 43.19.190.

Public assistance recipients, certification of to receive federal surplus commodities: RCW 74.04.340 through 74.04.360.

39.32.010 Definitions. For the purposes of RCW 39.32.010 through 39.32.060:

The term "eligible donee" means any public agency carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety; or nonprofit educational or public health institutions or organizations, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child care

centers, radio and television stations licensed by the federal communications commission as educational radio or educational television stations, museums attended by the public, and public libraries serving all residents of a community, district, state, or region, and which are exempt from taxation under Section 501 of the Internal Revenue Code of 1954, for purposes of education or public health, including research for any such purpose.

The term "public agency" means the state or any subdivision thereof, including any unit of local government, economic development district, emergency services organization, or any instrumentality created by compact or other agreement between the state and a political subdivision, or any Indian tribe, band, group, or community located on a state reservation.

The term "surplus property" means any property, title to which is in the federal, state, or local government or any department or agency thereof, and which property is to be disposed of as surplus under any act of congress or the legislature or local statute, heretofore or hereafter enacted providing for such disposition. [1995 c 137 § 2; 1977 ex.s. c 135 § 1; 1967 ex.s. c 70 § 1; 1945 c 205 § 1; Rem. Supp. 1945 § 10322-60.]

39.32.020 Acquisition of surplus property authorized. The director of general administration is hereby authorized to purchase, lease or otherwise acquire from federal, state, or local government or any surplus property disposal agency thereof surplus property to be used in accordance with the provisions of this chapter. [1995 c 137 § 3; 1977 ex.s. c 135 § 2; 1967 ex.s. c 70 § 2; 1945 c 205 § 2; Rem. Supp. 1945 § 10322-61.]

Authority of superintendent of public instruction to acquire federal surplus or donated food commodities for school district hot lunch program: Chapter 28A.235 RCW.

39.32.030 "Surplus property purchase revolving fund" created. There is created in the department of general administration a revolving fund to be designated the surplus property purchase revolving fund, and there is hereby appropriated to said revolving fund from the general fund for the fiscal biennium ending March 31, 1947, the sum of five million dollars or so much thereof as shall be necessary. The director shall have power, with the approval of the governor, to transfer so much of this appropriation to the revolving fund from time to time as he may deem necessary to maintain said fund in a condition adequate to carry out the purposes of RCW 39.32.010 through 39.32.060. [1967 ex.s. c 70 § 3; 1945 c 205 § 3; Rem. Supp. 1945 § 10322-62. FORMER PART OF SECTION: 1945 c 205 § 4 now codified as RCW 39.32.035.]

39.32.035 Administration and use of revolving fund—Director's authority to lease and acquire surplus property. The surplus property purchase revolving fund shall be administered by the director of general administration and be used for the purchase, lease or other acquisition from time to time of surplus property from any federal, state, or local government surplus property disposal agency. The director may purchase, lease or acquire such surplus property on the requisition of an eligible donee and without such

requisition at such time or times as he deems it advantageous to do so; and in either case he shall be responsible for the care and custody of the property purchased so long as it remains in his possession. [1995 c 137 § 4; 1977 ex.s. c 135 § 3; 1967 ex.s. c 70 § 4; 1945 c 205 § 4; Rem. Supp. 1945 § 10322-63. Formerly RCW 39.32.030, part.]

39.32.040 Procedure to purchase—Requisitions—Price at which sold—Disposition of proceeds—Duties of governor. In purchasing federal surplus property on requisition for any eligible donee the director may advance the purchase price thereof from the surplus property purchase revolving fund, and he shall then in due course bill the proper eligible donee for the amount paid by him for the property plus a reasonable amount to cover the expense incurred by him in connection with the transaction. In purchasing surplus property without requisition, the director shall be deemed to take title outright and he shall then be authorized to resell from time to time any or all of such property to such eligible donees as desire to avail themselves of the privilege of purchasing. All moneys received in payment for surplus property from eligible donees shall be deposited by the director in the surplus property purchase revolving fund. The director shall sell federal surplus property to eligible donees at a price sufficient only to reimburse the surplus property purchase revolving fund for the cost of the property to the fund, plus a reasonable amount to cover expenses incurred in connection with the transaction. Where surplus property is transferred to an eligible donee without cost to the transferee, the director may impose a reasonable charge to cover expenses incurred in connection with the transaction. The governor, through the director of general administration, shall administer the surplus property program in the state and shall perform or supervise all those functions with respect to the program, its agencies and instrumentalities. [1995 c 137 § 5; 1977 ex.s. c 135 § 4; 1967 ex.s. c 70 § 5; 1945 c 205 § 5; Rem. Supp. 1945 § 10322-64.]

39.32.050 Deposit of revolving fund—Bond or collateral. The surplus property purchase revolving fund shall be deposited by the director in such banks as he may select, but any such depositary shall furnish a surety bond executed by a surety company or companies authorized to do business in the state of Washington, or collateral eligible as security for deposit of state funds, in at least the full amount of the deposit in each depositary bank. Moneys shall be paid from the surplus property purchase revolving fund by voucher and check in such form and in such manner as shall be prescribed by the director. [1945 c 205 § 6; Rem. Supp. 1945 § 10322-65.]

State depositaries: Chapter 43.85 RCW.

39.32.060 Rules and regulations. The director of general administration shall have power to promulgate such rules and regulations as may be necessary to effectuate the purposes of RCW 39.32.010 through 39.32.060 and to carry out the provisions of the Federal Property and Administrative Services Act of 1949, as amended. [1977 ex.s. c 135 § 5; 1967 ex.s. c 70 § 6; 1945 c 205 § 7; Rem. Supp. 1945 § 10322-66.]

39.32.070 Purchase of property from federal government authorized—Authority to contract—Bidding—Payment. The state of Washington, through any department, division, bureau, board, commission, authority, or agency thereof, and all counties, cities, towns, and other political subdivisions thereof, is hereby authorized to enter into any contract with the United States of America, or with any agency thereof, for the purchase of any equipment, supplies, materials, or other property, without regard to the provisions of any law requiring the advertising, giving of notices, inviting or receiving bids, or which may require the delivery of purchases before payment, and to this end the executive head of any such department, division, bureau, board, commission, authority, or agency of the state, the county commissioners and the executive authority of any city or town, may designate by appropriate resolution or order any office holder or employee of its own to enter a bid or bids in its behalf at any sale of any equipment, supplies, material or other property real or personal owned by the United States of America or any agency thereof, and may authorize said person to make any down payment, or payment in full, required in connection with such bidding. [1945 c 180 § 1; Rem. Supp. 1945 § 10322-50. FORMER PART OF SECTION: 1945 c 88 § 1 now codified as RCW 39.32.090.]

39.32.080 Purchase of property from federal government authorized—Inconsistent provisions suspended. Any provisions of any law, charter, ordinance, resolution, bylaw, rule or regulation which are inconsistent with the provisions of RCW 39.32.070 and 39.32.080 are suspended to the extent such provisions are inconsistent herewith. [1945 c 180 § 2; Rem. Supp. 1945 § 10322-51.]

39.32.090 Purchases by political subdivisions from or through United States authorized. Whenever authorized by ordinance or resolution of its legislative authority any political subdivision of the state shall have power to purchase supplies, materials and/or equipment from or through the United States government without calling for bids, notwithstanding any law or charter provision to the contrary. [1945 c 88 § 1; Rem. Supp. 1945 § 10322-40. Formerly RCW 39.32.070, part.]

Chapter 39.33

INTERGOVERNMENTAL DISPOSITION OF PROPERTY

Sections

- 39.33.010 Sale, exchange, transfer, lease of public property authorized—Section deemed alternative.
- 39.33.020 Disposal of surplus property—Hearing—Notice.
- 39.33.050 Public mass transportation systems—Contracts for services or use.
- 39.33.060 Transfer of property or contract for use for park and recreational purposes.
- 39.33.070 School districts and libraries—Disposal of obsolete or surplus reading materials—Procedures.

39.33.010 Sale, exchange, transfer, lease of public property authorized—Section deemed alternative. (1) The state or any municipality or any political subdivision

thereof, may sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or property rights, including but not limited to the title to real property, to the state or any municipality or any political subdivision thereof, or the federal government, on such terms and conditions as may be mutually agreed upon by the proper authorities of the state and/or the subdivisions concerned.

(2) This section shall be deemed to provide an alternative method for the doing of the things authorized herein, and shall not be construed as imposing any additional condition upon the exercise of any other powers vested in the state, municipalities or political subdivisions.

(3) No intergovernmental transfer, lease, or other disposition of property made pursuant to any other provision of law prior to May 23, 1972 shall be construed to be invalid solely because the parties thereto did not comply with the procedures of this section. [1981 c 96 § 1; 1973 c 109 § 1; 1972 ex.s. c 95 § 1; 1953 c 133 § 1.]

Exchange of county tax title lands with other governmental agencies: Chapter 36.35 RCW.

39.33.020 Disposal of surplus property—Hearing—Notice. Before disposing of surplus property with an estimated value of more than fifty thousand dollars, the state or a political subdivision shall hold a public hearing in the county where the property or the greatest portion thereof is located. At least ten days but not more than twenty-five days prior to the hearing, there shall be published a public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing at least once in a newspaper of general circulation in the area where the property is located. A news release pertaining to the hearing shall be disseminated among printed and electronic media in the area where the property is located. If real property is involved, the public notice and news release shall identify the property using a description which can easily be understood by the public. If the surplus is real property, the public notice and news release shall also describe the proposed use of the lands involved. If there is a failure to substantially comply with the procedures set forth in this section, then the sale, transfer, exchange, lease, or other disposal shall be subject to being declared invalid by a court. Any such suit must be brought within one year from the date of the disposal agreement. [1995 c 123 § 1; 1981 c 96 § 2.]

39.33.050 Public mass transportation systems—Contracts for services or use. The legislative body of any municipal corporation, quasi municipal corporation or political subdivision of the state of Washington authorized to develop and operate a public mass transportation system shall have power to contract with the legislative body of any other municipal corporation, quasi municipal corporation or political subdivision of the state of Washington, or with any person, firm or corporation for public transportation services or for the use of all or any part of any publicly owned transportation facilities for such period and under such terms and conditions and upon such rentals, fees and charges as the legislative body operating such public transportation system may determine, and may pledge all or any portion of such rentals, fees and charges and all other revenue derived from the ownership or operation of publicly owned transpor-

tation facilities to pay and to secure the payment of general obligation bonds and/or revenue bonds of such municipality issued for the purpose of acquiring or constructing a public mass transportation system. [1969 ex.s. c 255 § 16.]

Construction—Severability—1969 ex.s. c 255: See notes following RCW 35.58.272.

Public transportation systems: RCW 35.58.272 through 35.58.2792.

39.33.060 Transfer of property or contract for use for park and recreational purposes. Any governmental unit, as defined in RCW 36.93.020(1) as it now exists or is hereafter amended, may convey its real or personal property or any interest or right therein to, or contract for the use of such property by, the county or park and recreation district wherein such property is located for park or recreational purposes, by private negotiation and upon such terms and with such consideration as might be mutually agreed to by such governmental unit and the board of county commissioners or the park and recreation district board of commissioners. [1971 ex.s. c 243 § 7.]

Severability—1971 ex.s. c 243: See RCW 84.34.920.

39.33.070 School districts and libraries—Disposal of obsolete or surplus reading materials—Procedures. Any school district or educational service district, after complying with the requirements of RCW 28A.335.180, and any library, as defined in RCW 27.12.010, may dispose of surplus or obsolete books, periodicals, newspapers, and other reading materials as follows:

(1) If the reading materials are estimated to have value as reading materials in excess of one thousand dollars, they shall be sold at public auction to the person submitting the highest reasonable bid following publication of notice of the auction in a newspaper with a general circulation in the library or school district.

(2) If no reasonable bids are submitted under subsection (1) of this section or if the reading materials are estimated to have value as reading materials of one thousand dollars or less, the library or school district may directly negotiate the sale of the reading materials to a public or private entity.

(3) If the reading materials are determined to have no value as reading materials or if no purchaser is found under subsection (2) of this section the reading materials may be recycled or destroyed.

These methods for disposing of surplus or obsolete reading materials shall be in addition to any other method available to libraries and school districts for disposal of the property. [1990 c 33 § 567; 1979 ex.s. c 134 § 1.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Chapter 39.34

INTERLOCAL COOPERATION ACT

Sections

- 39.34.010 Declaration of purpose.
- 39.34.020 Definitions.
- 39.34.030 Joint powers—Agreements for joint or cooperative action, requisites, effect on responsibilities of component agencies—Financing of joint projects.
- 39.34.040 Agreements to be filed—Status of interstate agreements—Real party in interest—Actions.

- 39.34.050 Duty to submit agreement to jurisdictional state officer or agency.
- 39.34.055 Public purchase agreements with public benefit nonprofit corporations.
- 39.34.060 Participating agencies may appropriate funds and provide personnel, property, and services.
- 39.34.070 Authority of joint boards to receive loans or grants.
- 39.34.080 Contracts to perform governmental activities which each contracting agency is authorized to perform.
- 39.34.085 Agreements for operation of bus services.
- 39.34.090 Agencies' contracting authority regarding electricity, utilities' powers, preserved.
- 39.34.100 Powers conferred by chapter are supplemental.
- 39.34.110 Powers otherwise prohibited by Constitutions or federal laws.
- 39.34.130 Transactions between state agencies—Charging of costs—Regulation by director of financial management.
- 39.34.140 Transactions between state agencies—Procedures for payments through transfers upon accounts.
- 39.34.150 Transactions between state agencies—Advancements.
- 39.34.160 Transactions between state agencies—Time limitation for expenditure of advance—Unexpended balance.
- 39.34.170 Transactions between state agencies—Powers and authority cumulative.
- 39.34.180 Criminal justice responsibilities—Interlocal agreements.
- 39.34.900 Short title.
- 39.34.910 Severability—1967 c 239.
- 39.34.920 Effective date—1967 c 239.

Hydroelectric resources, creation of separate legal authority by irrigation districts and cities, towns, or public utility districts: RCW 87.03.828.

Irrigation districts, creation of legal authority to carry out powers: RCW 87.03.018.

School district associations, right to mortgage or convey money security interest in association property—Limitations: RCW 28A.335.100.

School districts agreements with other governmental entities for transportation of students, the public or other noncommon school purposes—Limitations: RCW 28A.160.120.

39.34.010 Declaration of purpose. It is the purpose of this chapter to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities. [1967 c 239 § 1.]

Joint operations by municipal corporations and political subdivisions, deposit and control of funds: RCW 43.09.285.

39.34.020 Definitions. For the purposes of this chapter, the term "public agency" shall mean any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi municipal corporations, special purpose districts, and local service districts; any agency of the state government; any agency of the United States; any Indian tribe recognized as such by the federal government; and any political subdivision of another state.

The term "state" shall mean a state of the United States. [1985 c 33 § 1; 1979 c 36 § 1; 1977 ex.s. c 283 § 13; 1975 1st ex.s. c 115 § 1; 1973 c 34 § 1; 1971 c 33 § 1; 1969 c 88 § 1; 1969 c 40 § 1; 1967 c 239 § 3.]

Severability—1977 ex.s. c 283: See note following RCW 28A.310.010.

39.34.030 Joint powers—Agreements for joint or cooperative action, requisites, effect on responsibilities of component agencies—Financing of joint projects. (1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state having the power or powers, privilege or authority, and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this chapter upon a public agency.

(2) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this chapter: PROVIDED, That any such joint or cooperative action by public agencies which are educational service districts and/or school districts shall comply with the provisions of RCW 28A.320.080. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(3) Any such agreement shall specify the following:

(a) Its duration;

(b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created. Such entity may include a nonprofit corporation organized pursuant to chapter 24.03 or 24.06 RCW whose membership is limited solely to the participating public agencies or a partnership organized pursuant to chapter 25.04 RCW whose partners are limited solely to participating public agencies and the funds of any such corporation or partnership shall be subject to audit in the manner provided by law for the auditing of public funds;

(c) Its purpose or purposes;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

(e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(f) Any other necessary and proper matters.

(4) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items (a), (c), (d), (e) and (f) enumerated in subdivision (3) hereof, contain the following:

(a) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented;

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking. Any joint board is authorized to establish a special fund with a state, county, city, or district treasurer servicing an involved public agency designated "Operating fund of joint board".

(5) No agreement made pursuant to this chapter shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, the performance may be offered in satisfaction of the obligation or responsibility.

(6) Financing of joint projects by agreement shall be as provided by law. [1992 c 161 § 4; 1990 c 33 § 568; 1981 c 308 § 2; 1972 ex.s. c 81 § 1; 1967 c 239 § 4.]

Intent—1992 c 161: See note following RCW 70.44.450.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1981 c 308: See note following RCW 28A.320.080.

Joint operations by municipal corporations or political subdivisions, deposit and control of funds: RCW 43.09.285.

39.34.040 Agreements to be filed—Status of interstate agreements—Real party in interest—Actions. Prior to its entry into force, an agreement made pursuant to this chapter shall be filed with the county auditor. In the event that an agreement entered into pursuant to this chapter is between or among one or more public agencies of this state and one or more public agencies of another state or of the United States the agreement shall have the status of an interstate compact, but in any case or controversy involving performance or interpretation thereof or liability thereunder, the public agencies party thereto shall be real parties in interest and the state may maintain an action to recoup or otherwise make itself whole for any damages or liability which it may incur by reason of being joined as a party therein. Such action shall be maintainable against any public agency or agencies whose default, failure of performance, or other conduct caused or contributed to the incurring of damage or liability by the state. [1995 c 22 § 1; 1992 c 161 § 5; 1967 c 239 § 5.]

Intent—1992 c 161: See note following RCW 70.44.450.

39.34.050 Duty to submit agreement to jurisdictional state officer or agency. In the event that an agreement made pursuant to this chapter shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control. The agreement shall be approved or disapproved by the state officer or agency with regard to matters within his, her, or its jurisdiction within ninety days after receipt of the agreement. If a state officer or agency fails to act within the ninety-day time limit, the agreement shall be deemed approved by that state officer or agency. [1992 c 161 § 6; 1967 c 239 § 6.]

Intent—1992 c 161: See note following RCW 70.44.450.

39.34.055 Public purchase agreements with public benefit nonprofit corporations. The office of state procurement within the department of general administration may enter into an agreement with a public benefit nonprofit corporation to allow the public benefit nonprofit corporation to participate in state contracts for purchases administered by

the office of state procurement. Such agreement must comply with the requirements of RCW 39.34.030 through 39.34.050. For the purposes of this section "public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03.005 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or a political subdivision of another state. [1994 c 98 § 1.]

39.34.060 Participating agencies may appropriate funds and provide personnel, property, and services. Any public agency entering into an agreement pursuant to this chapter may appropriate funds and may sell, lease, give, or otherwise supply property, personnel, and services to the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking. [1992 c 161 § 7; 1967 c 239 § 7.]

Intent—1992 c 161: See note following RCW 70.44.450.

39.34.070 Authority of joint boards to receive loans or grants. Any joint board created pursuant to the provisions of this chapter is hereby authorized to accept loans or grants of federal, state or private funds in order to accomplish the purposes of this chapter provided each of the participating public agencies is authorized by law to receive such funds. [1967 c 239 § 8.]

39.34.080 Contracts to perform governmental activities which each contracting agency is authorized to perform. Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform: PROVIDED, That such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contracting parties. [1967 c 239 § 9.]

39.34.085 Agreements for operation of bus services. In addition to the other powers granted by chapter 39.34 RCW, one or more cities or towns or a county, or any combination thereof, may enter into agreements with each other or with a public transportation agency of a contiguous state, or contiguous Canadian province, to allow a city or such other transportation agency to operate bus service for the transportation of the general public within the territorial boundaries of such city and/or county or to allow such city and/or county to operate such bus service within the jurisdiction of such other public agency when no such existing bus certificate of public convenience and necessity has been authorized by the Washington utilities and transportation commission: PROVIDED, HOWEVER, That such transportation may extend beyond the territorial boundaries of either party to the agreement if the agreement so provides, and if such service is not in conflict with existing bus service authorized by the Washington utilities and transportation commission. The provisions of this section shall be cumulative and nonexclusive and shall not affect any other right granted by this chapter or any other provision of law. [1977 c 46 § 1; 1969 ex.s. c 139 § 1.]

39.34.090 Agencies' contracting authority regarding electricity, utilities' powers, preserved. Nothing in this chapter shall be construed to increase or decrease existing authority of any public agency of this state to enter into agreements or contracts with any other public agency of this state or of any other state or the United States with regard to the generation, transmission, or distribution of electricity or the existing powers of any private or public utilities. [1967 c 239 § 10.]

39.34.100 Powers conferred by chapter are supplemental. The powers and authority conferred by this chapter shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained herein shall be construed as limiting any other powers or authority of any public agency. [1967 c 239 § 11.]

39.34.110 Powers otherwise prohibited by Constitutions or federal laws. No power, privilege, or other authority shall be exercised under this chapter where prohibited by the state Constitution or the Constitution or laws of the federal government. [1967 c 239 § 12.]

39.34.130 Transactions between state agencies—Charging of costs—Regulation by director of financial management. Except as otherwise provided by law, the full costs of a state agency incurred in providing services or furnishing materials to or for another agency under chapter 39.34 RCW or any other statute shall be charged to the agency contracting for such services or materials and shall be repaid and credited to the fund or appropriation against which the expenditure originally was charged. Amounts representing a return of expenditures from an appropriation shall be considered as returned loans of services or of goods, supplies or other materials furnished, and may be expended as part of the original appropriation to which they belong without further or additional appropriation. Such interagency transactions shall be subject to regulation by the director of financial management, including but not limited to provisions for the determination of costs, prevention of interagency contract costs beyond those which are fully reimbursable, disclosure of reimbursements in the governor's budget and such other requirements and restrictions as will promote more economical and efficient operations of state agencies.

Except as otherwise provided by law, this section shall not apply to the furnishing of materials or services by one agency to another when other funds have been provided specifically for that purpose pursuant to law. [1979 c 151 § 45; 1969 ex.s. c 61 § 1.]

Duty to submit agreement of jurisdictional state officer or agency: RCW 39.34.050.

39.34.140 Transactions between state agencies—Procedures for payments through transfers upon accounts. The director of financial management may establish procedures whereby some or all payments between state agencies may be made by transfers upon the accounts of the state treasurer in lieu of making such payments by warrant or check. Such procedures, when established, shall include provision for corresponding entries to be made in the

accounts of the affected agencies. [1979 c 151 § 46; 1969 ex.s. c 61 § 2.]

39.34.150 Transactions between state agencies—Advancements. State agencies are authorized to advance funds to defray charges for materials to be furnished or services to be rendered by other state agencies. Such advances shall be made only upon the approval of the director of financial management, or his order made pursuant to an appropriate regulation requiring advances in certain cases. An advance shall be made from the fund or appropriation available for the procuring of such services or materials, to the state agency which is to perform the services or furnish the materials, in an amount no greater than the estimated charges therefor. [1979 c 151 § 47; 1969 ex.s. c 61 § 3.]

39.34.160 Transactions between state agencies—Time limitation for expenditure of advance—Unexpended balance. An advance made under RCW 39.34.130 through 39.34.150 from appropriated funds shall be available for expenditure for no longer than the period of the appropriation from which it was made. When the actual costs of materials and services have been finally determined, and in no event later than the lapsing of the appropriation, any unexpended balance of the advance shall be returned to the agency for credit to the fund or account from which it was made. [1969 ex.s. c 61 § 4.]

39.34.170 Transactions between state agencies—Powers and authority cumulative. The powers and authority conferred by RCW 39.34.130 through 39.34.160 shall be construed as in addition and supplemental to powers or authority conferred by any other law, and not to limit any other powers or authority of any public agency expressly granted by any other statute. [1969 ex.s. c 61 § 5.]

39.34.180 Criminal justice responsibilities—Interlocal agreements. (Effective January 1, 1997.) (1) Each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, whether filed under state law or city ordinance, and must carry out these responsibilities through the use of their own courts, staff, and facilities, or by entering into contracts or interlocal agreements under this chapter to provide these services. Nothing in this section is intended to alter the statutory responsibilities of each county for the prosecution, adjudication, sentencing, and incarceration for not more than one year of felony offenders, nor shall this section apply to any offense initially filed by the prosecuting attorney as a felony offense or an attempt to commit a felony offense.

(2) The following principles must be followed in negotiating interlocal agreements or contracts: Cities and counties must consider (a) anticipated costs of services; and (b) anticipated and potential revenues to fund the services, including fines and fees, criminal justice funding, and state-authorized sales tax funding levied for criminal justice purposes.

(3) If an agreement as to the levels of compensation within an interlocal agreement or contract for gross misdemeanor and misdemeanor services cannot be reached between a city and county, then either party may invoke binding arbitration on the compensation issued by notice to the other party. In the case of establishing initial compensation, the notice shall request arbitration within thirty days. In the case of nonrenewal of an existing contract or interlocal agreement, the notice must be given one hundred twenty days prior to the expiration of the existing contract or agreement and the existing contract or agreement remains in effect until a new agreement is reached or until an arbitration award on the matter of fees is made. The city and county each select one arbitrator, and the initial two arbitrators pick a third arbitrator.

(4) For cities or towns that have not adopted, in whole or in part, criminal code or ordinance provisions related to misdemeanor and gross misdemeanor crimes as defined by state law, this section shall have no application until July 1, 1998. [1996 c 308 § 1.]

Effective date—1996 c 308: "This act shall take effect January 1, 1997." [1996 c 308 § 2.]

39.34.900 Short title. This chapter may be cited as the "Interlocal Cooperation Act." [1967 c 239 § 2.]

39.34.910 Severability—1967 c 239. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1967 c 239 § 14.]

39.34.920 Effective date—1967 c 239. The effective date of this chapter is July 1, 1967. [1967 c 239 § 15.]

Chapter 39.35

ENERGY CONSERVATION IN DESIGN OF PUBLIC FACILITIES

Sections

39.35.010	Legislative finding.
39.35.020	Legislative declaration.
39.35.030	Definitions.
39.35.040	Facility design to include life-cycle cost analysis.
39.35.050	Life-cycle cost analysis—Guidelines.
39.35.060	Life-cycle cost analysis—Review fees.
39.35.900	Severability—1975 1st ex.s. c 177.

39.35.010 Legislative finding. The legislature hereby finds:

- (1) That major publicly owned or leased facilities have a significant impact on our state's consumption of energy;
- (2) That energy conservation practices and renewable energy systems adopted for the design, construction, and utilization of such facilities will have a beneficial effect on our overall supply of energy;
- (3) That the cost of the energy consumed by such facilities over the life of the facilities shall be considered in addition to the initial cost of constructing such facilities;
- (4) That the cost of energy is significant and major facility designs shall be based on the total life-cycle cost,

including the initial construction cost, and the cost, over the economic life of a major facility, of the energy consumed, and of the operation and maintenance of a major facility as they affect energy consumption; and

(5) That the use of energy systems in these facilities which utilize renewable resources such as solar energy, wood or wood waste, or other nonconventional fuels should be considered in the design of all publicly owned or leased facilities. [1982 c 159 § 1; 1975 1st ex.s. c 177 § 1.]

Applicability—1982 c 159: "This act does not apply to a major facility construction or renovation on which a life-cycle cost analysis is commenced under chapter 39.35 RCW before June 10, 1982." [1982 c 159 § 5.]

39.35.020 Legislative declaration. The legislature declares that it is the public policy of this state to insure that energy conservation practices and renewable energy systems are employed in the design of major publicly owned or leased facilities and that the use of at least one renewable energy system is considered. To this end the legislature authorizes and directs that public agencies analyze the cost of energy consumption of each major facility to be planned and constructed or renovated after September 8, 1975. [1982 c 159 § 2; 1975 1st ex.s. c 177 § 2.]

Applicability—1982 c 159: See notes following RCW 39.35.010.

39.35.030 Definitions. For the purposes of this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.

(2) "Department" means the state department of general administration.

(3) "Major facility" means any publicly owned or leased building having twenty-five thousand square feet or more of usable floor space.

(4) "Initial cost" means the moneys required for the capital construction or renovation of a major facility.

(5) "Renovation" means additions, alterations, or repairs within any twelve-month period which exceed fifty percent of the value of a major facility and which will affect any energy system.

(6) "Economic life" means the projected or anticipated useful life of a major facility as expressed by a term of years.

(7) "Life-cycle cost" means the initial cost and cost of operation of a major facility over its economic life. This shall be calculated as the initial cost plus the operation, maintenance, and energy costs over its economic life, reflecting anticipated increases in these costs discounted to present value at the current rate for borrowing public funds, as determined by the office of financial management. The energy cost projections used shall be those provided by the department. The department shall update these projections at least every two years.

(8) "Life-cycle cost analysis" includes, but is not limited to, the following elements:

(a) The coordination and positioning of a major facility on its physical site;

(b) The amount and type of fenestration employed in a major facility;

(c) The amount of insulation incorporated into the design of a major facility;

(d) The variable occupancy and operating conditions of a major facility; and

(e) An energy-consumption analysis of a major facility.

(9) "Energy systems" means all utilities, including, but not limited to, heating, air-conditioning, ventilating, lighting, and the supplying of domestic hot water.

(10) "Energy-consumption analysis" means the evaluation of all energy systems and components by demand and type of energy including the internal energy load imposed on a major facility by its occupants, equipment, and components, and the external energy load imposed on a major facility by the climatic conditions of its location. An energy-consumption analysis of the operation of energy systems of a major facility shall include, but not be limited to, the following elements:

(a) The comparison of three or more system alternatives, at least one of which shall include renewable energy systems;

(b) The simulation of each system over the entire range of operation of such facility for a year's operating period; and

(c) The evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

The energy-consumption analysis shall be prepared by a professional engineer or licensed architect who may use computers or such other methods as are capable of producing predictable results.

(11) "Renewable energy systems" means methods of facility design and construction and types of equipment for the utilization of renewable energy sources including, but not limited to, hydroelectric power, active or passive solar space heating or cooling, domestic solar water heating, windmills, waste heat, biomass and/or refuse-derived fuels, photovoltaic devices, and geothermal energy.

(12) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source. Where these forms are electricity and thermal energy, then the operating and efficiency standards established by 18 C.F.R. Sec. 292.205 and the definitions established by 18 C.F.R. 292.202 (c) through (m) as of July 28, 1991, shall apply.

(13) "Selected buildings" means educational, office, residential care, and correctional facilities that are designed to comply with the design standards analyzed and recommended by the department.

(14) "Design standards" means the heating, air-conditioning, ventilating, and renewable resource systems identified, analyzed, and recommended by the department as providing an efficient energy system or systems based on the economic life of the selected buildings. [1996 c 186 § 402; 1994 c 242 § 1; 1991 c 201 § 14; 1982 c 159 § 3; 1975 1st ex.s. c 177 § 3.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Captions not law—Severability—1991 c 201: See RCW 39.35C.900 and 39.35C.901.

Applicability—1982 c 159: See notes following RCW 39.35.010.

39.35.040 Facility design to include life-cycle cost analysis. Whenever a public agency determines that any major facility is to be constructed or renovated, such agency shall cause to be included in the design phase of such construction or renovation a provision that requires a life-cycle cost analysis conforming with the guidelines developed in RCW 39.35.050 to be prepared for such facility. Such analysis shall be approved by the agency prior to the commencement of actual construction or renovation. A public agency may accept the facility design if the agency is satisfied that the life-cycle cost analysis provides for an efficient energy system or systems based on the economic life of the major facility.

Nothing in this section prohibits the construction or renovation of major facilities which utilize renewable energy systems. [1994 c 242 § 2; 1982 c 159 § 4; 1975 1st ex.s. c 177 § 4.]

Applicability—1982 c 159: See notes following RCW 39.35.010.

39.35.050 Life-cycle cost analysis—Guidelines. The department, in consultation with affected public agencies, shall develop and issue guidelines for administering this chapter. The purpose of the guidelines is to define a procedure and method for performance of life-cycle cost analysis to promote the selection of low-life-cycle cost alternatives. At a minimum, the guidelines must contain provisions that:

(1) Address energy considerations during the planning phase of the project;

(2) Identify energy components and system alternatives including renewable energy systems and cogeneration applications prior to commencing the energy consumption analysis;

(3) Identify simplified methods to assure the lowest life-cycle cost alternatives for selected buildings with between twenty-five thousand and one hundred thousand square feet of usable floor area;

(4) Establish times during the design process for preparation, review, and approval or disapproval of the life-cycle cost analysis;

(5) Specify the assumptions to be used for escalation and inflation rates, equipment service lives, economic building lives, and maintenance costs;

(6) Determine life-cycle cost analysis format and submittal requirements to meet the provisions of chapter 201, Laws of 1991;

(7) Provide for review and approval of life-cycle cost analysis. [1996 c 186 § 403; 1994 c 242 § 3; 1991 c 201 § 15.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Captions not law—Severability—1991 c 201: See RCW 39.35C.900 and 39.35C.901.

39.35.060 Life-cycle cost analysis—Review fees. The department may impose fees upon affected public agencies for the review of life-cycle cost analyses. The fees shall be deposited in the energy efficiency services account established in RCW 39.35C.110. The purpose of the fees is

to recover the costs by the department for review of the analyses. The department shall set fees at a level necessary to recover all of its costs related to increasing the energy efficiency of state-supported new construction. The fees shall not exceed one-tenth of one percent of the total cost of any project or exceed two thousand dollars for any project unless mutually agreed to. The department shall provide detailed calculation ensuring that the energy savings resulting from its review of life-cycle cost analysis justify the costs of performing that review. [1996 c 186 § 404; 1991 c 201 § 16.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Captions not law—Severability—1991 c 201: See RCW 39.35C.900 and 39.35C.901.

39.35.900 Severability—1975 1st ex.s. c 177. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 177 § 5.]

Chapter 39.35A

PERFORMANCE-BASED CONTRACTS FOR ENERGY EQUIPMENT

Sections

39.35A.010 Legislative finding.

39.35A.020 Definitions.

39.35A.030 Performance-based contracts for energy equipment and supplies.

39.35A.040 Application of other procurement requirements.

39.35A.010 Legislative finding. The legislature finds that:

(1) Conserving energy in publicly owned buildings will have a beneficial effect on our overall supply of energy;

(2) Conserving energy in publicly owned buildings can result in cost savings for taxpayers; and

(3) Performance-based energy contracts are a means by which municipalities can achieve energy conservation without capital outlay.

Therefore, the legislature declares that it is the policy that a municipality may, after a competitive selection process, negotiate a performance-based energy contract with a firm that offers the best proposal. [1985 c 169 § 1.]

39.35A.020 Definitions. Unless the context clearly indicates otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Energy equipment and services" means any equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies, including but not limited to design, engineering, financing, installation, project management, guarantees, operations, and maintenance.

(2) "Municipality" has the definition provided in RCW 39.04.010.

(3) "Performance-based contract" means one or more contracts for energy equipment and services between a

municipality and any other persons or entities, if the payment obligation for each year under the contract, including the year of installation, is either: (a) Set as a percentage of the annual energy cost savings attributable under the contract to the energy equipment and services; or (b) guaranteed by the other persons or entities to be less than the annual energy cost savings attributable under the contract to the energy equipment and services. Such guarantee shall be, at the option of the municipality, a bond or insurance policy, or some other guarantee determined sufficient by the municipality to provide a level of assurance similar to the level provided by a bond or insurance policy. [1985 c 169 § 2.]

39.35A.030 Performance-based contracts for energy equipment and supplies. (1) Each municipality shall publish in advance its requirements to procure energy equipment and services under a performance-based contract. The announcement shall state concisely the scope and nature of the equipment and services for which a performance-based contract is required, and shall encourage firms to submit proposals to meet these requirements.

(2) The municipality may negotiate a fair and reasonable performance-based contract with the firm that is identified, based on the criteria that is established by the municipality, to be the firm that submits the best proposal.

(3) If the municipality is unable to negotiate a satisfactory contract with the firm that submits the best proposal, negotiations with that firm shall be formally terminated and the municipality may select another firm in accordance with this section and continue negotiation until a performance-based contract is reached or the selection process is terminated. [1985 c 169 § 3.]

39.35A.040 Application of other procurement requirements. If a municipality chooses, by resolution or other appropriate mechanism, to negotiate a performance-based contract under this chapter, no otherwise applicable statutory procurement requirement applies. [1985 c 169 § 4.]

Chapter 39.35B

LIFE-CYCLE COST ANALYSIS OF PUBLIC FACILITIES

Sections

39.35B.010 Legislative findings.

39.35B.020 Legislative declaration.

39.35B.030 Intent.

39.35B.040 Implementation.

39.35B.010 Legislative findings. The legislature finds that:

(1) Operating costs of a facility over its lifetime may greatly exceed the initial cost of the facility;

(2) In the planning, design, and funding for new construction or major renovation of state-owned facilities it is desirable to consider not only the initial costs relating to design and construction or acquisition, but the anticipated operating costs relating to the building throughout its life;

(3) The consideration of both initial and operating costs is known as life-cycle cost or life-cycle cost analysis;

(4) Operating costs of a facility for purposes of this chapter include, but are not limited to, energy costs, maintenance and repair costs, and costs of the work or activity performed within the facility, including wages and salaries;

(5) Current law, chapter 39.35 RCW, speaks to life-cycle cost analysis only in relation to energy conservation; and

(6) Life-cycle cost may not be suitable or cost-effective for all capital projects or all components of a facility, and is not an exclusive criteria for decision-making, but is nonetheless a useful framework for evaluating design and capital investment alternatives. [1986 c 127 § 1.]

39.35B.020 Legislative declaration. The legislature declares that:

(1) It is the policy of the state to consider life-cycle costs in the selection of facility design alternatives, to the full extent practical, reasonable, and cost-effective;

(2) Life-cycle cost should be considered by the state government, school districts, and state universities and community colleges in the planning, design, and funding for new construction or major renovations; and

(3) Use of life-cycle cost should be encouraged for cities, counties, and other governmental districts including special purpose districts. [1986 c 127 § 2.]

39.35B.030 Intent. It is the intent of the legislature to:

(1) Expand the definition and use of "life-cycle cost" and "life-cycle cost analysis" to include consideration of all operating costs, as opposed to only energy-related costs as addressed by chapter 39.35 RCW;

(2) Encourage the recognition, development, and use of life-cycle cost concepts and procedures by both the executive and legislative branches in the state's design development and capital budgeting processes;

(3) Ensure the dissemination and use of a common and realistic discount rate by all state agencies in the calculation of the present value of future costs;

(4) Allow and encourage the executive branch to develop specific techniques and procedures for the state government and its agencies, and state universities and community colleges to implement this policy; and

(5) Encourage cities, counties, and other governmental districts including special purpose districts to adopt programs and procedures to implement this policy. [1986 c 127 § 3.]

39.35B.040 Implementation. The principal executives of all state agencies are responsible for implementing the policy set forth in this chapter. The office of financial management in conjunction with the department of general administration may establish guidelines for compliance by the state government and its agencies, and state universities and community colleges. The office of financial management shall include within its biennial capital budget instructions:

(1) A discount rate for the use of all agencies in calculating the present value of future costs, and several examples of resultant trade-offs between annual operating costs eliminated and additional capital costs thereby justified; and

(2) Types of projects and building components that are particularly appropriate for life-cycle cost analysis. [1986 c 127 § 4.]

Chapter 39.35C

ENERGY CONSERVATION PROJECTS

Sections

- 39.35C.010 Definitions.
- 39.35C.020 State agency and school district conservation projects—Implementation—Department assistance.
- 39.35C.030 Department coordination of conservation development with utilities.
- 39.35C.040 Sale of conserved energy.
- 39.35C.050 Authority of state agencies and school districts to implement conservation.
- 39.35C.060 Authority to finance conservation in school districts and state agencies.
- 39.35C.070 Development of cogeneration projects.
- 39.35C.080 Sale of cogenerated electricity and thermal energy.
- 39.35C.090 Additional authority of state agencies.
- 39.35C.100 Energy efficiency construction account.
- 39.35C.110 Energy efficiency services account—Fees.
- 39.35C.130 Adoption of rules.
- 39.35C.900 Captions not law—1991 c 201.
- 39.35C.901 Severability—1991 c 201.

39.35C.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source. If these forms are electricity and thermal energy, then the operating and efficiency standards established by 18 C.F.R. Sec. 292.205 and the definitions established by 18 C.F.R. Sec. 292.202 (c) through (m) apply.

(2) "Conservation" means reduced energy consumption or energy cost, or increased efficiency in the use of energy, and activities, measures, or equipment designed to achieve such results, but does not include thermal or electric energy production from cogeneration.

(3) "Cost-effective" means that the present value to a state agency or school district of the energy reasonably expected to be saved or produced by a facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(4) "Energy" means energy as defined in RCW 43.21F.025(1).

(5) "Energy efficiency project" means a conservation or cogeneration project.

(6) "Energy efficiency services" means assistance furnished by the department to state agencies and school districts in identifying, evaluating, and implementing energy efficiency projects.

(7) "Department" means the state department of general administration.

(8) "Performance-based contracting" means contracts for which payment is conditional on achieving contractually specified energy savings.

(9) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.

(10) "Public facility" means a building or structure, or a group of buildings or structures at a single site, owned by a state agency or school district.

(11) "State agency" means every state office or department, whether elective or appointive, state institutions of higher education, and all boards, commissions, or divisions of state government, however designated.

(12) "State facility" means a building or structure, or a group of buildings or structures at a single site, owned by a state agency.

(13) "Utility" means privately or publicly owned electric and gas utilities, electric cooperatives and mutuals, whether located within or without Washington state.

(14) "Local utility" means the utility or utilities in whose service territory a public facility is located. [1996 c 186 § 405; 1991 c 201 § 2.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

39.35C.020 State agency and school district conservation projects—Implementation—Department assistance.

(1) Each state agency and school district shall implement cost-effective conservation improvements and maintain efficient operation of its facilities in order to minimize energy consumption and related environmental impacts and reduce operating costs.

(2) The department shall assist state agencies and school districts in identifying, evaluating, and implementing cost-effective conservation projects at their facilities. The assistance shall include the following:

(a) Notifying state agencies and school districts of their responsibilities under this chapter;

(b) Apprising state agencies and school districts of opportunities to develop and finance such projects;

(c) Providing technical and analytical support, including procurement of performance-based contracting services;

(d) Reviewing verification procedures for energy savings; and

(e) Assisting in the structuring and arranging of financing for cost-effective conservation projects.

(3) Conservation projects implemented under this chapter shall have appropriate levels of monitoring to verify the performance and measure the energy savings over the life of the project. The department shall solicit involvement in program planning and implementation from utilities and other energy conservation suppliers, especially those that have demonstrated experience in performance-based energy programs.

(4) The department shall comply with the requirements of chapter 39.80 RCW when contracting for architectural or engineering services.

(5) The department shall recover any costs and expenses it incurs in providing assistance pursuant to this section, including reimbursement from third parties participating in conservation projects. The department shall enter into a written agreement with the public agency for the recovery of costs. [1996 c 186 § 406; 1991 c 201 § 3.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

39.35C.030 Department coordination of conservation development with utilities. (1) The department shall consult with the local utilities to develop priorities for energy conservation projects pursuant to this chapter, cooperate where possible with existing utility programs, and consult with the local utilities prior to implementing projects in their service territory.

(2) A local utility shall be offered the initial opportunity to participate in the development of conservation projects in the following manner:

(a) Before initiating projects in a local utility service territory, the department shall notify the local utility in writing, on an annual basis, of public facilities in the local utility's service territory at which the department anticipates cost-effective conservation projects will be developed.

(b) Within sixty days of receipt of this notification, the local utility may express interest in these projects by submitting to the department a written description of the role the local utility is willing to perform in developing and acquiring the conservation at these facilities. This role may include any local utility conservation programs which would be available to the public facility, any competitive bidding or solicitation process which the local utility will be undertaking in accordance with the rules of the utilities and transportation commission or the public utility district, municipal utility, cooperative, or mutual governing body for which the public facility would be eligible, or any other role the local utility may be willing to perform.

(c) Upon receipt of the written description from the local utility, the department shall, through discussions with the local utility, and with involvement from state agencies and school districts responsible for the public facilities, develop a plan for coordinated delivery of conservation services and financing or make a determination of whether to participate in the local utility's competitive bidding or solicitation process. The plan shall identify the local utility in roles that the local utility is willing to perform and that are consistent with the provisions of RCW 39.35C.040(2) (d) and (e). [1996 c 186 § 407; 1991 c 201 § 4.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

39.35C.040 Sale of conserved energy. (1) It is the intent of this chapter that the state, state agencies, and school districts are compensated fairly for the energy savings provided to utilities and be allowed to participate on an equal basis in any utility conservation program, bidding, or solicitation process. State agencies and school districts shall not receive preferential treatment. For the purposes of this section, any type of compensation from a utility or the Bonneville power administration intended to achieve reductions or efficiencies in energy use which are cost-effective to the utility or the Bonneville power administration shall be regarded as a sale of energy savings. Such compensation may include credits to the energy bill, low or no interest loans, rebates, or payment per unit of energy saved. The department shall, in coordination with utilities, the Bonneville power administration, state agencies, and school districts, facilitate the sale of energy savings at public facilities including participation in any competitive bidding or solicitation which has been agreed to by the state agency or school district. Energy savings may only be sold to local

utilities or, under conditions specified in this section, to the Bonneville power administration. The department shall not attempt to sell energy savings occurring in one utility service territory to a different utility. Nothing in this chapter mandates that utilities purchase the energy savings.

(2) To ensure an equitable allocation of benefits to the state, state agencies, and school districts, the following conditions shall apply to transactions between utilities or the Bonneville power administration and state agencies or school districts for sales of energy savings:

(a) A transaction shall be approved by both the state agency or school district and the department.

(b) The state agency or school district and the department shall work together throughout the planning and negotiation process for such transactions unless the department determines that its participation will not further the purposes of this section.

(c) Before making a decision under (d) of this subsection, the department shall review the proposed transaction for its technical and economic feasibility, the adequacy and reasonableness of procedures proposed for verification of project or program performance, the degree of certainty of benefits to the state, state agency, or school district, the degree of risk assumed by the state or school district, the benefits offered to the state, state agency, or school district and such other factors as the department determines to be prudent.

(d) The department shall approve a transaction unless it finds, pursuant to the review in (c) of this subsection, that the transaction would not result in an equitable allocation of costs and benefits to the state, state agency, or school district, in which case the transaction shall be disapproved.

(e) In addition to the requirements of (c) and (d) of this subsection, in areas in which the Bonneville power administration has a program for the purchase of energy savings at public facilities, the department shall approve the transaction unless the local utility cannot offer a benefit substantially equivalent to that offered by the Bonneville power administration, in which case the transaction shall be disapproved. In determining whether the local utility can offer a substantially equivalent benefit, the department shall consider the net present value of the payment for energy savings; any goods, services, or financial assistance provided by the local utility; and any risks borne by the local utility. Any direct negative financial impact on a nongrowing, local utility shall be considered.

(3) Any party to a potential transaction may, within thirty days of any decision to disapprove a transaction made pursuant to subsection (2)(c), (d), or (e) of this section, request an independent reviewer who is mutually agreeable to all parties to the transaction to review the decision. The parties shall within thirty days of selection submit to the independent reviewer documentation supporting their positions. The independent reviewer shall render advice regarding the validity of the disapproval within an additional thirty days. [1996 c 186 § 408; 1991 c 201 § 5.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

39.35C.050 Authority of state agencies and school districts to implement conservation. In addition to any other authorities conferred by law:

(1) The department, with the consent of the state agency or school district responsible for a facility, a state or regional university acting independently, and any other state agency acting through the department of general administration or as otherwise authorized by law, may:

(a) Develop and finance conservation at public facilities in accordance with express provisions of this chapter;

(b) Contract for energy services, including performance-based contracts;

(c) Contract to sell energy savings from a conservation project at public facilities to local utilities or the Bonneville power administration.

(2) A state or regional university acting independently, and any other state agency acting through the department of general administration or as otherwise authorized by law, may undertake procurements for third-party development of conservation at its facilities.

(3) A school district may:

(a) Develop and finance conservation at school district facilities;

(b) Contract for energy services, including performance-based contracts at school district facilities; and

(c) Contract to sell energy savings from energy conservation projects at school district facilities to local utilities or the Bonneville power administration directly or to local utilities or the Bonneville power administration through third parties.

(4) In exercising the authority granted by subsections (1), (2), and (3) of this section, a school district or state agency must comply with the provisions of RCW 39.35C.040. [1996 c 186 § 409; 1991 c 201 § 6.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

39.35C.060 Authority to finance conservation in school districts and state agencies. State agencies may use financing contracts under chapter 39.94 RCW to provide all or part of the funding for conservation projects. The department shall determine the eligibility of such projects for financing contracts. The repayments of the financing contracts shall be sufficient to pay, when due, the principal and interest on the contracts. [1996 c 186 § 410; 1991 c 201 § 7.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

39.35C.070 Development of cogeneration projects.

(1) Consistent with the region's need to develop cost-effective, high efficiency electric energy resources, the state shall investigate and, if appropriate, pursue development of cost-effective opportunities for cogeneration in existing or new state facilities.

(2) To assist state agencies in identifying, evaluating, and developing potential cogeneration projects at their facilities, the department shall notify state agencies of their responsibilities under this chapter; apprise them of opportunities to develop and finance such projects; and provide technical and analytical support. The department shall recover costs for such assistance through written agreements, including reimbursement from third parties participating in

such projects, for any costs and expenses incurred in providing such assistance.

(3)(a) The department shall identify priorities for cogeneration projects at state facilities, and, where such projects are initially deemed desirable by the department and the appropriate state agency, the department shall notify the local utility serving the state facility of its intent to conduct a feasibility study at such facility. The department shall consult with the local utility and provide the local utility an opportunity to participate in the development of the feasibility study for the state facility it serves.

(b) If the local utility has an interest in participating in the feasibility study, it shall notify the department and the state agency whose facility or facilities it serves within sixty days of receipt of notification pursuant to (a) of this subsection as to the nature and scope of its desired participation. The department, state agency, and local utility shall negotiate the responsibilities, if any, of each in conducting the feasibility study, and these responsibilities shall be specified in a written agreement.

(c) If a local utility identifies a potential cogeneration project at a state facility for which it intends to conduct a feasibility study, it shall notify the department and the appropriate state agency. The department, state agency, and local utility shall negotiate the responsibilities, if any, of each in conducting the feasibility study, and these responsibilities shall be specified in a written agreement. Nothing in this section shall preclude a local utility from conducting an independent assessment of a potential cogeneration project at a state facility.

(d) Agreements written pursuant to (a) and (b) of this subsection shall include a provision for the recovery of costs incurred by a local utility in performing a feasibility study in the event such utility does not participate in the development of the cogeneration project. If the local utility does participate in the cogeneration project through energy purchase, project development or ownership, recovery of the utility's costs may be deferred or provided for through negotiation on agreements for energy purchase, project development or ownership.

(e) If the local utility declines participation in the feasibility study, the department and the state agency may receive and solicit proposals to conduct the feasibility study from other parties. Participation of these other parties shall also be secured and defined by a written agreement which may include the provision for reimbursement of costs incurred in the formulation of the feasibility study.

(4) The feasibility study shall include consideration of regional and local utility needs for power, the consistency of the proposed cogeneration project with the state energy strategy, the cost and certainty of fuel supplies, the value of electricity produced, the capability of the state agency to own and/or operate such facilities, the capability of utilities or third parties to own and/or operate such facilities, requirements for and costs of standby sources of power, costs associated with interconnection with the local electric utility's transmission system, the capability of the local electric utility to wheel electricity generated by the facility, costs associated with obtaining wheeling services, potential financial risks and losses to the state and/or state agency, measures to mitigate the financial risk to the state and/or state agency, and benefits to the state and to the state agency

from a range of design configurations, ownership, and operation options.

(5) Based upon the findings of the feasibility study, the department and the state agency shall determine whether a cogeneration project will be cost-effective and whether development of a cogeneration project should be pursued. This determination shall be made in consultation with the local utility or, if the local utility had not participated in the development of the feasibility study, with any third party that may have participated in the development of the feasibility study.

(a) Recognizing the local utility's expertise, knowledge, and ownership and operation of the local utility systems, the department and the state agency shall have the authority to negotiate directly with the local utility for the purpose of entering into a sole source contract to develop, own, and/or operate the cogeneration facility. The contract may also include provisions for the purchase of electricity or thermal energy from the cogeneration facility, the acquisition of a fuel source, and any financial considerations which may accrue to the state from ownership and/or operation of the cogeneration facility by the local utility.

(b) The department may enter into contracts through competitive negotiation under this subsection for the development, ownership, and/or operation of a cogeneration facility. In determining an acceptable bid, the department and the state agency may consider such factors as technical knowledge, experience, management, staff, or schedule, as may be necessary to achieve economical construction or operation of the project. The selection of a developer or operator of a cogeneration facility shall be made in accordance with procedures for competitive bidding under chapter 43.19 RCW.

(c) The department shall comply with the requirements of chapter 39.80 RCW when contracting for architectural or engineering services.

(6)(a) The state may own and/or operate a cogeneration project at a state facility. However, unless the cogeneration project is determined to be cost-effective, based on the findings of the feasibility study, the department and state agency shall not pursue development of the project as a state-owned facility. If the project is found to be cost-effective, and the department and the state agency agree development of the cogeneration project should be pursued as a state-owned and/or operated facility, the department shall assist the state agency in the preparation of a finance and development plan for the cogeneration project. Any such plan shall fully account for and specify all costs to the state for developing and/or operating the cogeneration facility.

(b) It is the general intent of this chapter that cogeneration projects developed and owned by the state will be sized to the projected thermal energy load of the state facility over the useful life of the project. The principal purpose and use of such projects is to supply thermal energy to a state facility and not primarily to develop generating capacity for the sale of electricity. For state-owned projects with electricity production in excess of projected thermal requirements, the department shall seek and obtain legislative appropriation and approval for development. Nothing in chapter 201, Laws of 1991 shall be construed to authorize

any state agency to sell electricity or thermal energy on a retail basis.

(7) When a cogeneration facility will be developed, owned, and/or operated by a state agency or third party other than the local serving utility, the department and the state agency shall negotiate a written agreement with the local utility. Elements of such an agreement shall include provisions to ensure system safety, provisions to ensure reliability of any interconnected operations equipment necessary for parallel operation and switching equipment capable of isolating the generation facility, the provision of and reimbursement for standby services, if required, and the provision of and reimbursement for wheeling electricity, if the provision of such has been agreed to by the local utility.

(8) The state may develop and own a thermal energy distribution system associated with a cogeneration project for the principal purpose of distributing thermal energy at the state facility. If thermal energy is to be sold outside the state facility, the state may only sell the thermal energy to a utility. [1996 c 186 § 411; 1991 c 201 § 8.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

39.35C.080 Sale of cogenerated electricity and thermal energy. It is the intention of chapter 201, Laws of 1991 that the state and its agencies are compensated fairly for the energy provided to utilities from cogeneration at state facilities. Such compensation may include revenues from sales of electricity or thermal energy to utilities, lease of state properties, and value of thermal energy provided to the facility. It is also the intent of chapter 201, Laws of 1991 that the state and its agencies be accorded the opportunity to compete on a fair and reasonable basis to fulfill a utility's new resource acquisition needs when selling the energy produced from cogeneration projects at state facilities through energy purchase agreements.

(1)(a) The department and state agencies may participate in any utility request for resource proposal process, as either established under the rules and regulations of the utilities and transportation commission, or by the governing board of a public utility district, municipal utility, cooperative, or mutual.

(b) If a local utility does not have a request for resource proposal pending, the energy office [department] or a state agency may negotiate an equitable and mutually beneficial energy purchase agreement with that utility.

(2) To ensure an equitable allocation of benefits to the state and its agencies, the following conditions shall apply to energy purchase agreements negotiated between utilities and state agencies:

(a) An energy purchase agreement shall be approved by both the department and the affected state agency.

(b) The department and the state agency shall work together throughout the planning and negotiation process for energy purchase agreements, unless the department determines that its participation will not further the purposes of this section.

(c) Before approving an energy purchase agreement, the department shall review the proposed agreement for its technical and economic feasibility, the degree of certainty of benefits, the degree of financial risk assumed by the state and/or the state agency, the benefits offered to the state

and/or state agency, and other such factors as the department deems prudent. The department shall approve an energy purchase agreement unless it finds that such an agreement would not result in an equitable allocation of costs and benefits, in which case the transaction shall be disapproved.

(3)(a) The state or state agency shall comply with and shall be bound by applicable avoided cost schedules, electric power wheeling charges, interconnection requirements, utility tariffs, and regulatory provisions to the same extent it would be required to comply and would be bound if it were a private citizen. The state shall neither seek regulatory advantage, nor change regulations, regulatory policy, process, or decisions to its advantage as a seller of cogenerated energy. Nothing contained in chapter 201, Laws of 1991 shall be construed to mandate or require public or private utilities to wheel electric energy resources within or beyond their service territories. Nothing in chapter 201, Laws of 1991 authorizes any state agency or school district to make any sale of energy or waste heat beyond the explicit provisions of chapter 201, Laws of 1991. Nothing contained in chapter 201, Laws of 1991 requires a utility to purchase energy from the state or a state agency or enter into any agreement in connection with a cogeneration facility.

(b) The state shall neither construct, nor be party to an agreement for developing a cogeneration project at a state facility for the purpose of supplying its own electrical needs, unless it can show that such an arrangement would be in the economic interest of the state taking into account the cost of (i) interconnection requirements, as specified by the local electric utility, (ii) standby charges, as may be required by the local electric utility, and (iii) the current price of electricity offered by the local electric utility. If the local electric utility can demonstrate that the cogeneration project may place an undue burden on the electric utility, the department or the state agency shall attempt to negotiate a mutually beneficial agreement that would minimize the burden upon the ratepayers of the local electric utility.

(4) Any party to an energy purchase agreement may, within thirty days of any decision made pursuant to subsection (2)(c) of this section to disapprove the agreement made pursuant to this section, request an independent reviewer who is mutually agreeable to all parties to review the decision. The parties shall within thirty days of selection submit to the independent reviewer documentation supporting their positions. The independent reviewer shall render advice regarding the validity of the disapproval within an additional thirty days.

(5) For the purposes of this section, "waste heat" means the thermal energy that otherwise would be released to the environment from an industrial process, electric generation, or other process. [1996 c 186 § 412; 1996 c 33 § 4; 1991 c 201 § 9.]

Reviser's note: This section was amended by 1996 c 33 § 4 and by 1996 c 186 § 412, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Findings—1996 c 33: See note following RCW 80.04.550.

39.35C.090 Additional authority of state agencies. In addition to any other authorities conferred by law:

(1) The department, with the consent of the state agency responsible for a facility, a state or regional university acting independently, and any other state agency acting through the department of general administration or as otherwise authorized by law, may:

(a) Contract to sell electric energy generated at state facilities to a utility; and

(b) Contract to sell thermal energy produced at state facilities to a utility.

(2) A state or regional university acting independently, and any other state agency acting through the department of general administration or as otherwise authorized by law, may:

(a) Acquire, install, permit, construct, own, operate, and maintain cogeneration and facility heating and cooling measures or equipment, or both, at its facilities;

(b) Lease state property for the installation and operation of cogeneration and facility heating and cooling equipment at its facilities;

(c) Contract to purchase all or part of the electric or thermal output of cogeneration plants at its facilities;

(d) Contract to purchase or otherwise acquire fuel or other energy sources needed to operate cogeneration plants at its facilities; and

(e) Undertake procurements for third-party development of cogeneration projects at its facilities, with successful bidders to be selected based on the responsible bid, including nonprice elements listed in RCW 43.19.1911, that offers the greatest net achievable benefits to the state and its agencies.

(3) After July 28, 1991, a state agency shall consult with the department prior to exercising any authority granted by this section.

(4) In exercising the authority granted by subsections (1) and (2) of this section, a state agency must comply with the provisions of RCW 39.35C.080. [1996 c 186 § 413; 1991 c 201 § 10.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

39.35C.100 Energy efficiency construction account.

(1) The energy efficiency construction account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation and only for the following purposes:

(a) Construction of energy efficiency projects, including project evaluation and verification of benefits, project design, project development, project construction, and project administration.

(b) Payment of principal and interest and other costs required under bond covenant on bonds issued for the purpose of (a) of this subsection.

(2) Sources for this account may include:

(a) General obligation and revenue bond proceeds appropriated by the legislature;

(b) Loan repayments under RCW 39.35C.060 sufficient to pay principal and interest obligations; and

(c) Funding from federal, state, and local agencies. [1996 c 186 § 414; 1991 c 201 § 11.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

39.35C.110 Energy efficiency services account—Fees. (1) The energy efficiency services account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the department to provide energy efficiency services to public agencies including review of life-cycle cost analyses.

(2) All receipts from the following source shall be deposited into the account: Project fees charged under this section and RCW 39.35C.020, 39.35C.070, and 39.35.060.

(3) The department may accept moneys and make deposits to the account from federal, state, or local government agencies. [1996 c 186 § 415; 1991 c 201 § 12.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

39.35C.130 Adoption of rules. The department may adopt rules to implement RCW 39.35C.020 through 39.35C.040, 39.35C.070, 39.35C.080, and 39.35.050. [1996 c 186 § 416; 1991 c 201 § 17.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

39.35C.900 Captions not law—1991 c 201. Captions as used in chapter 201, Laws of 1991 constitute no part of the law. [1991 c 201 § 22.]

39.35C.901 Severability—1991 c 201. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 201 § 24.]

Chapter 39.36

LIMITATION OF INDEBTEDNESS OF TAXING DISTRICTS

Sections

- 39.36.010 Definitions.
- 39.36.015 "Value of the taxable property" defined.
- 39.36.020 Limitation of indebtedness prescribed.
- 39.36.030 Computation of indebtedness.
- 39.36.040 Authorizations in violation of chapter void.
- 39.36.050 Ballot proposition authorizing indebtedness—Excess property tax levies.
- 39.36.060 Chapter not applicable to loan agreements under chapter 39.69 RCW.
- 39.36.900 Validation—1969 c 142.

Limitation of state debt: State Constitution Art. 8 § 1.

Limitation on levies: State Constitution Art. 7 § 2.

Limitations on municipal indebtedness: State Constitution Art. 8 § 6.

39.36.010 Definitions. The term "taxing district" as herein used shall be held to mean and embrace all counties, cities, towns, townships, port districts, school districts, metropolitan park districts or other municipal corporations which now, or may hereafter exist.

The term "the last assessed valuation of the taxable property in such taxing district" as used herein shall be held to mean and embrace the aggregate assessed valuation for such taxing district as placed on the last completed and balanced tax rolls of the county next preceding the date of

contracting the debt or incurring the liability. [1917 c 143 § 4; RRS § 5608.]

39.36.015 "Value of the taxable property" defined. Whenever used in *this 1970 amendatory act, the term "value of the taxable property" shall mean the actual value of the taxable property in a taxing district incurring indebtedness, as the term "taxing district" is defined in RCW 39.36.010, to be ascertained by the last assessment for state and county purposes previous to the incurring of such indebtedness except that in incorporated cities the assessment shall be taken from the last assessment for city purposes, plus the timber assessed value for the district as defined in RCW 84.33.035. [1984 c 204 § 15; 1970 ex.s. c 42 § 1.]

***Reviser's note:** The phrase "this 1970 amendatory act" refers to 1970 ex.s. c 42, which amended RCW 39.36.015, 27.12.070, 27.12.222, 28A.47.801, 28A.51.010, 28A.51.020, 28A.58.550, 35.37.040, 35.58.450, 35.61.100, 35.61.110, 35A.40.090, 36.67.010, 36.67.020, 36.68.520, 36.69.140, 36.76.010, 36.76.080, 37.16.010, 37.16.020, 39.28.030, 39.30.010, 39.36.020, 47.57.530, 52.08.080, 52.16.080, 53.08.030, 53.36.030, 54.24.018, 56.16.050, 57.20.110, 57.20.120, 88.32.230, 89.30.400, 89.30.403, and 86.05.920.

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Severability—1970 ex.s. c 42: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1970 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 42 § 41.]

Effective date—1970 ex.s. c 42: "The effective date of this 1970 amendatory act is November 1, 1970." [1970 ex.s. c 42 § 42.]

39.36.020 Limitation of indebtedness prescribed.

(1) Except as otherwise expressly provided by law or in subsections (2), (3) and (4) of this section, no taxing district shall for any purpose become indebted in any manner to an amount exceeding three-eighths of one percent of the value of the taxable property in such taxing district without the assent of three-fifths of the voters therein voting at an election to be held for that purpose, nor in cases requiring such assent shall the total indebtedness incurred at any time exceed one and one-fourth percent on the value of the taxable property therein.

(2)(a)(i) Public hospital districts are limited to an indebtedness amount not exceeding three-fourths of one percent of the value of the taxable property in such public hospital districts without the assent of three-fifths of the voters therein voting at an election held for that purpose.

(ii) Counties, cities, and towns are limited to an indebtedness amount not exceeding one and one-half percent of the value of the taxable property in such counties, cities, or towns without the assent of three-fifths of the voters therein voting at an election held for that purpose.

(b) In cases requiring such assent counties, cities, towns, and public hospital districts are limited to a total indebtedness of two and one-half percent of the value of the taxable property therein. However, any county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW may become indebted to a larger amount for its authorized metropolitan functions, as provided under chapter 35.58 RCW, but not exceeding an additional three-fourths of one percent of the value of the taxable property in the county

without the assent of three-fifths of the voters therein voting at an election held for that purpose, and in cases requiring such assent not exceeding an additional two and one-half percent of the value of the taxable property in the county.

(3) School districts are limited to an indebtedness amount not exceeding three-eighths of one percent of the value of the taxable property in such district without the assent of three-fifths of the voters therein voting at an election held for that purpose. In cases requiring such assent school districts are limited to a total indebtedness of two and one-half percent of the value of the taxable property therein.

(4) No part of the indebtedness allowed in this chapter shall be incurred for any purpose other than strictly county, city, town, school district, township, port district, metropolitan park district, or other municipal purposes: PROVIDED, That a city or town, with such assent, may become indebted to a larger amount, but not exceeding two and one-half percent additional, determined as herein provided, for supplying such city or town with water, artificial light, and sewers, when the works for supplying such water, light, and sewers shall be owned and controlled by the city or town; and a city or town, with such assent, may become indebted to a larger amount, but not exceeding two and one-half percent additional for acquiring or developing open space and park facilities: PROVIDED FURTHER, That any school district may become indebted to a larger amount but not exceeding two and one-half percent additional for capital outlays.

(5) Such indebtedness may be authorized in any total amount in one or more propositions and the amount of such authorization may exceed the amount of indebtedness which could then lawfully be incurred. Such indebtedness may be incurred in one or more series of bonds from time to time out of such authorization but at no time shall the total general indebtedness of any taxing district exceed the above limitation.

The term "value of the taxable property" as used in this section shall have the meaning set forth in RCW 39.36.015. [1994 c 277 § 1; 1993 c 240 § 12; 1971 ex.s. c 218 § 1; 1971 c 38 § 1; 1970 ex.s. c 42 § 27; 1969 c 142 § 3; 1967 c 107 § 4; 1959 c 227 § 1; 1953 c 163 § 2; 1917 c 143 § 1; RRS § 5605.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Validating—1953 c 163: "Bonds authorized, issued and sold by any school district prior to the effective date of this act [March 18, 1953] and not in excess of the limitations provided in sections 1 and 2 thereof are hereby approved, ratified and validated, and are a legal and irrevocable obligation of such school district." [1953 c 163 § 3.] This applies to RCW 28A.51.010 and 39.36.020.

Cemetery districts, limitation upon indebtedness: RCW 68.52.310.

Cities other than first class, limitations upon indebtedness: RCW 35.37.040, 35.37.050.

Conditional sales contract debt, not counted as part of debt limit: RCW 28A.335.200, 39.30.010.

Counties, limitations upon indebtedness: Chapter 36.67 RCW.

Executory conditional sales contracts, limitations on indebtedness: RCW 28A.335.200, 39.30.010.

Leases by cities and towns, limitations on indebtedness: RCW 35.42.200.

Metropolitan municipal corporations, limitations on indebtedness: RCW 35.58.450.

Metropolitan park districts, incurring indebtedness: RCW 35.61.100, 35.61.110.

Municipal corporations, limitations upon indebtedness: State Constitution Art. 8 § 6 (Amendment 27).

Port districts, limitations upon indebtedness: RCW 39.28.030, 53.36.030.

Public utility districts, limitations upon indebtedness: RCW 54.24.018.

School districts, limitations upon indebtedness: Chapters 28A.530, 28A.535.

Validation requirement: RCW 39.40.010.

Water-sewer districts, limitations upon indebtedness: RCW 57.20.110, 57.20.120.

39.36.030 Computation of indebtedness. (1) Whenever it shall be necessary to compute the indebtedness of a taxing district for bonding or any other indebtedness purposes, taxes levied for the current year and cash on hand received for the purpose of carrying on the business of such taxing district for such current year shall be considered as an asset only as against indebtedness incurred during such current year which is payable from such taxes or cash on hand: PROVIDED, HOWEVER, That all taxes levied for the payment of bonds, warrants or other public debts of such taxing district, shall be deemed a competent and sufficient asset of the taxing district to be considered in calculating the constitutional debt limit or the debt limit prescribed by this chapter for any taxing district: PROVIDED, That the provisions of this section shall not apply in computing the debt limit of a taxing district in connection with bonds authorized pursuant to a vote of the electors at an election called prior to March 1, 1917.

(2) If reductions in assessed valuation of property within a taxing district result in the outstanding indebtedness of the taxing district exceeding its statutory indebtedness limitations, the amount of such excess indebtedness shall not be included in the statutory indebtedness ceiling. Additional indebtedness that is subject to indebtedness limitations, other than refinancing indebtedness that does not increase the total amount of indebtedness, may not be issued by such a taxing district until its total outstanding indebtedness, including that which this subsection removes from the statutory indebtedness limitations, is below these limitations.

(3) Nothing in this section authorizes taxing districts to incur indebtedness beyond constitutional indebtedness limitations. [1986 c 50 § 1; 1921 c 123 § 1; 1917 c 143 § 2; RRS § 5606.]

39.36.040 Authorizations in violation of chapter void. All orders, authorizations, allowances, contracts, payments or liabilities to pay, made or attempted to be made in violation of this chapter, shall be absolutely void and shall never be the foundation of a claim against a taxing district. [1994 c 81 § 75; 1923 c 45 § 1; 1917 c 143 § 3; RRS § 5607.]

39.36.050 Ballot proposition authorizing indebtedness—Excess property tax levies. The governing body of a taxing district desiring to place a ballot proposition authorizing indebtedness before the voters may submit the proposition at any special election held on the dates authorized in chapter 29.13 RCW. The ballot proposition shall include the maximum amount of the indebtedness to be authorized, the maximum term any bonds may have, a description of the purpose or purposes of the bond issue, and

whether excess property tax levies authorized under RCW 84.52.056 will be authorized.

When it is required that such bonds be retired by excess property tax levies, or when the governing body desires such bonds be retired by excess property tax levies, the ballot proposition shall also include authorization for such excess bond retirement property tax levies provided under RCW 84.52.056.

Notice of the proposed election shall be published as required by RCW 29.27.080. [1984 c 186 § 3.]

Purpose—1984 c 186: See note following RCW 39.46.110.

39.36.060 Chapter not applicable to loan agreements under chapter 39.69 RCW. This chapter does not apply to a loan made pursuant to a loan agreement under chapter 39.69 RCW, and any computation of indebtedness under this chapter shall exclude the amount of any loan under such a loan agreement. [1987 c 19 § 5.]

39.36.900 Validation—1969 c 142. All bonds heretofore issued, or heretofore voted and which may have been or may hereafter be issued, by any taxing district pursuant to any of the foregoing sections as amended or for any of the purposes authorized by any of said sections are hereby validated. [1969 c 142 § 6.]

Reviser's note: This applies to RCW 28A.51.010, 36.67.040, and 39.36.020.

Chapter 39.40

VOTE REQUIRED AT BOND ELECTIONS

Sections

- 39.40.010 Forty percent poll of voters required.
- 39.40.020 Existing election laws to apply.
- 39.40.030 Certification of votes—Canvass.
- 39.40.040 Prior bonds not affected.
- 39.40.900 Severability—1925 c 13.

County acquisition of land for military purposes, bond election for: Chapter 37.16 RCW.

County roads and bridges, bond elections: Chapter 36.76 RCW.

Irrigation districts, bond elections: Chapter 87.03 RCW.

Port districts, vote required for certain bond issues: RCW 53.36.030.

Public utility districts, bond elections, vote required: RCW 54.24.018.

39.40.010 Forty percent poll of voters required. No general obligation bonds of any county, port district, or metropolitan park district upon which a vote of the people is required under existing laws shall be issued, nor shall they become a lien upon the taxable property within such county or district unless, in addition to all other requirements provided by law in the matter of the issuance of general obligation bonds by such county or district, the total vote cast upon such proposition shall exceed forty percent of the total number of voters voting in such county or district at the general county or state election next preceding such bond election. [1961 ex.s. c 15 § 1; 1959 c 290 § 3; 1925 c 13 § 1; RRS § 5646-1.]

Exceeding debt limitation by municipalities: State Constitution Art. 8 § 6 (Amendment 27).

Vote required for excess levy to retire bonds issued for capital purposes: RCW 84.52.056.

39.40.020 Existing election laws to apply. In all such elections the provisions of existing law with respect to registration, opening and closing of registration books and the duties of officers and the appointment and selection of election officials shall apply. [1925 c 13 § 2; RRS § 5646-2.]

Election laws in general: Title 29 RCW.

39.40.030 Certification of votes—Canvass. The election officials in each of the precincts included within any such district shall, as soon as possible and in no case later than five days after the closing of the polls of any election involving the issuance of bonds, certify to the county auditor of the county within which such district is located the total number of votes cast for and against each separate proposal and the vote shall be canvassed and certified by a canvassing board consisting of the chairman of the board of county commissioners, the county auditor, and the prosecuting attorney who shall declare the result thereof. [1959 c 290 § 4; 1925 c 13 § 3; RRS § 5646-3.]

39.40.040 Prior bonds not affected. This chapter shall not affect the validity or the issuance of any such bonds voted at any lawful election held prior to the taking effect of this chapter. [1925 c 13 § 4; RRS § 5646-4.]

39.40.900 Severability—1925 c 13. If any section or provision of this chapter be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional. [1925 c 13 § 5; RRS § 5646-5.]

Chapter 39.42

STATE BONDS, NOTES, AND OTHER EVIDENCES OF INDEBTEDNESS

Sections

39.42.010	Scope of application.
39.42.020	Evidences of indebtedness—Issuance—Signature.
39.42.030	Evidences of indebtedness—Issuance—State finance committee, duties and powers.
39.42.040	Disposition of proceeds from sale of bonds.
39.42.050	Anticipation notes—Issued, when—Payment of principal and interest.
39.42.060	Limitation on issuance of evidences of indebtedness—Annual computation of amount required to pay on outstanding debt.
39.42.070	Computation of general state revenues—Filing of certificate—Estimate of debt capacity.
39.42.080	Obligations allowable under debt limitation.
39.42.090	Certificates of indebtedness—Issued, when—Retirement.
39.42.100	Evidences of indebtedness—Defects not to affect validity—Copy of resolution authorizing issuance filed—Action to contest before delivery.
39.42.110	Evidences of indebtedness—As negotiable instruments, legal investments, and security for deposits.
39.42.120	Excess earnings account—Payments to United States treasury.
39.42.900	Effective date—1971 ex.s. c 184.

39.42.010 Scope of application. This chapter shall apply to all bonds, notes and other evidences of indebtedness of the state authorized by the legislature after *the effective

date of this chapter, unless otherwise provided in the authorizing acts. [1971 ex.s. c 184 § 1.]

*Reviser's note: For "the effective date of this chapter," see RCW 39.42.900.

39.42.020 Evidences of indebtedness—Issuance—Signature. Bonds, notes or other evidences of indebtedness shall be issued by the state finance committee. They may be issued at one time or in a series from time to time. The maturity date of each series shall be determined by the state finance committee, but in no case shall any bonds mature later than thirty years from the date of issue. All evidences of indebtedness shall be signed in the name of the state by the governor and the treasurer. The facsimile signature of said officials is authorized and said evidences of indebtedness may be issued notwithstanding that any of the officials signing them or whose facsimile signatures appear on such evidences of indebtedness has ceased to hold office at the time of issue or at the time of delivery to the purchaser. [1971 ex.s. c 184 § 2.]

39.42.030 Evidences of indebtedness—Issuance—State finance committee, duties and powers. The state finance committee shall determine by resolution the amount, date or dates, terms, conditions, covenants, denominations, interest rate or rates (which may be fixed or variable), maturity or maturities, redemption rights, manner of execution and authentication, manner and price of sale and form of all bonds, notes, or other evidences of indebtedness.

Such bonds, notes, or other evidences of indebtedness shall be payable either to the bearer or to the registered owner as provided in RCW 39.46.030. The resolution may provide for the deposit in trust with any qualified public depository of all or any part of the proceeds of the bonds, notes, or other evidences of indebtedness or money set aside for the payment thereof.

The state finance committee shall also determine by resolution whether interest on all or any part of the bonds is to be payable periodically during the term of such bonds or only at the maturity of the bonds. For purposes of the limitations on the amount of bonds authorized to be issued contained in the acts authorizing their issuance, the amount of bonds which pay interest only at maturity shall be equal to the price, exclusive of accrued interest, at which the bonds are initially offered to the public.

The state finance committee may issue, under chapter 39.53 RCW and this chapter, bonds, notes, or other evidences of indebtedness to refund at or prior to maturity any outstanding state bonds, notes, or other evidences of indebtedness.

The state finance committee may obtain bond insurance, letters of credit or other credit support instruments for the purpose of guaranteeing the payment or enhancing the marketability, or both, of any state bonds, notes, or other evidences of indebtedness, and may authorize the execution and delivery of agreements, promissory notes, and other related instruments. [1989 1st ex.s. c 14 § 16; 1983 c 167 § 104; 1971 ex.s. c 184 § 3.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

39.42.040 Disposition of proceeds from sale of bonds. The proceeds of the sale of any bonds shall be used solely for the purposes, including any expense incurred in connection with the issuance and sale of such bonds, specified in the general statute or special act authorizing the issuance of such bonds. [1971 ex.s. c 184 § 4.]

39.42.050 Anticipation notes—Issued, when—Payment of principal and interest. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". If, prior to the issuance of the bonds, it becomes necessary to redeem outstanding notes, additional bond anticipation notes may be issued to redeem the outstanding notes. Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of such anticipation notes which have been issued. The interest on anticipation notes shall be paid from the revenue source and with the same priority of payment specified in the respective bond acts for payment of principal of and interest on the bonds against which anticipation notes are sold. The procedure for paying the interest on the notes, including the transfer of necessary funds for that purpose, shall be the same as prescribed for the bonds.

If the bonds shall constitute general obligations of the state and pledge the full faith and credit of the state to the payment thereof, then the notes issued in anticipation thereof shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due. The owner and holder of any of the notes or the trustee for the owner and holder of any of the notes may, by a mandamus or other appropriate proceeding, require the transfer and payment of funds as directed in this section. [1981 c 29 § 1; 1971 ex.s. c 184 § 5.]

Application—1981 c 29: "This act shall apply to all outstanding bond anticipation notes of the state, and interest on the notes shall be paid as provided in RCW 39.42.050: PROVIDED, That in the event such interest is not paid as provided in RCW 39.42.050 it shall be paid from such source or sources as are specified in such notes." [1981 c 29 § 2.] "This act" consists of the 1981 amendment of RCW 39.42.050.

39.42.060 Limitation on issuance of evidences of indebtedness—Annual computation of amount required to pay on outstanding debt. No bonds, notes, or other evidences of indebtedness for borrowed money shall be issued by the state which will cause the aggregate debt contracted by the state to exceed that amount for which payments of principal and interest in any fiscal year would require the state to expend more than seven percent of the arithmetic mean of its general state revenues, as defined in section 1(c) of Article VIII of the Washington state Con-

stitution for the three immediately preceding fiscal years as certified by the treasurer in accordance with RCW 39.42.070. It shall be the duty of the state finance committee to compute annually the amount required to pay principal of and interest on outstanding debt. In making such computation, the state finance committee shall include all borrowed money represented by bonds, notes, or other evidences of indebtedness which are secured by the full faith and credit of the state or are required to be paid, directly or indirectly, from general state revenues and which are incurred by the state, any department, authority, public corporation or quasi public corporation of the state, any state university or college, or any other public agency created by the state but not by counties, cities, towns, school districts, or other municipal corporations, and shall include debt incurred pursuant to section 3 of Article VIII of the Washington state Constitution, but shall exclude the following:

(1) Obligations for the payment of current expenses of state government;

(2) Indebtedness incurred pursuant to RCW 39.42.080 or 39.42.090;

(3) Principal of and interest on bond anticipation notes;

(4) Any indebtedness which has been refunded;

(5) Financing contracts entered into under chapter 39.94 RCW;

(6) Indebtedness authorized or incurred before July 1, 1993, pursuant to statute which requires that the state treasury be reimbursed, in the amount of the principal of and the interest on such indebtedness, from money other than general state revenues or from the special excise tax imposed pursuant to chapter 67.40 RCW;

(7) Indebtedness authorized and incurred after July 1, 1993, pursuant to statute that requires that the state treasury be reimbursed, in the amount of the principal of and the interest on such indebtedness, from (a) moneys outside the state treasury, except higher education operating fees, (b) higher education building fees, (c) indirect costs recovered from federal grants and contracts, and (d) fees and charges associated with hospitals operated or managed by institutions of higher education; and

(8) Any agreement, promissory note, or other instrument entered into by the state finance committee under RCW 39.42.030 in connection with its acquisition of bond insurance, letters of credit, or other credit support instruments for the purpose of guaranteeing the payment or enhancing the marketability, or both, of any state bonds, notes, or other evidence of indebtedness.

To the extent necessary because of the constitutional or statutory debt limitation, priorities with respect to the issuance or guaranteeing of bonds, notes, or other evidences of indebtedness by the state shall be determined by the state finance committee. [1993 c 52 § 1. Prior: 1989 1st ex.s. c 14 § 17; 1989 c 356 § 7; 1983 1st ex.s. c 36 § 1; 1979 ex.s. c 204 § 1; 1971 ex.s. c 184 § 6.]

Effective date—1993 c 52: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 52 § 2.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

39.42.070 Computation of general state revenues—Filing of certificate—Estimate of debt capacity. On or after *the effective date of this act, the treasurer shall compute general state revenues for the three fiscal years immediately preceding such date and shall determine the arithmetic mean thereof. As soon as is practicable after the close of each fiscal year thereafter, he shall do likewise. In determining the amount of general state revenues, the treasurer shall include all state money received in the treasury from each and every source whatsoever except: (1) fees and revenues derived from the ownership or operation of any undertaking, facility or project; (2) moneys received as gifts, grants, donations, aid or assistance or otherwise from the United States or any department, bureau or corporation thereof, or any person, firm or corporation, public or private, when the terms and conditions of such gift, grant, donation, aid or assistance require the application and disbursement of such moneys otherwise than for the general purposes of the state of Washington; (3) moneys to be paid into and received from retirement system funds, and performance bonds and deposits; (4) moneys to be paid into and received from trust funds including but not limited to moneys received from taxes levied for specific purposes and the several permanent and irreducible funds of the state and the moneys derived therefrom but excluding bond redemption funds; (5) proceeds received from the sale of bonds or other evidences of indebtedness. Upon computing general state revenues, the treasurer shall make and file in the office of the secretary of state, a certificate containing the results of such computations. Copies of said certificate shall be sent to each elected official of the state and each member of the legislature. The treasurer shall, at the same time, advise each elected official and each member of the legislature of the current available debt capacity of the state, and may make estimated projections for one or more years concerning debt capacity. [1971 ex.s. c 184 § 7.]

*Reviser's note: For "the effective date of this act," see RCW 39.42.900.

39.42.080 Obligations allowable under debt limitation. The foregoing limitation on the aggregate amount of indebtedness of the state shall not prevent:

(1) The issuance of obligations to refund or replace any such indebtedness existing at any time in an amount not exceeding 1.05 times the amount which, taking into account earnings from the investment of the proceeds of the issue, is required to pay the principal thereof, interest thereon, and any premium payable with respect thereto, and the costs incurred in accomplishing such refunding, as provided in chapter 39.53 RCW, as now or hereafter amended: PROVIDED, That any proceeds of the refunding, bonds in excess of those acquired to accomplish such refunding or any obligations acquired with such excess proceeds, shall be applied exclusively for the payment of principal, interest, or call premiums with respect to such refunding obligations;

(2) The issuance of obligations in anticipation of revenues to be received by the state during a period of twelve calendar months next following their issuance;

(3) The issuance of obligations payable solely from revenues of particular public improvements;

(4) A pledge of the full faith, credit, and taxing power of the state to guarantee the payment of any obligation

payable from any of revenues received from any of the following sources:

(a) the fees collected by the state as license fees for motor vehicles;

(b) excise taxes collected by the state on the sale, distribution, or use of motor vehicle fuel; and

(c) interest on the permanent common school fund:

PROVIDED, That the legislature shall, at all times, provide sufficient revenues from such sources to pay the principal and interest due on all obligations for which said source of revenue is pledged. [1974 ex.s. c 111 § 1; 1971 ex.s. c 184 § 8.]

Severability—1974 ex.s. c 111: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 111 § 6.]

39.42.090 Certificates of indebtedness—Issued, when—Retirement. The state finance committee may issue certificates of indebtedness in such sum or sums that may be necessary to meet temporary deficiencies of the treasury. Such certificates may be issued only to provide for the appropriations already made by the legislature and such certificates must be retired and the debt discharged other than by refunding within twelve months after the date of issuance.

For the purposes of this section, the state treasury shall include all statutorily established funds and accounts except for any of the permanent irreducible funds of the state treasury. [1985 c 57 § 21; 1971 ex.s. c 184 § 9.]

Effective date—1985 c 57: See note following RCW 18.04.105.

39.42.100 Evidences of indebtedness—Defects not to affect validity—Copy of resolution authorizing issuance filed—Action to contest before delivery. Bonds, notes, or other obligations issued and sold by the state of Washington pursuant to and in conformity with this chapter shall not be invalid for any irregularity or defect in the proceedings of the issuance or sale thereof, except as provided in this paragraph, and shall be incontestable in the hands of a bona fide purchaser or holder thereof. Whenever the state finance committee determines to issue bonds, notes or other evidences of indebtedness, it shall file with the treasurer a certified copy of the resolution authorizing their issuance at least thirty days prior to delivery to the purchaser of such bonds, notes, or other evidences of indebtedness. At any time prior to delivery, any person in interest shall have the right to institute an appropriate action or proceeding to contest the validity of the authorized indebtedness, the pledge of revenues for the payment of principal and interest on such indebtedness, the validity of the collection and disposition of revenue necessary to pay the principal and interest on such indebtedness, the expenditure of the proceeds derived from the sale of the evidences of indebtedness for the purposes specified by law, and the validity of all other provisions and proceedings in connection with the authorization and issuance of the evidences of indebtedness. If such action or proceeding shall not have been instituted prior to delivery, then the validity of the evidences of indebtedness shall be conclusively presumed and no court shall have authority to inquire into such matters. [1971 ex.s. c 184 § 10.]

39.42.110 Evidences of indebtedness—As negotiable instruments, legal investments, and security for deposits. All evidences of indebtedness issued under the provisions of this chapter shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits. [1971 ex.s. c 184 § 11.]

39.42.120 Excess earnings account—Payments to United States treasury. The excess earnings account is created in the state treasury. From the revenue funds from which principal and interest payments on bonds are provided, the state treasurer shall periodically transfer to the excess earnings account such amounts as are owed to the federal government under section 148 of the federal internal revenue code. Pursuant to legislative appropriation from the excess earnings account, the state treasurer shall periodically remit to the United States treasury any amounts owed to the federal government under section 148 of the federal internal revenue code. [1988 c 92 § 1.]

39.42.900 Effective date—1971 ex.s. c 184. This act shall become effective coincident with the effective date of the constitutional amendment to Article VIII, section 1 and to Article VIII, section 3 of the Washington state Constitution as presented for a vote of the people by HJR 52, 1971 regular session. Unless such constitutional amendment shall be approved by the people at the next general election, this chapter shall be null and void. [1971 ex.s. c 184 § 12.]

Reviser's note: House Joint Resolution No. 52 was approved by the voters at the November 1972 general election.

Chapter 39.44

BONDS—MISCELLANEOUS PROVISIONS, BOND INFORMATION REPORTING

Sections

- 39.44.070 Life of bonds.
- 39.44.100 Facsimile signatures on bonds and coupons.
- 39.44.101 Facsimile signatures on bonds and coupons—Fraud—Destruction of plates—Penalty.
- 39.44.102 Facsimile signatures on bonds and coupons—Statements and signatures required on registered bonds.
- 39.44.110 Registration—Payment—Assignment.
- 39.44.120 Payment of coupon interest.
- 39.44.130 Treasurers as registration officers—Fiscal agent.
- 39.44.140 Revenue bonds—Funds for reserve purposes may be included in issue amount.
- 39.44.200 State and local government bond information—Definitions.
- 39.44.210 State and local government bond information—Submittal—Contents—Annual report.
- 39.44.230 State and local government bond information—Rules.
- 39.44.240 State and local government bond information—Validity of bonds not affected.
- 39.44.900 Validation—Savings—1982 c 216.

Cities and towns, local improvement bonds: Chapter 35.45 RCW.

Counties, bonds

form, interest, etc.: Chapter 36.67 RCW.
to acquire land for military purposes, form, interest, etc.: Chapter 37.08 RCW.

County road bonds, form, interest, etc.: Chapter 36.76 RCW.

Funding bonds, interest rate, form, sale, payment, etc.: Chapter 39.52 RCW.

Industrial development revenue bonds: Chapter 39.84 RCW.

Irrigation district bonds, form, interest, maturity, etc.: RCW 87.03.200.

Municipal revenue bond act: Chapter 35.41 RCW.

Port district bonds, form, terms, etc.: Chapters 53.40 and 53.44 RCW.

Public utility district bonds, form, terms, etc.: RCW 54.24.018.

School district bonds, form, terms of sale, etc.: Chapter 28A.530 RCW.

Validation: Chapter 39.90 RCW.

Water-sewer district bonds, form, terms, etc.: RCW 57.20.010.

39.44.070 Life of bonds. Notwithstanding the provisions of any charter to the contrary, bonds issued under *RCW 39.44.010 through 39.44.080 may be issued to run for a period up to forty years from the date of the issue and shall, as near as practicable, be issued for a period which shall not exceed the life of the improvement to be acquired by the use of the bonds. [1967 c 107 § 5; 1923 c 151 § 5; RRS § 5583-5.]

***Reviser's note:** RCW 39.44.010, 39.44.011, 39.44.020, 39.44.030, 39.44.060, and 39.44.080 were repealed by 1984 c 186 § 70.

39.44.100 Facsimile signatures on bonds and coupons. On all bonds hereafter issued by the state or any agency thereof or by any county, city, town, municipal corporation, quasi municipal corporation, junior taxing district, school district or other political subdivision of the state, the printed, engraved or lithographed facsimile signatures of the officers required by law to sign the bonds or any interest coupons thereon shall be sufficient signature on such bonds or coupons: PROVIDED, That such facsimile signatures shall not be used on the bonds of issues of less than one hundred thousand dollars par value and may always be used on interest coupons.

Whenever such facsimile signature reproduction of the signature of any officer is used in place of the personal signature of such officer, the issuing authority shall specify in a written order or requisition to the printer, engraver, or lithographer, the number of bonds or coupons upon which such facsimile signature is to be printed, engraved, or lithographed, and the manner of numbering the bonds or coupons upon which such signature shall be placed. Within ninety days after the completion of the printing, engraving, or lithographing of such bonds or coupons, the plate or plates used for the purpose of affixing the facsimile signature shall be destroyed and it shall be the duty of the issuing authority, within ninety days after receipt of the completed bonds or coupons, to ascertain that such plate or plates have been destroyed. [1983 c 167 § 107; 1961 c 141 § 3; 1955 c 375 § 1; 1941 c 52 § 1; Rem. Supp. 1941 § 5583-1a.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Uniform facsimile signature of public officials act: Chapter 39.62 RCW.

39.44.101 Facsimile signatures on bonds and coupons—Fraud—Destruction of plates—Penalty. Every printer, engraver, or lithographer, who with the intent to defraud, prints, engraves, or lithographs a facsimile signature upon any bond or coupon without written order of the issuing authority, or fails to destroy such plate or plates containing the facsimile signature upon direction of such issuing authority, shall be guilty of a felony. [1955 c 375 § 2.]

Fraud, forgery: Chapter 9A.60 RCW.

39.44.102 Facsimile signatures on bonds and coupons—Statements and signatures required on registered bonds. Where any bond so issued requires registration by the county treasurer, that bond shall bear a statement on the back thereof showing the name of the person to whom sold, date of issue, the number and series of the bond, and shall be signed by the county treasurer in his own name or by a deputy county treasurer in his own name. [1955 c 375 § 3.]

39.44.110 Registration—Payment—Assignment. Upon the presentation at the office of the officer or agent hereinafter provided for, any bond which is bearer in form that has heretofore been or may hereafter be issued by any county, city, town, port, school district, or other municipal or quasi municipal corporation in this state, may, if so provided in the proceedings authorizing the issuance of the same, be registered as to principal in the name of the owner upon the books of such municipality to be kept in said office, such registration to be noted on the reverse of the bond by such officer or agent. The principal of any bond so registered shall be payable only to the payee, his legal representative, successors or assigns, and such bond shall be transferable to another registered holder or back to bearer only upon presentation to such officer or agent, with a written assignment duly acknowledged or proved. The name of the assignee shall be written upon any bond so transferred and in the books so kept in the office of such officer or agent. [1983 c 167 § 108; 1961 c 141 § 4; 1915 c 91 § 1; RRS § 5494.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

39.44.120 Payment of coupon interest. If so provided in the proceedings authorizing the issuance of any such bonds, upon the registration thereof as to principal, or at any time thereafter, the coupons thereto attached, evidencing all interest to be paid thereon to the date of maturity, may be surrendered to the officer or agent hereinafter provided and the bonds shall also become registered as to interest. Such coupons shall be canceled by such officer or agent, who shall sign a statement endorsed upon such bond of the cancellation of all unmatured coupons and the registration of such bond. Thereafter the interest evidenced by such canceled coupons shall be paid at the times provided therein to the registered owner of such bond in lawful money of the United States of America mailed to his address. [1983 c 167 § 109; 1961 c 141 § 5; 1915 c 91 § 2; RRS § 5495.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

39.44.130 Treasurers as registration officers—Fiscal agent. (1) The duties prescribed in this chapter as to the registration of bonds of any city or town shall be performed by the treasurer thereof, and as to those of any county, port or school district by the county treasurer of the county in which such port or school district lies; but any treasurer as defined in RCW 39.46.020 may designate its legally desig-

nated fiscal agency or agencies for the performance of such duties, after making arrangements with such fiscal agency therefor, which arrangements may include provision for the payment by the bond owner of a fee for each registration.

(2) The county treasurer as ex officio treasurer of a special district shall act as fiscal agent or may appoint the fiscal agent to be used by the county. [1995 c 38 § 5; 1994 c 301 § 9; 1985 c 84 § 2; 1983 c 167 § 110; 1971 ex.s. c 79 § 1; 1915 c 91 § 3; RRS § 5496.]

Acts of municipal officers ratified and confirmed—1995 c 38: See note following RCW 3.02.045.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Fiscal agencies: Chapter 43.80 RCW.

39.44.140 Revenue bonds—Funds for reserve purposes may be included in issue amount. Any county, city, town, political subdivision, or other municipal or quasi municipal corporation authorized to issue revenue bonds may include in the amount of any such issue funds for the purpose of establishing, maintaining or increasing reserves to:

- (1) Secure the payment of the principal of and interest on such revenue bonds; or
- (2) Provide for replacements or renewals of or repairs or betterments to revenue producing facilities; or
- (3) Provide for contingencies, including, but not limited to, loss of revenue caused by such contingencies.

The authority granted pursuant to this section is additional and supplemental to any existing authority to issue revenue bonds and nothing in this section shall prevent the issuance of such bonds pursuant to any other law: PROVIDED, That no such bond issue may include an amount in excess of fifteen percent thereof for the purpose of establishing, maintaining or increasing reserves as enumerated above. [1983 c 167 § 111; 1977 ex.s. c 229 § 1.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

39.44.200 State and local government bond information—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 39.44.200 through 39.44.240.

(1) "Bond" means "bond" as defined in RCW 39.46.020, but also includes any other indebtedness that may be issued by any local government to fund private activities or purposes where the indebtedness is of a nonrecourse nature payable from private sources.

(2) "Local government" means "local government" as defined in RCW 39.46.020.

(3) "Type of bond" includes: (a) General obligation bonds, including councilmanic and voter-approved bonds; (b) revenue bonds; (c) local improvement district bonds; (d) special assessment bonds such as those issued by irrigation districts and diking districts; and (e) other classes of bonds.

(4) "State" means "state" as defined in RCW 39.46.020 but also includes any commissions or other entities of the state. [1990 c 220 § 1; 1989 c 225 § 1; 1987 c 297 § 12; 1985 c 130 § 5.]

Severability—1987 c 297: See RCW 39.86.906.

39.44.210 State and local government bond information—Submittal—Contents—Annual report. For each state or local government bond issued, the underwriter of the issue shall supply the department of community, trade, and economic development with information on the bond issue within twenty days of its issuance. In cases where the issuer of the bond makes a direct or private sale to a purchaser without benefit of an underwriter, the issuer shall supply the required information. The bond issue information shall be provided on a form prescribed by the department of community, trade, and economic development and shall include but is not limited to: (1) The par value of the bond issue; (2) the effective interest rates; (3) a schedule of maturities; (4) the purposes of the bond issue; (5) cost of issuance information; and (6) the type of bonds that are issued. A copy of the bond covenants shall be supplied with this information.

For each state or local government bond issued, the issuer's bond counsel promptly shall provide to the underwriter or to the department of community, trade, and economic development information on the amount of any fees charged for services rendered with regard to the bond issue.

Each local government that issues any type of bond shall make a report annually to the department of community, trade, and economic development that includes a summary of all the outstanding bonds of the local government as of the first day of January in that year. Such report shall distinguish the outstanding bond issues on the basis of the type of bond, as defined in RCW 39.44.200, and shall report the local government's outstanding indebtedness compared to any applicable limitations on indebtedness, including RCW 35.42.200, 39.30.010, and 39.36.020. [1995 c 399 § 54; 1990 c 220 § 2; 1989 c 225 § 2; 1985 c 130 § 1.]

Fiscal agencies: Chapter 43.80 RCW.

Publication of local government bond information by department of community, trade, and economic development—Adoption of rules: RCW 43.63A.155.

39.44.230 State and local government bond information—Rules. The department of community, trade, and economic development may adopt rules and regulations pursuant to the administrative procedure act to require (1) the submission of bond issuance information by underwriters and bond counsel to the department of community, trade, and economic development in a timely manner and (2) the submission of additional information on bond issues by state and local governments, including summaries of outstanding bond issues. [1995 c 399 § 55; 1989 c 225 § 3; 1985 c 130 § 3.]

39.44.240 State and local government bond information—Validity of bonds not affected. Failure to file the information required by RCW 39.44.210 and 39.44.230 shall not affect the validity of the bonds that are issued. [1989 c 225 § 4; 1985 c 130 § 4.]

39.44.900 Validation—Savings—1982 c 216. All bonds, the issuance of which was authorized or ratified at a general or special election held within the issuing jurisdiction prior to April 3, 1982, or the proposition for the issuance of which will be submitted at such an election pursuant to

action of the legislative authority of the issuer taken prior to April 3, 1982, may be sold and issued with an interest rate or rates greater than any interest rate restriction contained in the ballot proposition or ordinance or resolution relating to such authorization or ratification if such bonds are or were sold and issued in accordance with the sale provisions and with an interest rate or rates not greater than those permitted by the applicable provision of *this amendatory act, and any such bonds heretofore sold are declared valid obligations of the issuer. This section shall not apply to bonds having a total value exceeding fifteen million dollars. [1982 c 216 § 12.]

***Reviser's note:** "this amendatory act" [1982 c 216] consists of the 1982 amendments to RCW 39.44.030 and 43.80.110 and the enactment of RCW 39.44.900 and chapter 39.50 RCW.

Chapter 39.46

BONDS—OTHER MISCELLANEOUS PROVISIONS—REGISTRATION

Sections

- 39.46.010 Purposes—Liberal construction.
- 39.46.020 Definitions.
- 39.46.030 Registration system authorized—Requirements—Fiscal agencies, agents.
- 39.46.040 Bonds—Issuer to determine amount, terms, conditions, interest, etc.
- 39.46.050 Bonds—Issuer authorized to establish lines of credit.
- 39.46.060 Bonds—Reproduction of physical instrument.
- 39.46.070 Bonds—Payment of costs of issuance and sale.
- 39.46.100 RCW 39.46.010 through 39.46.070 constitutes alternative method.
- 39.46.110 Local government general obligation bonds—Indebtedness—Payment—Notice by special district.
- 39.46.120 Notice of intent to sell general obligation bonds.
- 39.46.150 Revenue bonds—Alternative method of issuance—Limitations.
- 39.46.160 Revenue bonds—Alternative method of issuance—Bonds may include reserve funds.

39.46.010 Purposes—Liberal construction. The purposes of this chapter are to permit the state and local governments to conform with registration requirements of federal law which are necessary to exempt interest payments from federal income taxes when the state or local governments issue bonds or incur other obligations and to authorize the establishment and maintenance of differing systems of registering bonds and other obligations as these systems are developed and recognized, which may be instituted, discontinued, and reinstated from time to time. It is further the purpose of this chapter to grant local governments an alternative flexible authority to structure and sell their bond issues and to include a variety of features on their bonds.

This act shall be liberally construed to effect its purposes. [1983 c 167 § 1.]

Severability—1983 c 167: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 167 § 273.]

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

(1) "Bond" means any agreement which may or may not be represented by a physical instrument, including notes, warrants, or certificates of indebtedness, that evidences an indebtedness of the state or a local government or a fund thereof, where the state or local government agrees to pay a specified amount of money, with or without interest, at a designated time or times to either registered owners or bearers.

(2) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi municipal corporation, including any public corporation created by such an entity.

(3) "Obligation" means an agreement that evidences an indebtedness of the state or a local government, other than a bond, and includes, but is not limited to, conditional sales contracts, lease obligations, and promissory notes.

(4) "State" includes the state, agencies of the state, and public corporations created by the state or agencies of the state.

(5) "Treasurer" means the state treasurer, county treasurer, city treasurer, or treasurer of any other municipal corporation. [1995 c 38 § 6; 1994 c 301 § 10; 1983 c 167 § 2.]

Acts of municipal officers ratified and confirmed—1995 c 38: See note following RCW 3.02.045.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

39.46.030 Registration system authorized—Requirements—Fiscal agencies, agents. (1) The state and local governments are authorized to establish a system of registering the ownership of their bonds or other obligations as to principal and interest, or principal only. Registration may include, without limitation: (a) A book entry system of recording the ownership of a bond or other obligation whether or not a physical instrument is issued; or (b) recording the ownership of a bond or other obligation together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond or other obligation and either the reissuance of the old bond or other obligation or the issuance of a new bond or other obligation to the new owner.

(2) The system of registration shall define the method or methods by which transfer of the registered bonds or other obligations shall be effective, and by which payment of principal and any interest shall be made. The system of registration may permit the issuance of bonds or other obligations in any denomination to represent several registered bonds or other obligations of smaller denominations. The system of registration may also provide for any writing relating to a bond or other obligation that is not issued as a physical instrument, for identifying numbers or other designations, for a sufficient supply of certificates for subsequent transfers, for record and payment dates, for varying denominations, for communications to the owners of bonds or other obligations, for accounting, canceled certificate destruction, registration and release of securing interests, and for such other incidental matters pertaining to the registration of bonds or other obligations as the issuer may deem to be necessary or appropriate.

(3)(a) The state treasurer or a local treasurer may appoint (i) one or more of the fiscal agencies appointed from

time to time by the state finance committee in accordance with chapter 43.80 RCW or (ii) other fiscal agents to act with respect to an issue of its bonds or other obligations as authenticating trustee, transfer agent, registrar, and paying or other agent and specify the rights and duties and means of compensation of any such fiscal agency so acting. The state treasurer or local treasurers may also enter into agreements with the fiscal agency or agencies in connection with the establishment and maintenance by such fiscal agency or agencies of a central depository system for the transfer or pledge of bonds or other obligations.

(b) The county treasurer as ex officio treasurer of a special district shall act as fiscal agent for such special district, unless the county treasurer appoints either one or more of the fiscal agencies appointed from time to time by the state finance committee in accordance with chapter 43.80 RCW or other fiscal agents selected in a manner consistent with RCW 43.80.120 to act with respect to an issue of its bonds or other obligations as authenticating trustee, transfer agent, registrar, and paying or other agent and specify the rights and duties and means of compensation of any such fiscal agency.

(4) Nothing in this section precludes the issuer, or a trustee appointed by the issuer pursuant to any other provision of law, from itself performing, either alone or jointly with other issuers, fiscal agencies, or trustees, any transfer, registration, authentication, payment, or other function described in this section. [1995 c 38 § 7; 1994 c 301 § 11; 1985 c 84 § 1; 1983 c 167 § 3.]

Acts of municipal officers ratified and confirmed—1995 c 38: See note following RCW 3.02.045.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

39.46.040 Bonds—Issuer to determine amount, terms, conditions, interest, etc. A local government authorized to issue bonds shall determine for the bond issue its amount, date or dates, terms not in excess of the maximum term otherwise provided in law, conditions, bond denominations, interest rate or rates, which may be fixed or variable, interest payment dates, maturity or maturities, redemption rights, registration privileges, manner of execution, price, manner of sale, covenants, and form, including registration as to principal and interest, registration as to principal only, or bearer. Registration may be as provided in RCW 39.46.030. [1983 c 167 § 4.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

39.46.050 Bonds—Issuer authorized to establish lines of credit. Each local government authorized to issue bonds is authorized to establish lines of credit with any qualified public depository to be drawn upon in exchange for its bonds or other obligations, to delegate to its fiscal officer authority to determine the amount of credit extended, and to pay interest and other finance or service charges. The interest rates on such bonds or other obligations may be a fixed rate or rates set periodically or a variable rate or rates determined by agreement of the parties. [1983 c 167 § 5.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

39.46.060 Bonds—Reproduction of physical instrument. Where bonds are issued by the state or a local government as physical instruments, the bonds shall be printed, engraved, lithographed, typed, or reproduced and the manual or facsimile signatures of both a designated officer and chairperson of the governing body or chief executive shall be included on each bond. [1983 c 167 § 6.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

39.46.070 Bonds—Payment of costs of issuance and sale. The proceeds of any bonds issued by the state or a local government may be used to pay incidental costs and costs related to the sale and issuance of the bonds. Such costs include payments for fiscal and legal expenses, obtaining bond ratings, printing, engraving, advertising, establishing and funding reserve accounts and other accounts, an amount for working capital, capitalized interest for up to six months, necessary and related engineering, architectural, planning, and inspection costs, and other similar activities or purposes. [1983 c 167 § 7.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

39.46.100 RCW 39.46.010 through 39.46.070 constitutes alternative method. RCW 39.46.010 through 39.46.070 shall be deemed to provide a complete, additional, and alternative method for the performance of those subjects authorized by these sections and shall be regarded as supplemental and additional to powers conferred by other state laws. Whenever bonds and other obligations are issued and sold in conformance with RCW 39.46.010 through 39.46.070, such issuance and sale need not comply with contrary requirements of other state laws applicable to the issuance and sale of bonds or other obligations. [1983 c 167 § 8.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

39.46.110 Local government general obligation bonds—Indebtedness—Payment—Notice by special district. (1) General obligation bonds of local governments shall be subject to this section. Unless otherwise stated in law, the maximum term of any general obligation bond issue shall be forty years.

(2) General obligation bonds constitute an indebtedness of the local government issuing the bonds that are subject to the indebtedness limitations provided in Article VIII, section 6 of the state Constitution and are payable from tax revenues of the local government and such other money lawfully available and pledged or provided by the governing body of the local government for that purpose. Such governing body may pledge the full faith, credit and resources of the local government for the payment of general obligation bonds. The payment of such bonds shall be enforceable in mandamus against the local government and its officials. The officials now or hereafter charged by law with the duty of levying taxes pledged for the payment of general obligation bonds and interest thereon shall, in the manner provided by law, make an annual levy of such taxes sufficient together with other moneys lawfully available and pledge therefor to

meet the payments of principal and interest on said bonds as they come due.

(3) General obligation bonds issued as physical instruments shall be executed in the manner determined by the governing body or legislative body of the issuer. If the issuer is a special district for which the county treasurer is the treasurer, the issuer shall notify the county treasurer at least thirty days in advance of authorizing the issuance of bonds or the incurrence of other certificates of indebtedness.

(4) Unless another statute specifically provides otherwise, the owner of a general obligation bond, or the owner of an interest coupon, issued by a local government shall not have any claim against the state arising from the general obligation bond or interest coupon.

(5) As used in this section, the term "local government" means every unit of local government, including municipal corporations, quasi municipal corporations, and political subdivisions, where property ownership is not a prerequisite to vote in the local government's elections. [1995 c 38 § 8; 1994 c 301 § 12; 1984 c 186 § 2.]

Acts of municipal officers ratified and confirmed—1995 c 38: See note following RCW 3.02.045.

Purpose—1984 c 186: "The purpose of this 1984 act is to provide simplified and uniform authorities for various local governments to issue and sell general obligation bonds. It is not the purpose of this 1984 act to alter the indebtedness limitation of local governments." [1984 c 186 § 1.]

39.46.120 Notice of intent to sell general obligation bonds. Notice of intent to sell general obligation bonds at a public sale shall be provided in a reasonable manner as determined by the legislative authority or governing body of the issuer. [1984 c 186 § 4.]

Purpose—1984 c 186: See note following RCW 39.46.110.

39.46.150 Revenue bonds—Alternative method of issuance—Limitations. (1) Any local government authorized to issue revenue bonds may issue revenue bonds under this section and RCW 39.46.160. If a local government chooses to issue revenue bonds under this section and RCW 39.46.160, the issue shall be subject to the limitations and restrictions of these sections. The authority to issue revenue bonds under this section and RCW 39.46.160 is supplementary and in addition to any authority otherwise existing. The maximum term of any revenue bonds shall be forty years unless another statute authorizing the local government to issue revenue bonds provides for a different maximum term, in which event the local government may issue revenue bonds only with terms not in excess of such different maximum term.

(2) The governing body of a local government issuing revenue bonds shall create a special fund or funds, or use an existing special fund or funds, exclusively from which, along with reserve funds which may be created by the governing body, the principal and interest on such revenue bonds shall be payable. These reserve funds include those authorized to be created by RCW 39.46.160.

Subject to the limitations contained in this section, the governing body of a local government may provide such covenants as it may deem necessary to secure the payment of the principal of and interest on revenue bonds, and premium on revenue bonds, if any. Such covenants may include, but are not limited to, depositing certain revenues

into a special fund or funds as provided in subsection (3) of this section; establishing, maintaining, and collecting fees, rates, charges, tariffs, or rentals, on facilities and services, the income of which is pledged for the payment of such bonds; operating, maintaining, managing, accounting, and auditing the local government; appointing trustees, depositaries, and paying agents; and any and all matters of like or different character, which affect the security or protection of the revenue bonds.

(3) The governing body may obligate the local government to set aside and pay into a special fund or funds created under subsection (2) of this section a proportion or a fixed amount of the revenues from the following: (a) The public improvements, projects, or facilities that are financed by the revenue bonds; or (b) the public utility or system, or an addition or extension to the public utility or system, where the improvements, projects, or facilities financed by the revenue bonds are a portion of the public utility or system; or (c) all the revenues of the local government; or (d) any other money legally available for such purposes. As used in this subsection, the term "revenues" includes the operating revenues of a local government that result from fees, rates, charges, tariffs, or rentals imposed upon the use or availability or benefit from projects, facilities, or utilities owned or operated by the local government and from related services provided by the local government and other revenues legally available to be pledged to secure the revenue bonds.

The proportion or fixed amount of revenue so obligated shall be a lien and charge against these revenues, subject only to maintenance and operating expenses. The governing body shall have due regard for the cost of maintenance and operation of the public utility, system, improvement, project, facility, addition, or extension that generates revenues obligated to be placed into the special fund or funds from which the revenue bonds are payable, and shall not set aside into the special fund or funds a greater amount or proportion of the revenues that in its judgment will be available over and above such cost of maintenance and operation and the proportion or fixed amount, if any, of the revenue so previously pledged. Other revenues, including tax revenues, lawfully available for maintenance or operation of revenue generating facilities may be used for maintenance and operation purposes even though the facilities are acquired, constructed, expanded, replaced, or repaired with moneys arising from the sale of revenue bonds. However, the use of these other revenues for maintenance and operation purposes shall not be deemed to directly or indirectly guarantee the revenue bonds or create a general obligation. The obligation to maintain and impose fees, rates, charges, tariffs, or rentals at levels sufficient to finance maintenance and operations shall remain if the other revenues available for such purposes diminish or cease.

The governing body may also provide that revenue bonds payable out of the same source or sources of revenue may later be issued on a parity with any revenue bonds being issued and sold.

(4) A revenue bond issued by a local government shall not constitute an obligation of the state, either general or special, nor a general obligation of the local government issuing the bond, but is a special obligation of the local government issuing the bond, and the interest and principal

on the bond shall only be payable from the special fund or funds established pursuant to subsection (2) of this section, the revenues lawfully pledged to the special fund or funds, and any lawfully created reserve funds. The owner of a revenue bond shall not have any claim for the payment thereof against the local government arising from the revenue bond except for payment from the special fund or funds, the revenues lawfully pledged to the special fund or funds, and any lawfully created reserve funds. The owner of a revenue bond issued by a local government shall not have any claim against the state arising from the revenue bond. Tax revenues shall not be used directly or indirectly to secure or guarantee the payment of the principal of or interest on revenue bonds.

[(5)] The substance of the limitations included in this subsection shall be plainly printed, written, engraved, or reproduced on: (a) Each revenue bond that is a physical instrument; (b) the official notice of sale; and (c) each official statement associated with the bonds.

(6) The authority to create a fund shall include the authority to create accounts within a fund.

(7) Local governments issuing revenue bonds, payable from revenues derived from projects, facilities, or utilities, shall covenant to maintain and keep these projects, facilities, or utilities in proper operating condition for their useful life. [1986 c 168 § 1.]

Funds for reserve purposes may be included in issue amount: RCW 39.44.140.

39.46.160 Revenue bonds—Alternative method of issuance—Bonds may include reserve funds. Any local government issuing revenue bonds under this section and RCW 39.46.150 may include in the amount of any such issue money for the purpose of establishing, maintaining, or increasing reserve funds to:

(1) Secure the payment of the principal of and interest on such revenue bonds; or

(2) Provide for replacements or renewals of or repairs or betterments to revenue producing facilities; or

(3) Provide for contingencies, including, but not limited to, loss of revenue caused by such contingencies. [1986 c 168 § 2.]

Chapter 39.48

BONDS SOLD TO GOVERNMENT AT PRIVATE SALE

Sections

39.48.010	Authority conferred.
39.48.020	Amortization—Requirements relaxed.
39.48.030	"Issuer" defined.
39.48.040	Chapter optional.

39.48.010 Authority conferred. Bonds and securities of all kinds heretofore or hereafter authorized, issued by any issuing corporation or district (hereinafter called the "issuer" and as hereinafter specified), whether such bonds and securities be issued for such issuer itself or for any other taxing or assessment district within its limits, and whether payable in whole or in part out of and from general taxes or payable in whole or in part out of and from the earnings to

be derived from any utility, system, construction, work, or works, belonging to or operated by any such issuer, or payable in whole or in part out of and from "local" or "benefit" assessments upon lands within any assessment district or assessment subdivision within any such issuer, may be sold to the United States government or to any department, corporation or agency thereof by private sale without giving any prior notice thereof by publication or otherwise and in such manner as the governing authority of such issuer may provide: PROVIDED, Only that bonds or other securities sold at private sale under the authority of this chapter shall bear interest at a rate or rates as authorized by the issuer and that all bonds and securities sold and issued under the authority of this chapter shall be sold, if now required by existing law, at not less than par and accrued interest. [1970 ex.s. c 56 § 59; 1969 ex.s. c 232 § 76; 1933 ex.s. c 30 § 1; RRS § 5583-11.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—**Saving**—**Severability**—1969 ex.s. c 232: See notes following RCW 39.52.020.

39.48.020 Amortization—Requirements relaxed. It shall be proper to provide with respect to any bonds now required to be amortized as provided by *RCW 39.44.010 through 39.44.080, that such amortized annual maturities shall commence to be payable at any time on or before five years from the date of said bonds, and that any bonds, or any part thereof, issued under the authority of this chapter, shall be redeemable prior to their fixed maturities, as provided by the governing board or authority of any such issuer. [1933 ex.s. c 30 § 2; RRS § 5583-12.]

***Reviser's note:** RCW 39.44.010, 39.44.011, 39.44.020, 39.44.030, 39.44.060, and 39.44.080 were repealed by 1984 c 186 § 70.

39.48.030 "Issuer" defined. The issuing corporations, districts, and subdivisions hereinbefore referred to and described as "issuer", shall include any county, city, town, school district, port district, metropolitan park district, taxing district, assessment district or any public corporation or municipal corporation authorized by existing law to issue bonds, securities or other evidences of indebtedness for itself or for any other taxing or assessment district therein or department thereof. [1933 ex.s. c 30 § 3; RRS § 5583-13.]

39.48.040 Chapter optional. It shall be optional with any such issuer, at its discretion, to exercise all or any of the powers conferred by this chapter in connection with the adoption and exercise by any such issuer of the provisions and powers granted by existing law. [1933 ex.s. c 30 § 4; RRS § 5583-14.]

Chapter 39.50

SHORT-TERM OBLIGATIONS—MUNICIPAL CORPORATIONS

Sections

39.50.010	Definitions.
39.50.020	Short-term obligations authorized.
39.50.030	Issuance of short-term obligations—Procedure—Interest rate—Contracts for future sale.
39.50.040	Refunding and renewal of short-term obligations.

39.50.050	Short-term obligations—Security.
39.50.060	Nonvoted general indebtedness.
39.50.070	Funds for payment of principal and interest.
39.50.900	Chapter cumulative—Applicability to joint operating agencies.

39.50.010 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Governing body" means the legislative authority of a municipal corporation by whatever name designated;

(2) "Local improvement district" includes local improvement districts, utility local improvement districts, road improvement districts, and other improvement districts that a municipal corporation is authorized by law to establish;

(3) "Municipal corporation" means any city, town, county, water district, sewer district, school district, port district, public utility district, metropolitan municipal corporation, public transportation benefit area, park and recreation district, irrigation district, or fire protection district or any other municipal or quasi municipal corporation described as such by statute, except joint operating agencies under chapter 43.52 RCW;

(4) "Ordinance" means an ordinance of a city or town or resolution or other instrument by which the governing body of the municipal corporation exercising any power under this chapter takes formal action and adopts legislative provisions and matters of some permanency; and

(5) "Short-term obligations" are warrants, notes, or other evidences of indebtedness, except bonds. [1985 c 332 § 8; 1982 c 216 § 2.]

39.50.020 Short-term obligations authorized. Subject to any applicable budget requirements, any municipal corporation may borrow money and issue short-term obligations as provided in this chapter, the proceeds of which may be used for any lawful purpose of the municipal corporation. Short-term obligations may be issued in anticipation of the receipt of revenues, taxes, or grants or the sale of (1) general obligation bonds if the bonds may be issued without the assent of the voters or if previously ratified by the voters; (2) revenue bonds if the bonds have been authorized by ordinance; (3) local improvement district bonds if the bonds have been authorized by ordinance. These short-term obligations shall be repaid out of money derived from the source or sources in anticipation of which they were issued or from any money otherwise legally available for this purpose. [1982 c 216 § 3.]

39.50.030 Issuance of short-term obligations—Procedure—Interest rate—Contracts for future sale. (1) The issuance of short-term obligations shall be authorized by ordinance of the governing body which ordinance shall fix the maximum amount of the obligations to be issued or, if applicable, the maximum amount which may be outstanding at any time, the maximum term and interest rate or rates to be borne thereby, the manner of sale, maximum price, form including bearer or registered as provided in RCW 39.46.030, terms, conditions, and the covenants thereof. The ordinance may provide for designation and employment of a paying agent for the short-term obligations and may authorize a designated representative of the municipal

corporation, or if the county, the county treasurer to act on its behalf and subject to the terms of the ordinance in selling and delivering short-term obligations authorized and fixing the dates, price, interest rates, and other details as may be specified in the ordinance. Short-term obligations issued under this section shall bear such fixed or variable rate or rates of interest as the governing body considers to be in the best interests of the municipal corporation. Variable rates of interest may be fixed in relationship to such standard or index as the governing body designates.

The governing body may make contracts for the future sale of short-term obligations pursuant to which the purchasers are committed to purchase the short-term obligations from time to time on the terms and conditions stated in the contract, and may pay such consideration as it considers proper for the commitments. Short-term obligations issued in anticipation of the receipt of taxes shall be paid within six months from the end of the fiscal year in which they are issued. For the purpose of this subsection, short-term obligations issued in anticipation of the sale of general obligation bonds shall not be considered to be obligations issued in anticipation of the receipt of taxes.

(2) Notwithstanding subsection (1) of this section, such short-term obligations may be issued and sold in accordance with chapter 39.46 RCW. [1995 c 38 § 9; 1994 c 301 § 13; 1985 c 71 § 1; 1983 c 167 § 112; 1982 c 216 § 4.]

Acts of municipal officers ratified and confirmed—1995 c 38: See note following RCW 3.02.045.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

39.50.040 Refunding and renewal of short-term obligations. Short-term obligations may, from time to time, be renewed or refunded by the issuance of short-term obligations and may be funded by the issuance of revenue, local improvement district, special assessment, or general obligation bonds. Short-term obligations payable from taxes shall not be renewed or refunded to a date later than six months from the end of the fiscal year in which the original short-term obligation was issued. For the purpose of this section, short-term obligations issued in anticipation of the sale of general obligation bonds shall not be considered to be short-term obligations payable from taxes. [1985 c 332 § 9; 1985 c 71 § 2; 1982 c 216 § 5.]

39.50.050 Short-term obligations—Security. Short-term obligations issued in anticipation of the receipt of taxes or the sale of general obligation bonds and the interest thereon shall be secured by the full faith, credit, taxing power, and resources of the municipal corporation. Short-term obligations issued in anticipation of the sale of revenue or local improvement district bonds and the interest thereon may be secured in the same manner as the revenue and local improvement district bonds in anticipation of which the obligations are issued and by an undertaking to issue the bonds. Short-term obligations issued in anticipation of grants, loans, or other sources of money shall be secured in the manner set forth in the ordinance authorizing their issuance. [1982 c 216 § 6.]

39.50.060 Nonvoted general indebtedness. A municipal corporation may incur nonvoted general indebtedness under this chapter up to an amount which, when added to all other authorized and outstanding nonvoted indebtedness of the municipal corporation, is equal to the maximum amount of indebtedness the municipal corporation is otherwise permitted to incur without a vote of the electors. [1982 c 216 § 7.]

39.50.070 Funds for payment of principal and interest. For the purpose of providing funds for the payment of principal of and interest on short-term obligations, the governing body may authorize the creation of a special fund or funds and provide for the payment from authorized sources to such funds of amounts sufficient to meet principal and interest requirements. [1982 c 216 § 8.]

39.50.900 Chapter cumulative—Applicability to joint operating agencies. The authority granted by this chapter shall be in addition and supplemental to any authority previously granted and shall not limit any other powers or authority previously granted to any municipal corporation. The authority granted by this chapter to public utility districts organized under Title 54 RCW shall not extend to joint operating agencies organized under chapter 43.52 RCW. [1982 c 216 § 9.]

Chapter 39.52

FUNDING INDEBTEDNESS IN COUNTIES, CITIES AND TOWNS

Sections

- 39.52.010 Issuance of funding bonds authorized.
- 39.52.015 Validation of prior bond issues.
- 39.52.020 Limitations on issuance of bonds.
- 39.52.035 Tax levy—Purpose.
- 39.52.050 "Corporate authorities" defined.

Cities and towns, ratification and funding of indebtedness: Chapter 35.40 RCW.

Metropolitan municipal corporations, funding and refunding bonds: RCW 35.58.470.

Port districts, funding and refunding indebtedness: Chapter 53.44 RCW.

Public utility districts, funding and refunding bonds: RCW 54.24.090.

School districts, refunding bonds: RCW 28A.530.040.

39.52.010 Issuance of funding bonds authorized. Any county, city, or town in the state of Washington which now has or may hereafter have an outstanding indebtedness evidenced by warrants or bonds, including warrants or bonds of any county, city, or town which are special fund obligations of and constitute a lien upon the waterworks or other public utilities of such county, city, or town, and are payable only from the income or funds derived or to be derived therefrom, whether issued originally within the limitations of the Constitution of this state, or of any law thereof, or whether such outstanding indebtedness has been or may hereafter be validated or legalized in the manner prescribed by law, may, by its corporate authorities, provide by ordinance or resolution for the issuance of funding bonds with which to take up and cancel such outstanding indebtedness in the manner hereinafter described, said bonds to constitute

general obligations of such county, city, or town: PROVIDED, That special fund obligations payable only from the income funds of the public utility, shall not be refunded by the issuance of general municipal bonds where voter approval is required before general municipal bonds may be issued for such public utility purposes, unless such general municipal bonds shall have been previously authorized. Nothing in this chapter shall be so construed as to prevent any such county, city, or town from funding its indebtedness as now provided by law. [1995 2nd sp.s. c 17 § 6; 1984 c 186 § 36; 1917 c 145 § 1; 1895 c 170 § 1; RRS § 5617.]

Severability—1995 2nd sp.s. c 17: See RCW 43.99K.900.

Purpose—1984 c 186: See note following RCW 39.46.110.

39.52.015 Validation of prior bond issues. That all bonds heretofore voted or issued, and which may have been or may hereafter be issued by any county, city or town, for any of the purposes authorized by the preceding section as hereby amended, including general fund bonds issued for the purpose of refunding special utility fund bonds or warrants, shall be validated and have the same force and effect as though said section had been in full force and effect at the time said bonds were either authorized or issued. [1917 c 145 § 2; RRS § 5618.]

39.52.020 Limitations on issuance of bonds. No bonds issued under this chapter shall be issued for a longer period than twenty years. Nothing in this chapter shall be deemed to authorize the issuing of any funding bonds which exceeds any constitutional or statutory limitations of indebtedness. Such bonds shall be issued and sold in accordance with chapters 39.46 and 39.53 RCW, exclusive of RCW 39.53.120. [1995 2nd sp.s. c 17 § 7; 1984 c 186 § 37; 1983 c 167 § 113; 1970 ex.s. c 56 § 60; 1969 ex.s. c 232 § 31; 1895 c 170 § 2; RRS § 5619.]

Severability—1995 2nd sp.s. c 17: See RCW 43.99K.900.

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Purpose—1970 ex.s. c 56: "Because market conditions are such that the state, state agencies, state colleges and universities, and the political subdivisions, municipal corporations and quasi municipal corporations of this state are finding it increasingly difficult and, in some cases, impossible to market bond issues and all other obligations, at the maximum permissible rate of interest payable on such bonds and obligations, it is the purpose of this 1970 amendatory act to remove all maximum rates of interest payable on such bonds and obligations." [1970 ex.s. c 56 § 1; 1969 ex.s. c 232 § 1.]

Validation—Saving—1969 ex.s. c 232: "All bonds, the issuance of which was authorized or ratified at a general or special election held within the issuing jurisdiction prior to the effective date of this amendatory act or the proposition for the issuance of which will be submitted at such an election pursuant to action of the legislative authority of the issuer taken prior to the effective date of this amendatory act, may be sold and issued with an interest rate or rates greater than any interest rate restriction contained in the ballot proposition or ordinance or resolution relating to such authorization or ratification if such bonds are sold and issued with an interest rate or rates not greater than those permitted by the applicable provision of this amendatory act." [1969 ex.s. c 232 § 94.]

Severability—1969 ex.s. c 232: "If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this 1969 amendatory act, such judgment or decree shall not affect, impair or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section,

or part of this act so adjudged to be invalid or unconstitutional." [1969 ex.s. c 232 § 95.]

Bonds, form, terms of sale, payment, etc.: Chapter 39.44 RCW.

39.52.035 Tax levy—Purpose. The corporate authorities of any such county, city or town shall provide annually by ordinance or resolution for the levy and extension on the tax rolls of such county, city or town, and for the collection thereof, of a direct annual tax in addition to all other county, city or town taxes to be levied according to law, which shall be sufficient to meet the interest on all of said bonds promptly as the same matures, and also sufficient to fully pay each series of bonds as the same matures: PROVIDED, That such ordinance or resolution shall not be repealed until the levy therein provided for shall be fully paid, or the bonds both principal and interest shall be paid or canceled. [1895 c 170 § 4; RRS § 5621. Formerly RCW 39.52.030, part.]

39.52.050 "Corporate authorities" defined. The words "corporate authorities", used in this chapter, shall be held to mean the county legislative authority, or the council or commission of the city or town. [1984 c 186 § 38; 1895 c 170 § 6; RRS § 5623.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Chapter 39.53 REFUNDING BOND ACT

Sections

- 39.53.010 Definitions.
- 39.53.020 Issuance authorized—Purposes—Saving to public body, criteria.
- 39.53.030 Bonds may be exchanged for outstanding bonds or sold.
- 39.53.040 What bonds may be refunded—Advance refunding, redemption of refunding bonds.
- 39.53.045 Bonds payable from special assessments—Not subject to refunding.
- 39.53.050 Refunding bonds, principal amount—Disposition of reserves held to secure the bonds to be refunded.
- 39.53.060 Application of proceeds of sale of advance refunding bonds and other funds—Investment in government obligations—Incidental expenses.
- 39.53.070 Application of proceeds of sale of advance refunding bonds and other funds—Contracts for safekeeping and application—Use to pay and secure advance refunding bonds—Pledge of revenues—Duty to provide sufficient money to accomplish refunding.
- 39.53.080 Pledge of revenues to payment of advance refunding bonds when amounts sufficient to pay revenue bonds to be refunded are irrevocably set aside.
- 39.53.090 Annual maturities of general obligation bonds issued to refund voted general obligation bonds.
- 39.53.100 Use of deposit moneys and investments in computing indebtedness.
- 39.53.110 Refunding and other bonds may be issued in combination.
- 39.53.120 Refunding bonds to be issued in accordance with laws applicable to type of bonds being refunded.
- 39.53.130 Amendment of power contracts pursuant to refunding of certain bond issues.
- 39.53.140 Issuance of general obligation bonds to refund special revenue or limited obligations.
- 39.53.900 Short title.
- 39.53.910 Additional authority—Effect as to other laws.
- 39.53.920 Severability—1965 ex.s. c 138.
- 39.53.921 Severability—1977 ex.s. c 262.

39.53.010 Definitions. Except where the context otherwise requires, the terms defined in this section shall for all purposes have the meanings herein specified:

(1) "Governing body" means the council, commission, board of commissioners, board of directors, board of trustees, board of regents, or other legislative body of the public body designated herein in which body the legislative powers of the public body are vested: PROVIDED, That with respect to the state it shall mean the state finance committee.

(2) "Public body" means the state of Washington, its agencies, institutions, political subdivisions, and municipal and quasi municipal corporations now or hereafter existing under the laws of the state of Washington.

(3) "Bond" means any revenue bond or general obligation bond.

(4) "Revenue bond" means any bond, note, warrant, certificate of indebtedness, or other obligation for the payment of money issued by a public body or any predecessor of any public body and which is payable from designated revenues, special assessments, or a special fund but excluding any obligation constituting an indebtedness within the meaning of the constitutional debt limitation.

(5) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body which constitutes an indebtedness within the meaning of the constitutional debt limitation.

(6) "Advance refunding bonds" means bonds issued for the purpose of refunding bonds first subject to redemption or maturing one year or more from the date of the advance refunding bonds.

(7) "Issuer" means the public body issuing any bond or bonds.

(8) "Ordinance" means an ordinance of a city or town or resolution or other instrument by which the governing body of the public body exercising any power hereunder takes formal action and adopts legislative provisions and matters of some permanency.

(9) "Government obligations" means any of the following: (a) Direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America and bank certificates of deposit secured by such obligations; (b) bonds, debentures, notes, participation certificates, or other obligations issued by the banks for cooperatives, the federal intermediate credit bank, the federal home loan bank system, the export-import bank of the United States, federal land banks, or the federal national mortgage association; (c) public housing bonds and project notes fully secured by contracts with the United States; and (d) obligations of financial institutions insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation, to the extent insured or to the extent guaranteed as permitted under any other provision of state law.

(10) Words used herein importing singular or plural number may be construed so that one number includes both. [1984 c 186 § 68; 1973 1st ex.s. c 25 § 1; 1965 ex.s. c 138 § 2.]

Purpose—1984 c 186: See note following RCW 39.46.110.

39.53.020 Issuance authorized—Purposes—Saving to public body, criteria. The governing body of any public body may by ordinance provide for the issuance of bonds without an election to refund outstanding bonds heretofore or hereafter issued by such public body or its predecessor, only (1) in order to pay or discharge all or any part of such outstanding series or issue of bonds, including any interest thereon, in arrears or about to become due and for which sufficient funds are not available, (2) when necessary or in the best interest of the public body in order to modify debt service or reserve requirements, sources of payment, covenants, or other terms of the bonds to be refunded, or (3) in order to effect a saving to the public body. To determine whether or not a saving will be effected, consideration shall be given to the interest to fixed maturities of the refunding bonds and the bonds to be refunded, the costs of issuance of the refunding bonds, including any sale discount, the redemption premiums, if any, to be paid, and the known earned income from the investment of the refunding bond proceeds pending redemption of the bonds to be refunded. [1977 ex.s. c 262 § 1; 1974 ex.s. c 111 § 2; 1965 ex.s. c 138 § 3.]

Severability—1974 ex.s. c 111: See note following RCW 39.42.080.

39.53.030 Bonds may be exchanged for outstanding bonds or sold. Any bonds issued for refunding purposes may be delivered in exchange for the outstanding bonds being refunded or may be sold in such manner and at such price as the governing body may in its discretion determine advisable. [1973 1st ex.s. c 25 § 2; 1965 ex.s. c 138 § 4.]

39.53.040 What bonds may be refunded—Advance refunding, redemption of refunding bonds. Bonds may be refunded hereunder or under any other law of this state which authorizes the issuance of refunding bonds. In any advance refunding plan under this chapter the governing body shall provide irrevocably in the ordinance authorizing the issuance of the advance refunding bonds for the redemption or payment of the bonds to be refunded.

The ordinance authorizing the issuance of advance refunding bonds pursuant to this chapter may contain such provisions for the redemption of the refunding bonds prior to maturity and for payment of a premium upon such redemption as the governing body shall determine in its discretion. [1977 ex.s. c 262 § 2; 1973 1st ex.s. c 25 § 3; 1965 ex.s. c 138 § 5.]

39.53.045 Bonds payable from special assessments—Not subject to refunding. Bonds payable solely from special assessments or special assessments and a guaranty fund issued on or prior to June 7, 1984, shall not be subject to refunding under this chapter. [1984 c 186 § 69.]

Purpose—1984 c 186: See note following RCW 39.46.110.

39.53.050 Refunding bonds, principal amount—Disposition of reserves held to secure the bonds to be refunded. Refunding bonds may be issued in a principal amount in excess of the principal amount of the bonds to be refunded in an amount deemed reasonably required to effect such refunding. The principal amount of the refunding bonds may be less than or the same as the principal amount

of the bonds being refunded so long as provision is duly and sufficiently made for the retirement or redemption of such bonds to be refunded. Any reserves held to secure the bonds to be refunded may be used to accomplish the refunding in accordance with the refunding plan. Reserves not so used shall be pledged as security for the refunding bonds to the extent the reserves, if any, are required. The balance of any such reserves may be used for any lawful purpose. [1983 1st ex.s. c 69 § 1; 1977 ex.s. c 262 § 3; 1974 ex.s. c 111 § 3; 1965 ex.s. c 138 § 6.]

Severability—1974 ex.s. c 111: See note following RCW 39.42.080.

39.53.060 Application of proceeds of sale of advance refunding bonds and other funds—Investment in government obligations—Incidental expenses. Prior to the application of the proceeds derived from the sale of advance refunding bonds to the purposes for which such bonds shall have been issued, such proceeds, together with any other funds the governing body may set aside for the payment of the bonds to be refunded, may be invested and reinvested only in government obligations maturing or having guaranteed redemption prices at the option of the holder at such time or times as may be required to provide funds sufficient to pay principal, interest and redemption premiums, if any, in accordance with the advance refunding plan. To the extent incidental expenses have been capitalized, such bond proceeds may be used to defray such expenses. [1973 1st ex.s. c 25 § 4; 1965 ex.s. c 138 § 7.]

39.53.070 Application of proceeds of sale of advance refunding bonds and other funds—Contracts for safekeeping and application—Use to pay and secure advance refunding bonds—Pledge of revenues—Duty to provide sufficient money to accomplish refunding. The governing body may contract with respect to the safekeeping and application of the advance refunding bond proceeds and other funds included therewith and the income therefrom including the right to appoint a trustee which may be any trust company or state or national bank having powers of a trust company within or without the state of Washington. The governing body may provide in the refunding plan that until such moneys are required to redeem or retire the general obligation or revenue bonds to be refunded, the refunding bond proceeds and other funds, and the income therefrom shall be used to pay and secure the payment of the principal of and interest on the advance refunding bonds. The governing body may additionally pledge for the payment of such revenue refunding bonds any revenues which might legally be pledged for the payment of revenue bonds of the issuer of the type being refunded. Provisions must be made by the governing body for moneys sufficient in amount to accomplish the refunding as scheduled. [1973 1st ex.s. c 25 § 5; 1965 ex.s. c 138 § 8.]

39.53.080 Pledge of revenues to payment of advance refunding bonds when amounts sufficient to pay revenue bonds to be refunded are irrevocably set aside. When a public body has irrevocably set aside for and pledged to the payment of revenue bonds to be refunded advance refunding bond proceeds and other moneys in amounts which together with known earned income from the investment thereof are

sufficient in amount to pay the principal of and interest and any redemption premiums on such revenue bonds as the same become due and to accomplish the refunding as scheduled, the governing body may provide that the advance refunding revenue bonds shall be payable from any source which, either at the time of the issuance of the advance refunding bonds or the revenue bonds to be refunded, might legally be or have been pledged for the payment of the revenue bonds refunded to the extent it may legally do so, notwithstanding the pledge of such revenues for the payment of the outstanding revenue bonds being refunded. [1965 ex.s. c 138 § 9.]

39.53.090 Annual maturities of general obligation bonds issued to refund voted general obligation bonds. The various annual maturities of general obligation bonds issued to refund voted general obligation bonds shall not extend over a longer period of time than the bonds to be refunded. Such maturities may be changed in amount or shortened in term if the estimated respective annual principal and interest requirements of the refunding bonds, computed upon the anticipated effective interest rate the governing body shall in its discretion determine will be borne by such bonds, will not exceed the respective annual principal and interest requirements of the bonds being refunded: **PROVIDED,** That the issuer may increase the principal amount of annual maturities for the purpose of rounding out maturities to the nearest five thousand dollars. [1965 ex.s. c 138 § 10.]

39.53.100 Use of deposit moneys and investments in computing indebtedness. In computing indebtedness for the purpose of any constitutional or statutory debt limitation there shall be deducted from the amount of outstanding indebtedness the amounts of money and investments credited to or on deposit for general obligation bond retirement. [1973 1st ex.s. c 25 § 6; 1965 ex.s. c 138 § 11.]

39.53.110 Refunding and other bonds may be issued in combination. Bonds for refunding and bonds for any other purpose or purposes authorized may be issued separately or issued in combination in one or more series or issues by the same issuer. [1965 ex.s. c 138 § 12.]

39.53.120 Refunding bonds to be issued in accordance with laws applicable to type of bonds being refunded. Except as specifically provided in this chapter, refunding bonds issued hereunder shall be issued in accordance with the provisions of law applicable to the type of bonds of the issuer being refunded, either at the time of the issuance of the refunding bonds or the bonds to be refunded. [1965 ex.s. c 138 § 13.]

39.53.130 Amendment of power contracts pursuant to refunding of certain bond issues. If bonds are to be issued under this chapter for refunding of any bonds issued specifically to finance any electric power and energy project or facility and there are contracts in existence for the sale of electric power and energy generated by such project or facility wherein the cost of power to a purchaser specifically includes a portion of the debt service on the bonds to be

refunded, such power contracts shall be amended to reflect in each year during the remaining terms of such contracts that portion of the savings to be realized from such refunding during each such year equal to the percentage of power output from such project or facility purchased by the purchaser under such power contracts. Nothing in this chapter shall be construed to alter, modify or change any such power contracts without the mutual agreement of the parties thereto. [1965 ex.s. c 138 § 15.]

39.53.140 Issuance of general obligation bonds to refund special revenue or limited obligations. The state may issue general obligation bonds to refund any special revenue or limited obligations of the state or its agencies at or prior to the date they mature or are subject to redemption. The payment of such refunding general obligation bonds may be additionally secured by a pledge of the revenues pledged to the payment of the special revenue or limited obligations to be refunded.

If the payment of such special revenue obligations to be refunded as general obligation bonds of the state is secured by (1) fees collected by the state as license fees for motor vehicles, or (2) excise taxes collected by the state on the sale, distribution or use of motor vehicle fuel, or (3) interest on the permanent school fund, then the state shall also pledge to the payment of such refunding bonds the same fees, excise taxes, or interest that were pledged to the payment of the special revenue obligations being refunded. [1974 ex.s. c 111 § 4; 1973 1st ex.s. c 25 § 7.]

Severability—1974 ex.s. c 111: See note following RCW 39.42.080.

39.53.900 Short title. This chapter shall be known as the "Refunding Bond Act." [1965 ex.s. c 138 § 1.]

39.53.910 Additional authority—Effect as to other laws. The authority of a public body to issue refunding bonds pursuant to this chapter is additional to any existing authority to issue such bonds and nothing in this chapter shall prevent the issuance of such bonds pursuant to any other law, and this chapter shall not be construed to amend any existing law authorizing the issuance of refunding bonds by a public body. [1965 ex.s. c 138 § 14.]

39.53.920 Severability—1965 ex.s. c 138. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1965 ex.s. c 138 § 16.]

39.53.921 Severability—1977 ex.s. c 262. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 262 § 4.]

Chapter 39.56 WARRANTS

Sections

- 39.56.020 Rate on municipal warrants.
- 39.56.030 Issuing officer to fix rate.
- 39.56.040 Cancellation of municipal warrants.
- 39.56.050 Municipal corporations authorized to establish line of credit for payment of warrants—Interest.

Interest on judgments: RCW 4.56.110.

Usurious rates of interest: Chapter 19.52 RCW.

39.56.020 Rate on municipal warrants. All county, city, town and school warrants, and all warrants or other evidences of indebtedness, drawn upon or payable from any public funds, shall bear interest at a rate or rates as authorized by the issuing authority. [1970 ex.s. c 56 § 106; 1899 c 80 § 4; RRS § 7302. Prior: 1895 c 136 § 3.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Cities and towns, local improvement district warrants, interest rate: RCW 35.45.130.

39.56.030 Issuing officer to fix rate. It shall be the duty of every public officer issuing public warrants to make monthly investigation to ascertain the market value of the current warrants issued by him, and he shall, so far as practicable, fix the rate of interest on the warrants issued by him during the ensuing month so that the par value shall be the market value thereof. [1981 c 156 § 16; 1981 c 10 § 4; 1899 c 80 § 5; RRS § 7303.]

39.56.040 Cancellation of municipal warrants. Registered or interest bearing warrants of any municipal corporation not presented within one year of the date of their call, or other warrants not presented within one year of their issue, shall be canceled by passage of a resolution of the governing body of the municipal corporation, and upon notice of the passage of such resolution the auditor of the municipal corporation and the treasurer of the municipal corporation shall transfer all records of such warrants so as to leave the funds as if such warrants had never been drawn. [1975 1st ex.s. c 131 § 1.]

39.56.050 Municipal corporations authorized to establish line of credit for payment of warrants—Interest. See RCW 43.09.2853.

Chapter 39.58

PUBLIC FUNDS—DEPOSITS AND INVESTMENTS—PUBLIC DEPOSITARIES

Sections

- 39.58.010 Definitions.
- 39.58.020 Public funds—Protection against loss.
- 39.58.030 Public deposit protection commission—State finance committee constitutes—Proceedings.
- 39.58.040 General powers of commission.
- 39.58.045 Financial institutions claiming exemption from sales, use or ad valorem taxes—Notification of commission.
- 39.58.050 Collateral for deposits—Segregation—Eligible securities.
- 39.58.060 Loss in a bank public depository—Procedure for payment.
- 39.58.065 Loss in a thrift public depository—Procedure for payment.

- 39.58.070 Subrogation of commission to depositor's rights—Sums received from distribution of assets, payment.
- 39.58.080 Deposit of public funds in public depository required—Deposits in institutions located outside the state.
- 39.58.085 Demand accounts in out-of-state and alien banks—Limitations.
- 39.58.090 Authority to secure deposits in accordance with chapter—Bonds and securities for deposits dispensed with.
- 39.58.100 Reports of public depositories—Certification by director of financial institutions.
- 39.58.103 Notice to commission of reduced net worth.
- 39.58.105 Investigation of financial institution applying to become public depository—Report.
- 39.58.108 Requirements to become depository.
- 39.58.120 Interest rates.
- 39.58.130 Investment deposits—Net worth of public depository.
- 39.58.135 Limitations on deposits.
- 39.58.140 Liability of treasurers.
- 39.58.750 Receipt, disbursement, or transfer of public funds by wire or other electronic communication means authorized.

Department of financial institutions: Chapter 43.320 RCW.

State investment board: Chapter 43.33A RCW.

Surplus funds in state treasury, investment program: Chapter 43.86A RCW.

39.58.010 Definitions. In this chapter, unless the context otherwise requires:

(1) "Public funds" means moneys under the control of a treasurer or custodian belonging to, or held for the benefit of, the state or any of its political subdivisions, public corporations, municipal corporations, agencies, courts, boards, commissions, or committees, including moneys held as trustee, agent, or bailee;

(2) "Public depository" means a financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has been approved by the commission to hold public deposits, and which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability. Addition of the word "bank" denotes a bank, trust company, or national banking association and the word "thrift" denotes a savings association or savings bank;

(3) "Loss" means the issuance of an order by a regulatory or supervisory authority or a court of competent jurisdiction (a) restraining a public depository from making payments of deposit liabilities or (b) appointing a receiver for a public depository;

(4) "Commission" means the Washington public deposit protection commission created under RCW 39.58.030;

(5) "Eligible collateral" means securities which are enumerated in RCW 39.58.050 (5) and (6) as eligible collateral for public deposits;

(6) The "maximum liability" of a public depository on any given date means a sum equal to ten percent of (a) all public deposits held by the *qualified public depository on the then most recent commission report date, or (b) the average of the balances of said public deposits on the last four immediately preceding reports required pursuant to RCW 39.58.100, whichever amount is greater, less any assessments paid to the commission pursuant to this chapter since the then most recent commission report date;

(7) "Public funds available for investment" means such public funds as are in excess of the anticipated cash needs throughout the duration of the contemplated investment period;

(8) "Investment deposits" means time deposits, money market deposit accounts, and savings deposits of public funds available for investment;

(9) "Treasurer" shall mean the state treasurer, a county treasurer, a city treasurer, a treasurer of any other municipal corporation, and any other custodian of public funds;

(10) "Financial institution" means any national or state chartered commercial bank or trust company, savings bank, or savings association, or branch or branches thereof, located in this state and lawfully engaged in business;

(11) "Commission report" means a formal accounting rendered by all public depositories to the commission in response to a demand for specific information made by the commission detailing pertinent affairs of each public depository as of the close of business on a specified date, which is the "commission report date." "Commission report due date" is the last day for the timely filing of a commission report;

(12) "Director of financial institutions" means the Washington state director of the department of financial institutions;

(13) "Net worth" of a public depository means (a) the equity capital as reported to its primary regulatory authority on the quarterly report of condition or statement of condition and may include capital notes and debentures which are subordinate to the interests of depositors, or (b) equity capital adjusted by rule of the commission;

(14) "Depository pledge agreement" means a tripartite agreement executed by the commission with a financial institution and its designated trustee. Such agreement shall be approved by the directors or the loan committee of the financial institution and shall continuously be a record of the financial institution. New securities may be pledged under this agreement in substitution of or in addition to securities originally pledged without executing a new agreement;

(15) "Trustee" means a third-party safekeeping agent which has completed a depository pledge agreement with a public depository and the commission. Such third-party safekeeping agent may be the federal reserve bank of San Francisco, the federal home loan bank of Seattle, the trust department of the public depository, or such other third-party safekeeping agent approved by the commission. [1996 c 256 § 1; 1994 c 92 § 494; 1984 c 177 § 10; 1983 c 66 § 3; 1977 ex.s. c 95 § 1; 1975 1st ex.s. c 77 § 1; 1973 c 126 § 9; 1969 ex.s. c 193 § 1.]

***Reviser's note:** The term "qualified public depository" was redefined as "public depository" by 1996 c 256 § 1.

Severability—1983 c 66: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 66 § 24.]

Severability—1969 ex.s. c 193: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of this act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 193 § 32.]

Construction—1969 ex.s. c 193: "Nothing in this act shall be construed so as to impair the obligation of any contract or agreement entered into prior to its effective date." [1969 ex.s. c 193 § 33.]

City depositories: Chapter 35.38 RCW.

County depositories: Chapter 36.48 RCW.

State depositories: Chapter 43.85 RCW.

39.58.020 Public funds—Protection against loss. All public funds deposited in public depositories, including

investment deposits and accrued interest thereon, shall be protected against loss, as provided in this chapter. [1996 c 256 § 2; 1984 c 177 § 11; 1983 c 66 § 5; 1973 c 126 § 10; 1969 ex.s. c 193 § 2.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.030 Public deposit protection commission—State finance committee constitutes—Proceedings. The Washington public deposit protection commission shall be the state finance committee. The record of the proceedings of the public deposit protection commission shall be kept in the office of the commission and a duly certified copy thereof, or any part thereof, shall be admissible in evidence in any action or proceedings in any court of this state. [1983 c 66 § 6; 1969 ex.s. c 193 § 3.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.040 General powers of commission. The commission shall have power (1) to make and enforce regulations necessary and proper to the full and complete performance of its functions under this chapter; (2) to require any public depository to furnish such information dealing with public deposits and the exact status of its net worth as the commission shall request. Any public depository which refuses or neglects to give promptly and accurately or to allow verification of any information so requested shall no longer be a public depository and shall be excluded from the right to receive or hold public deposits until such time as the commission shall acknowledge that such depository has furnished the information requested; (3) to take such action as it deems best for the protection, collection, compromise or settlement of any claim arising in case of loss; (4) to prescribe regulations, subject to this chapter, fixing the requirements for qualification of financial institutions as public depositories, and fixing other terms and conditions consistent with this chapter, under which public deposits may be received and held; (5) to make and enforce regulations setting forth criteria establishing minimum standards for the financial condition of bank and thrift depositories and, if the minimum standards are not met, providing for additional collateral requirements or restrictions regarding a public depository's right to receive or hold public deposits; (6) to fix the official date on which any loss shall be deemed to have occurred taking into consideration the orders, rules and regulations of supervisory authority as they affect the failure or inability of a public depository to repay public deposits in full; and (7) in case loss occurs in more than one public depository, to determine the allocation and time of payment of any sums due to public depositories under this chapter. [1996 c 256 § 3; 1986 c 25 § 2; 1984 c 177 § 12; 1983 c 66 § 7; 1975 1st ex.s. c 77 § 2; 1969 ex.s. c 193 § 4.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.045 Financial institutions claiming exemption from sales, use or ad valorem taxes—Notification of commission. The director of the department of revenue shall notify the public deposit protection commission quarterly on the first day of October, January, April, and July of the names and addresses of any financial institutions which have claimed exemption from the payment of any

sales or compensating use or ad valorem taxes under the laws of this state. [1983 c 66 § 4.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.050 Collateral for deposits—Segregation—Eligible securities. (1) Every public depository shall complete a depository pledge agreement with the commission and a trustee, and shall at all times maintain, segregated from its other assets, eligible collateral in the form of securities enumerated in this section having a value at least equal to its maximum liability and as otherwise prescribed in this chapter. Such collateral shall be segregated by deposit with the depository's trustee and shall be clearly designated as security for the benefit of public depositories under this chapter.

(2) Securities eligible as collateral shall be valued at market value, and the total market value of securities pledged in accordance with this chapter shall not be reduced by withdrawal or substitution of securities except by prior authorization, in writing, by the commission.

(3) The public depository shall have the right to make substitutions of an equal or greater amount of such collateral at any time.

(4) The income from the securities which have been segregated as collateral shall belong to the public depository without restriction.

(5) Each of the following enumerated classes of securities, providing there has been no default in the payment of principal or interest thereon, shall be eligible to qualify as collateral:

(a) Certificates, notes or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States;

(b) State, county, municipal, or school district bonds or warrants of taxing districts of the state of Washington or any other state of the United States, provided that such bonds and warrants shall be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations;

(c) The obligations of any United States government-sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(d) Bonds, notes, letters of credit, or other securities or evidence of indebtedness constituting the direct and general obligation of a federal home loan bank or federal reserve bank;

(e) Revenue bonds of this state or any authority, board, commission, committee, or similar agency thereof, and any municipality or taxing district of this state;

(f) Direct and general obligation bonds and warrants of any city, town, county, school district, port district, or other political subdivision of any state, having the power to levy general taxes, which are payable from general ad valorem taxes;

(g) Bonds issued by public utility districts as authorized under the provisions of Title 54 RCW, as now or hereafter amended;

(h) Bonds of any city of the state of Washington for the payment of which the entire revenues of the city's water system, power and light system, or both, less maintenance and operating costs, are irrevocably pledged, even though such bonds are not general obligations of such city;

(6) In addition to the securities enumerated in this section, every public depository may also segregate such bonds, securities, and other obligations as are designated to be authorized security for public deposits under the laws of this state.

(7) The commission may at any time or times declare any particular security as ineligible to qualify as collateral when in the commission's judgment it is deemed desirable to do so. [1996 c 256 § 4; 1989 c 97 § 4; 1984 c 177 § 13; 1983 c 66 § 8; 1975 1st ex.s. c 77 § 3; 1973 c 126 § 11; 1969 ex.s. c 193 § 5.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.060 Loss in a bank public depository—
Procedure for payment. When the commission determines that a loss has occurred in a bank public depository, it shall as soon as possible make payment to the proper public officers of all funds subject to such loss, pursuant to the following procedures:

(1) For the purposes of determining the sums to be paid, the director of financial institutions or the receiver shall, within twenty days after issuance of a restraining order or taking possession of any bank public depository, ascertain the amount of public funds on deposit therein as disclosed by its records and the amount thereof covered by deposit insurance and certify the amounts thereof to the commission and each such public depositor;

(2) Within ten days after receipt of such certification, each such public depositor shall furnish to the commission verified statements of its deposits in such bank public depository as disclosed by its records;

(3) Upon receipt of such certificate and statements, the commission shall ascertain and fix the amount of such public deposits, net after deduction of any amount received from deposit insurance, and, after determining and declaring the apparent net loss, assess the same against all then bank public depositories, as follows: First, against the public depository in which the loss occurred, to the extent of the full value of collateral segregated pursuant to this chapter; second, against all other bank public depositories pro rata in proportion to the maximum liability of each such depository as it existed on the date of loss;

(4) Assessments made by the commission shall be payable on the second business day following demand, and in case of the failure of any public depository so to pay, the commission shall forthwith take possession of the securities segregated as collateral by such depository pursuant to this chapter and liquidate the same for the purpose of paying such assessment;

(5) Upon receipt of such assessment payments, the commission shall reimburse the public depositors of the public depository in which the loss occurred to the extent of the depository's net deposit liability to them. [1996 c 256 § 5; 1983 c 66 § 9; 1973 c 126 § 12; 1969 ex.s. c 193 § 6.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.065 Loss in a thrift public depository—
Procedure for payment. When the commission determines that a loss has occurred in a thrift public depository, it shall as soon as possible make payment to the proper public officers of all funds subject to such loss, pursuant to the following procedures:

(1) For the purposes of determining the sums to be paid, the director of financial institutions or the receiver shall, within twenty days after issuance of a restraining order or taking possession of any thrift public depository, ascertain the amount of public funds on deposit therein as disclosed by its records and the amount thereof covered by deposit insurance and certify the amounts thereof to the commission and each such public depositor;

(2) Within ten days after receipt of such certification, each such public depositor shall furnish to the commission verified statements of its deposits in such thrift depository as disclosed by its records;

(3) Upon receipt of such certificate and statements, the commission shall ascertain and fix the amount of such public deposits, net after deduction of any amount received from deposit insurance, and, after determining and declaring the apparent net loss, assess the same against all then thrift public depositories, as follows: First, against the public depository in which the loss occurred, to the extent of the full value of collateral segregated pursuant to this chapter; second, against all other thrift public depositories pro rata in proportion to the maximum liability of each such depository as it existed on the date of loss;

(4) Assessments made by the commission shall be payable on the second business day following demand, and in case of the failure of any public depository so to pay, the commission shall forthwith take possession of the securities segregated as collateral by such depository pursuant to this chapter and liquidate the same for the purpose of paying such assessment;

(5) Upon receipt of such assessment payments, the commission shall reimburse the public depositors of the public depository in which the loss occurred to the extent of the depository's net deposit liability to them. [1996 c 256 § 6; 1983 c 66 § 10.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.070 Subrogation of commission to depositor's rights—Sums received from distribution of assets, payment. Upon payment to any public depositor, the commission shall be subrogated to all of such depositor's right, title and interest against the public depository in which the loss occurred and shall share in any distribution of its assets ratably with other depositors. Any sums received from any distribution shall be paid to the public depositors to the extent of any unpaid net deposit liability and the balance remaining shall be paid to the public depositories against which assessments were made, pro rata in proportion to the assessments actually paid by each such depository: PROVIDED, That the public depository in which the loss occurred shall not share in any such distribution of the balance remaining. If the commission incurs expense in enforcing any such claim, the amount thereof shall be paid as a liquidation expense of the public depository in which

the loss occurred. [1996 c 256 § 7; 1973 c 126 § 13; 1969 ex.s. c 193 § 7.]

39.58.080 Deposit of public funds in public depository required—Deposits in institutions located outside the state. Except for funds deposited pursuant to a fiscal agency contract with the state fiscal agent or its correspondent bank, funds deposited pursuant to a custodial bank contract with the state's custodial bank, and funds deposited pursuant to a local government multistate joint self-insurance program as provided in RCW 48.62.081, no public funds shall be deposited in demand or investment deposits except in a public depository located in this state or as otherwise expressly permitted by statute: **PROVIDED**, That the commission, or the chair upon delegation by the commission, upon good cause shown, may authorize, for such time and upon such terms and conditions as the commission or chair deem appropriate, a treasurer to maintain a demand deposit account with a banking institution located outside the state of Washington solely for the purpose of transmitting money received to public depositories in the state of Washington for deposit. [1996 c 256 § 8; 1991 sp.s. c 30 § 27; 1986 c 160 § 1; 1984 c 177 § 14; 1983 c 66 § 11; 1969 ex.s. c 193 § 8.]

Effective date, implementation, application—Severability—1991 sp.s. c 30: See RCW 48.62.900 and 48.62.901.

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.085 Demand accounts in out-of-state and alien banks—Limitations. The commission, or the chair upon delegation by the commission, may authorize state and local governmental entities to establish demand accounts in out-of-state and alien banks in an aggregate amount not to exceed one million dollars. No single governmental entity shall be authorized to hold more than fifty thousand dollars in one demand account.

The governmental entities establishing such demand accounts shall be solely responsible for their proper and prudent management and shall bear total responsibility for any losses incurred by such accounts. Accounts established under the provisions of this section shall not be considered insured by the commission.

The state auditor shall annually monitor compliance with this section and the financial status of such demand accounts. [1996 c 256 § 9; 1987 c 505 § 21; 1986 c 160 § 2.]

39.58.090 Authority to secure deposits in accordance with chapter—Bonds and securities for deposits dispensed with. All institutions located in this state which are permitted by the statutes of this state to hold and receive public funds shall have power to secure such deposits in accordance with this chapter. Except as provided in this chapter, no bond or other security shall be required of or given by any public depository for any public funds on deposit. [1996 c 256 § 10; 1984 c 177 § 15; 1969 ex.s. c 193 § 9.]

39.58.100 Reports of public depositories—Certification by director of financial institutions. On or before each commission report due date, each public depository shall render to the commission a written report, certified under oath, indicating the total amount of public

funds on deposit held by it, the net worth of the depository, and the amount and nature of eligible collateral then segregated for the benefit of the commission.

The commission may instruct the director of financial institutions to examine and thereafter certify as to the accuracy of any statement to the commission by any public depository. [1996 c 256 § 11; 1984 c 177 § 16; 1983 c 66 § 12; 1969 ex.s. c 193 § 10.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.103 Notice to commission of reduced net worth. Each public depository shall notify the commission in writing within five working days of the happening of an event which causes its net worth to be reduced by an amount greater than ten percent of the amount shown as its net worth on the most recent report submitted pursuant to RCW 39.58.100. [1983 c 66 § 13; 1975 1st ex.s. c 77 § 4.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.105 Investigation of financial institution applying to become public depository—Report. The commission may require the state auditor or the director of financial institutions to thoroughly investigate and report to it concerning the condition of any financial institution which makes application to become a public depository, and may also as often as it deems necessary require such investigation and report concerning the condition of any financial institution which has been designated as a public depository. The expense of all such investigations or reports shall be borne by the financial institution examined. In lieu of any such investigation or report, the commission may rely upon information made available to it or the director of financial institutions by the office of the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, the federal reserve board, or any state bank or thrift regulatory agency.

The director of financial institutions shall in addition advise the commission of any action he or she has directed any public depository to take which will result in a reduction of greater than ten percent of the net worth of such depository as shown on the most recent report it submitted pursuant to RCW 39.58.100. [1996 c 256 § 12; 1983 c 66 § 14; 1975 1st ex.s. c 77 § 5.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.108 Requirements to become depository. Any financial institution may become a depository upon approval by the commission and segregation of collateral in the manner as set forth in this chapter, and upon compliance with all rules as promulgated by the commission. For the first twelve-month period following qualification as a public depository, the depository shall at all times pledge and segregate eligible securities in an amount equal to not less than ten percent of all public funds on deposit in the depository. [1996 c 256 § 13; 1984 c 177 § 17; 1983 c 66 § 15; 1975 1st ex.s. c 77 § 6.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.120 Interest rates. Time deposits issued pursuant to this chapter shall bear interest at a rate not in excess of the maximum rate permitted by any applicable

governmental regulation. [1974 ex.s. c 50 § 1; 1969 ex.s. c 193 § 12.]

39.58.130 Investment deposits—Net worth of public depository. A treasurer is authorized to deposit in a public depository any public funds available for investment and secured by collateral in accordance with the provisions of this chapter, and receive interest thereon. The authority provided by this section is additional to any authority now or hereafter provided by law for the investment or deposit of public funds by any such treasurer: PROVIDED, That in no case shall the aggregate of demand and investment deposits of public funds by any such treasurer in any one public depository exceed at any time the net worth of that depository. If a public depository's net worth is reduced, a treasurer may allow public funds on deposit in excess of the reduced net worth to remain until maturity upon pledging by the depository of eligible securities valued at market value in an amount at least equal to the amount of the excess deposits. The collateral shall be segregated as provided in RCW 39.58.050. If the additional securities required by this section are not pledged by the depository, the depository shall permit withdrawal prior to maturity by the treasurer of deposits, including accrued interest, in accordance with applicable statutes and governmental regulations. [1996 c 256 § 14; 1984 c 177 § 18; 1983 c 66 § 16; 1969 ex.s. c 193 § 13.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.135 Limitations on deposits. Notwithstanding RCW 39.58.130, (1) aggregate deposits received by a public depository from all public treasurers shall not exceed at any time one hundred fifty percent of the value of the depository's net worth, nor (2) shall the aggregate deposits received by any public depository exceed thirty percent of the total aggregate deposits of all public treasurers in all depositories as determined by the public deposit protection commission. However, a public depository may receive deposits in excess of the limits provided in this section if eligible securities, as prescribed in RCW 39.58.050, are pledged as collateral in an amount equal to one hundred percent of the value of deposits received in excess of the limitations prescribed in this section. [1996 c 256 § 15; 1986 c 25 § 1; 1984 c 177 § 19.]

39.58.140 Liability of treasurers. When deposits are made in accordance with this chapter, a treasurer shall not be liable for any loss thereof resulting from the failure or default of any public depository without fault or neglect on his or her part or on the part of his or her assistants or clerks. [1996 c 256 § 16; 1969 ex.s. c 193 § 29.]

Liability of state treasurer: RCW 43.85.070.

39.58.750 Receipt, disbursement, or transfer of public funds by wire or other electronic communication means authorized. Notwithstanding any provision of law to the contrary, the state treasurer or any county, city, or other municipal treasurer or other custodian of public funds may receive, disburse, or transfer public funds under his or her jurisdiction by means of wire or other electronic communication in accordance with accounting standards established

by the state auditor under RCW 43.09.200 with regard to municipal treasurers or other custodians or by the office of financial management under RCW 43.88.160 in the case of the state treasurer and other state custodians to safeguard and insure accountability for the funds involved. [1996 c 256 § 17; 1981 c 101 § 1; 1979 c 151 § 48; 1977 ex.s. c 15 § 1. Formerly RCW 39.58.150.]

Effective date—1977 ex.s. c 15: "The effective date of this act shall be July 1, 1977." [1977 ex.s. c 15 § 2.]

Chapter 39.59

PUBLIC FUNDS—AUTHORIZED INVESTMENTS

Sections

- 39.59.010 Definitions.
- 39.59.020 Authorized investments—Bonds, warrants, and other investments.
- 39.59.030 Authorized investments—Mutual funds and money market funds.
- 39.59.900 Severability—1988 c 281.

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

(1) "Bond" means any agreement which may or may not be represented by a physical instrument, including but not limited to bonds, notes, warrants, or certificates of indebtedness, that evidences an obligation under which the issuer agrees to pay a specified amount of money, with or without interest, at a designated time or times either to registered owners or bearers.

(2) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including any public corporation, authority, or other instrumentality created by such an entity.

(3) "Money market fund" means a mutual fund the portfolio which consists of only bonds having maturities or demand or tender provisions of not more than one year, managed by an investment advisor who has posted with the risk management office of the department of general administration a bond or other similar instrument in the amount of at least five percent of the amount invested in the fund pursuant to RCW 39.59.030 (2) or (3).

(4) "Mutual fund" means a diversified mutual fund registered with the federal securities and exchange commission and which is managed by an investment advisor with assets under management of at least five hundred million dollars and with at least five years' experience in investing in bonds authorized for investment by this chapter and who has posted with the risk management office of the department of general administration a bond or other similar instrument in the amount of at least five percent of the amount invested in the fund pursuant to RCW 39.59.030(1).

(5) "State" includes a state, agencies, authorities, and instrumentalities of a state, and public corporations created by a state or agencies, authorities, or instrumentalities of a state. [1988 c 281 § 1.]

Enforcement of bonds under RCW 39.59.010 (3) and (4): RCW 43.19.19367.

39.59.020 Authorized investments—Bonds, warrants, and other investments. In addition to any other investment authority granted by law and notwithstanding any provision of law to the contrary, the state of Washington and local governments in the state of Washington are authorized to invest their funds and money in their custody or possession, eligible for investment, in:

(1) Bonds of the state of Washington and any local government in the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(2) General obligation bonds of a state other than the state of Washington and general obligation bonds of a local government of a state other than the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(3) Subject to compliance with RCW 39.56.030, registered warrants of a local government in the same county as the government making the investment; or

(4) Any investments authorized by law for the treasurer of the state of Washington or any local government of the state of Washington other than a metropolitan municipal corporation but, except as provided in chapter 39.58 RCW, such investments shall not include certificates of deposit of banks or bank branches not located in the state of Washington. [1988 c 281 § 2.]

39.59.030 Authorized investments—Mutual funds and money market funds. In addition to any other investment authority granted by law, the state of Washington and local governments in the state of Washington are authorized to invest their funds and money in their custody or possession, eligible for investment and subject to the arbitrage provisions of section 148 of the federal internal revenue code or similar provision concerning the investment of state and local money and funds, in:

(1) Shares of mutual funds with portfolios consisting of only United States government bonds or United States government guaranteed bonds issued by federal agencies with average maturities less than four years, or bonds otherwise described in RCW 39.59.020 (1) or (2) shall have one of the four highest credit ratings of a nationally recognized rating agency;

(2) Shares of money market funds with portfolios consisting of only bonds of states and local governments or other issuers authorized by law for investment by local governments, which bonds have at the time of investment one of the two highest credit ratings of a nationally recognized rating agency; or

(3) Shares of money market funds with portfolios consisting of securities otherwise authorized by law for investment by local governments. [1988 c 281 § 3.]

39.59.900 Severability—1988 c 281. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1988 c 281 § 10.]

Chapter 39.60

INVESTMENT OF PUBLIC FUNDS IN BONDS, NOTES, ETC.—COLLATERAL

Sections

- 39.60.010 Investment of public and trust funds authorized.
- 39.60.020 Exchange of securities for federal agency bonds.
- 39.60.030 Obligations eligible as collateral security.
- 39.60.040 Insured shares, deposits or accounts as collateral—Partially guaranteed obligations.
- 39.60.050 Investment of public and trust funds in notes, bonds or debentures authorized—Requirements.

Bonds and warrants of state and municipal corporations as investment and collateral for public funds:

ferry system bonds: RCW 47.60.100.

highway construction bonds: RCW 47.10.050, 47.10.190, 47.10.320, 47.10.450, 47.10.710.

metropolitan municipal corporation bonds: RCW 35.58.510.

public utility district bonds and warrants: RCW 54.24.120.

state warrants: RCW 43.84.120.

toll bridge bonds: RCW 47.56.150, 47.58.070, 47.60.100.

Investments in bonds and warrants of state and municipal corporations authorized for:

cities of first class, employees' retirement fund: RCW 41.28.080.

city and town pension funds: RCW 35.39.041.

current state funds: RCW 43.84.080.

insurers: RCW 48.13.040.

metropolitan municipal corporation funds: RCW 35.58.520.

mutual savings banks: RCW 32.20.050, 32.20.070, 32.20.110, 32.20.120, 32.20.130.

permanent school fund: State Constitution Art. 16 § 5 (Amendment 44).

savings and loan associations: RCW 33.24.030, 33.24.050, 33.24.080.

state-wide city employees' retirement fund: RCW 41.44.100.

volunteer fire fighters' relief and pension principal and administrative funds: RCW 41.24.030.

workers' compensation funds: RCW 51.44.100.

Investments in federal bonds and securities authorized for:

cities and towns: RCW 35.39.030.

counties: RCW 36.33.180.

current state funds: RCW 43.84.080.

insurers: RCW 48.13.040.

mutual savings banks: RCW 32.20.030.

savings and loan associations: RCW 33.24.020.

school district capital projects fund: RCW 28A.320.330.

school districts, first class, insurance reserve funds: RCW 28A.330.110.

state-wide city employees' retirement fund: RCW 41.44.100.

workers' compensation funds: RCW 51.44.100.

39.60.010 Investment of public and trust funds authorized. Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be lawful for the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivision of the state, or any political or public corporation of the state, or for any insurance company, savings and loan association, or for any bank, trust company or other financial institution, operating under the laws of the state of Washington, or for any executor, administrator, guardian or conservator, trustee or other fiduciary to invest its funds or the moneys in its custody or possession, eligible for investment, in notes or bonds secured by mortgage which the Federal Housing Administrator has insured or has made a commitment to insure in obligations of national mortgage associations, in debentures issued by the Federal Housing Administrator, and in the bonds of the Home Owner's Loan Corporation, a corporation organized under and by virtue of the authority granted in H.R. 5240, designated as the Home Owner's Loan Act of 1933, passed

by the congress of the United States and approved June 13, 1933, and in bonds of any other corporation which is or hereafter may be created by the United States, as a governmental agency or instrumentality. [1939 c 32 § 1; 1935 c 11 § 1; 1933 ex.s. c 37 § 1; RRS § 5545-1.]

Severability—1933 ex.s. c 37: "If any section, subsection, sentence, clause or phrase of this act for any reason shall be held to be unconstitutional, such holding shall not affect the validity of the remaining portion of this act. The legislature hereby declares that it would have passed this act in each section, subsection, sentence, clause and phrase thereof, separately and irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be unconstitutional." [1933 ex.s. c 37 § 4.] This applies to RCW 39.60.010 through 39.60.030.

39.60.020 Exchange of securities for federal agency bonds. Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be also lawful for the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivisions of the state, or any political or public corporation of the state, or for any insurance company, savings and loan association, building and loan association, or for any bank, trust company or other financial institution, operating under the laws of the state of Washington, or for any executor, administrator, guardian or conservator, trustee or other fiduciary, to exchange any mortgages, contracts, judgments or liens owned or held by it, for the bonds of the Home Owners' Loan Corporation, a corporation organized under and by virtue of the authority granted in H.R. 5240, designated as The Home Owners' Loan Act of 1933, passed by the congress of the United States and approved June 13, 1933, or for the bonds of any other corporation which is or hereafter may be created by the United States as a governmental agency or instrumentality; and to accept said bonds at their par value in any such exchange. [1933 ex.s. c 37 § 2; RRS § 5545-2.]

39.60.030 Obligations eligible as collateral security. Wherever, by statute of this state, collateral is required as security for the deposit of public or other funds; or deposits are required to be made with any public official or department; or an investment of capital or surplus, or a reserve or other fund is required to be maintained consisting of designated securities, the bonds and other securities herein made eligible for investment shall also be eligible for such purpose. [1939 c 32 § 2; 1935 c 11 § 2; 1933 ex.s. c 37 § 3; RRS § 5545-3.]

39.60.040 Insured shares, deposits or accounts as collateral—Partially guaranteed obligations. The obligations issued pursuant to said Federal Home Loan Bank Act and to said Title IV of the National Housing Act as such acts are now or hereafter amended, and the shares, deposits or accounts of any institution which has the insurance protection provided by Title IV of the National Housing Act, as now or hereafter amended, may be used at face value or withdrawal value, and bonds or other interest bearing obligations as to which the payment of some but less than the full principal and interest is guaranteed by the United States of America or any agency thereof may be used to the extent of the portion so guaranteed, wherever, by statute of this state or otherwise, collateral is required as security for

the deposit of public or other funds, or deposits are required to be made with any public official or department, or an investment of capital or surplus, or a reserve or other fund, is required to be maintained consisting of designated security, or wherever by statute of this state or otherwise, any surety, whether personal, corporate, or otherwise, or any collateral or security, is required or permitted for any purpose, including without limitation on the generality of the foregoing, any bond, recognizance, or undertaking. [1967 ex.s. c 48 § 1; 1941 c 249 § 2; Rem. Supp. 1941 § 3791-2.]

39.60.050 Investment of public and trust funds in notes, bonds or debentures authorized—Requirements. Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be lawful for the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivision, or any political or public corporation of the state, or for any executor, administrator, guardian, or conservator, trustee or other fiduciary, to invest its funds or the moneys in its custody or possession, eligible for investment, in notes, bonds, or debentures of savings and loan associations, banks, mutual savings banks, savings and loan service corporations operating with approval of the federal home loan bank, and corporate mortgage companies: **PROVIDED**, That the notes, bonds or debentures are rated not less than "A" by a nationally recognized rating agency, or are insured or guaranteed by an agency of the federal government or by private insurer authorized to do business in the state: **PROVIDED FURTHER**, That the notes, bonds and debentures insured or guaranteed by a private insurer shall also be backed by a pool of mortgages equal to the amount of the notes, bonds or debentures. [1970 ex.s. c 93 § 1.]

Severability—1970 ex.s. c 93: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 93 § 4.] This applies to RCW 39.60.050 and 35.45.150.

Investment in local improvement district notes: RCW 35.45.150.

Chapter 39.62

UNIFORM FACSIMILE SIGNATURE OF PUBLIC OFFICIALS ACT

Sections

- 39.62.010 Definitions.
- 39.62.020 Facsimile signature—Authorized—Legal effect.
- 39.62.030 Facsimile seal—Authorized—Legal effect.
- 39.62.040 Unauthorized use—Penalty.
- 39.62.900 Construction—Uniformity.
- 39.62.910 Short title.
- 39.62.920 Severability—1969 c 86.

Facsimile signatures on bonds and coupons: RCW 39.44.100 through 39.44.102.

39.62.010 Definitions. As used in this chapter:

(1) "Public security" means a bond, note, certificate of indebtedness, or other obligation for the payment of money, issued by this state or by any of its departments, agencies, counties, cities, towns, municipal corporations, junior taxing

districts, school districts, or other instrumentalities or by any of its political subdivisions.

(2) "Instrument of payment" means a check, draft, warrant, or order for the payment, delivery, or transfer of funds.

(3) "Authorized officer" means any official of this state or any of its departments, agencies, counties, cities, towns, municipal corporations, junior taxing districts, school districts, or other instrumentalities or any of its political subdivisions whose signature to a public security or instrument of payment is required or permitted.

(4) "Facsimile signature" means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of an authorized officer. [1969 c 86 § 1.]

39.62.020 Facsimile signature—Authorized—Legal effect. Any authorized officer, after filing with the secretary of state his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature in lieu of his manual signature:

(1) Any public security: PROVIDED, That at least one signature required or permitted to be placed thereon shall be manually subscribed, and

(2) Any instrument of payment.

Upon compliance with this chapter by the authorized officer, his facsimile signature has the same legal effect as his manual signature. [1969 c 86 § 2.]

39.62.030 Facsimile seal—Authorized—Legal effect. When the seal of this state or any of its departments, agencies, counties, cities, towns, municipal corporations, junior taxing districts, school districts, or other instrumentalities or of any of its political subdivisions is required in the execution of a public security or instrument of payment, the authorized officer may cause the seal to be printed, engraved, stamped or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal. [1969 c 86 § 3.]

39.62.040 Unauthorized use—Penalty. Any person who with intent to defraud uses on a public security or an instrument of payment:

(1) A facsimile signature, or any reproduction of it, of any authorized officer, or

(2) Any facsimile seal, or any reproduction of it, of this state or any of its departments, agencies, counties, cities, towns, municipal corporations, junior taxing districts, school districts, or other instrumentalities or of any of its political subdivisions is guilty of a felony. [1969 c 86 § 4.]

39.62.900 Construction—Uniformity. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it. [1969 c 86 § 5.]

39.62.910 Short title. This act may be cited as the uniform facsimile signature of public officials act. [1969 c 86 § 6.]

39.62.920 Severability—1969 c 86. If any provision of this 1969 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1969 c 86 § 7.]

Chapter 39.64

TAXING DISTRICT RELIEF

Sections

39.64.005	Short title.
39.64.010	Purpose of chapter.
39.64.020	Definitions.
39.64.030	Exercise of powers granted.
39.64.040	Petition in bankruptcy.
39.64.050	Resolution of authorization.
39.64.060	Resolution consenting to readjustment.
39.64.070	Plan of readjustment.
39.64.080	Powers under plan of readjustment.
39.64.085	Authority of operating agencies to levy taxes.
39.64.090	Validation of prior bankruptcy proceedings.
39.64.900	Construction—Severability—1935 c 143.

39.64.005 Short title. This chapter may be cited as the taxing district relief act. [1935 c 143 § 1; RRS § 5608-1.]

39.64.010 Purpose of chapter. The purpose of this chapter is to facilitate and permit taxing districts which are unable to meet their debts either in their present amount and/or at the time they fall due, to obtain relief by the readjustment of such debts as provided for by the act of congress hereinafter referred to, by supplementing the powers of those taxing districts for which refunding of debts is provided for by existing statutes, and by providing a method of refunding of debts for those taxing districts for which no method of refunding such debts has heretofore been provided, and by other provisions appropriate to such purposes.

This chapter shall not be construed as in anywise limiting the powers of the federal courts to grant relief as provided for in said act of congress. [1935 c 143 § 2; RRS § 5608-2.]

39.64.020 Definitions. For the purposes of this chapter a "taxing district" is defined to be a "taxing district" as described in section 80 of chapter IX of the act of congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended, to wit:

"Any municipality or other political subdivision of any state, including (but not hereby limiting the generality of the foregoing) any county, city, borough, village, parish, town, or township, unincorporated tax or special assessment district, and any school, drainage, irrigation, reclamation, levee, sewer, or paving, sanitary, port, improvement or other district (hereinafter referred to as a 'taxing district')."

Said act of congress and acts amendatory thereof and supplementary thereto, as the same may be amended from time to time, are herein referred to as the "federal bankruptcy act." [1935 c 143 § 3; RRS § 5608-3.]

39.64.030 Exercise of powers granted. All powers herein granted to taxing districts in state of Washington may be exercised by such districts. If a taxing district has no officers of its own, such powers may be exercised in its behalf by the officer or officers, board, council or commission having the power to contract in behalf of such district or to levy special assessments or special taxes within such district. [1935 c 143 § 4; RRS § 5608-4.]

39.64.040 Petition in bankruptcy. Any taxing district in the state of Washington is hereby authorized to file the petition mentioned in section 80 of chapter IX of the federal bankruptcy act. [1935 c 143 § 5; RRS § 5608-5.]

39.64.050 Resolution of authorization. Before the filing of any petition referred to in RCW 39.64.040, such taxing district shall adopt a resolution authorizing the filing thereof and authorizing its duly and regularly elected or appointed attorney or special counsel duly appointed for such purpose to file the same and to represent it in the proceedings with respect thereto in the competent United States district court. [1935 c 143 § 6; RRS § 5608-6.]

39.64.060 Resolution consenting to readjustment. No final decree or order of such United States district court confirming a plan of readjustment shall be effective for the purpose of binding such taxing district unless and until such taxing district files with such court a certified copy of a resolution of such taxing district, adopted by it or by the officer or officers, board, council or commission referred to in RCW 39.64.030, consenting to the plan of readjustment set forth or referred to in such final decree or order. [1935 c 143 § 7; RRS § 5608-7.]

39.64.070 Plan of readjustment. Such taxing district is hereby authorized and empowered to take any and all action necessary to carry out any plan of readjustment contemplated in said petition, or as the same may be modified from time to time, notwithstanding any other provisions of law. In case of the refunding of debts of irrigation districts, diking or drainage improvement districts, general debts of cities, or debts of other taxing districts for the refunding of which provision is already made under existing statutes, such refunding shall be had and done as provided for in such existing statutes, except that the tenor and character of the refunding bonds and the assessments levied to meet such bonds may be modified to conform to the capacity of the taxing district, or the individual lots, tracts, or parcels of real property therein, to meet and carry the charges, both direct and contingent, against them, as found and set forth in the plan of readjustment and decree of court; and except also as such existing provisions of law may be otherwise supplemented by such plan of readjustment or the provisions of this chapter. [1935 c 143 § 8; RRS § 5608-8.]

39.64.080 Powers under plan of readjustment. Such taxing district shall have power to consummate the plan of readjustment, as adopted by the court's decree and approved by it as aforesaid, and if such plan, as approved by such

decree, so requires, may, for such purpose, exercise any of the following powers:

(1) Cancel in whole or in part any assessments or any interest or penalties assessed thereon which may be outstanding and a lien upon any property in such taxing district, as and when such assessments are replaced by the readjusted or revised assessments provided for in the plan of readjustment approved by such decree.

(2) Issue refunding bonds to refund bonds theretofore issued by such taxing district. Such refunding bonds shall have such denominations, rates of interest and maturities as shall be provided in such plan of readjustment and shall be payable by special assessments or by general taxes, according to the nature of the taxing district, in the manner provided in such plan of readjustment and decree.

(3) Apportion and levy new assessments or taxes appropriate in time or times of payment to provide funds for the payment of principal and interest of such refunding bonds, and of all expenses incurred by such taxing district in filing the petition mentioned in RCW 39.64.040, and any and all other expenses necessary or incidental to the consummation of the plan of readjustment.

In the case of special assessment districts for the refunding of whose debts no procedure is provided by existing laws, such assessments shall be equitably apportioned and levied upon each lot, tract or parcel of real property within such taxing district, due consideration being given to the relative extent to which the original apportionments upon the various lots, tracts or parcels of real property within such taxing district have already been paid and due consideration also being given to the capacity of the respective lots, tracts or parcels of real property to carry such charges against them. Before levying or apportioning such assessment such taxing district or the officer or officers, board, council or commission mentioned in RCW 39.64.030 shall hold a hearing with reference thereto, notice of which hearing shall be published once a week for four consecutive weeks in the newspaper designated for the publication of legal notices by the legislative body of the city or town, or by the board of county commissioners of the county within which such taxing district or any part thereof is located, or in any newspaper published in the city, town or county within which such taxing district or any part thereof is located and of general circulation within such taxing district. At such hearing every owner of real property within such taxing district shall be given an opportunity to be heard with respect to the apportionment and levy of such assessment.

(4) In the case of special assessment districts, of cities or towns, provide that if any of the real property within such taxing district shall not, on foreclosure of the lien of such new assessment for delinquent assessments and penalties and interest thereon, be sold for a sufficient amount to pay such delinquent assessments, penalties and interest, or if any real property assessed was not subject to assessment, or if any assessment or installment or installments thereof shall have been eliminated by foreclosure of a tax lien or made void in any other manner, such taxing district shall cause a supplemental assessment sufficient in amount to make up such deficiency to be made on the real property within such taxing district, including real property upon which any such assessment or any installment or installments thereof shall have been so eliminated or made void. Such supplemental

assessment shall be apportioned to the various lots, tracts and parcels of real property within such taxing district in proportion to the amounts apportioned thereto in the assessment originally made under such plan of readjustment.

(5) Provide that refunding bonds may, at the option of the holders thereof, be converted into warrants of such denominations and bearing such rate of interest as may be provided in the plan of readjustment, and that the new assessments mentioned in subdivision (3) and the supplemental assessments mentioned in subdivision (4) of this section may be paid in refunding bonds or warrants of such taxing district without regard to the serial numbers thereof, or in money, at the option of the person paying such assessments, such refunding bonds and warrants to be received at their par value in payment of such assessments. In such case such refunding bonds and warrants shall bear the following legend: "This bond (or warrant) shall be accepted at its face value in payment of assessments (including interest and penalties thereon) levied to pay the principal and interest of the series of bonds and warrants of which this bond (or warrant) is one without regard to the serial number appearing upon the face hereof."

(6) Provide that all sums of money already paid to the treasurer of such taxing district or other authorized officer in payment, in whole or in part, of any assessment levied by or for such taxing district or of interest or penalties thereon, shall be transferred by such treasurer or other authorized officer to a new account and made applicable to the payment of refunding bonds and warrants to be issued under such plan of readjustment.

(7) Provide that such treasurer or other authorized officer shall have authority to use funds in his possession not required for payment of current interest of such bonds and warrants, to buy such bonds and warrants in the open market through tenders or by call at the lowest prices obtainable at or below par and accrued interest, without preference of one bond or warrant over another because of its serial number, or for any other cause other than the date and hour of such tender or other offer and the amount which the owner of such bond or warrant agrees to accept for it. In such case such refunding bonds and warrants shall bear the following legend: "This bond (or warrant) may be retired by tender or by call without regard to the serial number appearing upon the face hereof."

(8) Provide that if, after the payment of all interest on refunding bonds and warrants issued under any plan of readjustment adopted pursuant to this chapter and chapter IX of the federal bankruptcy act and the retirement of such bonds and warrants, there shall be remaining in the hands of the treasurer or other authorized officer of the taxing district which issued such bonds and warrants money applicable under the provisions of this chapter to the payment of such interest, bonds and warrants, such money shall be applied by such treasurer or other authorized officer to the maintenance, repair and replacement of the improvements originally financed by the bonds readjusted under this chapter and the federal bankruptcy act.

(9) The above enumeration of powers shall not be deemed to exclude powers not herein mentioned that may be necessary for or incidental to the accomplishment of the purposes hereof. [1935 c 143 § 9; RRS § 5608-9.]

39.64.085 Authority of operating agencies to levy taxes. Nothing in this chapter may be deemed to grant to any operating agency organized under chapter 43.52 RCW, or a project of any such operating agency, the authority to levy any tax or assessment not otherwise authorized by law. [1983 2nd ex.s. c 3 § 54.]

Construction—Severability—Effective dates—1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

39.64.090 Validation of prior bankruptcy proceedings. In the event that any taxing district in the state of Washington, before this chapter takes effect, shall have filed or purported or attempted to file a petition under the provisions of chapter IX of the federal bankruptcy act, or shall have taken or purported or attempted to take any other proceedings under or in contemplation of proceedings under the provisions of said chapter IX, then and in every such case all acts and proceedings of such taxing district, in connection with such petition or proceedings, are hereby, to all intents and purposes, declared as legal and valid as though taken after the *effective date of this chapter. [1935 c 143 § 10; RRS § 5608-10.]

***Reviser's note:** The "effective date of this chapter" was March 21, 1935.

39.64.900 Construction—Severability—1935 c 143. This chapter and all its provisions shall be liberally construed to the end that the purposes hereof may be made effective. If any section, part or provision of this chapter shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole, or of any section, provision or part thereof not adjudged invalid or unconstitutional. [1935 c 143 § 11; RRS § 5608-11.]

Chapter 39.67

AGREEMENTS BETWEEN TAXING DISTRICTS

Sections

- 39.67.010 Agreements contingent on property tax levy—Authorized.
- 39.67.020 Transfer of funds between taxing districts.

39.67.010 Agreements contingent on property tax levy—Authorized. Any agreement or contract between two taxing districts other than the state which is otherwise authorized by law may be made contingent upon a particular property tax levy rate of an identified taxing district other than the state where such rate affects the regular property tax rate of one of the parties to the contract and therefore affects the party's resources with which to perform under the contract. The governing body of every taxing district that could have its tax levy adversely affected by such a contract shall be notified about the contract. [1988 c 274 § 2; 1986 c 107 § 1.]

Purpose—Severability—1988 c 274: See notes following RCW 84.52.010.

Severability—1986 c 107: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 107 § 5.]

Construction—1986 c 107 §§ 1, 2: "Sections 1 and 2 of this act are supplementary and in addition to any other authority granted by law and shall not be construed to limit any other law." [1986 c 107 § 6.]

39.67.020 Transfer of funds between taxing districts. Any taxing district other than the state may transfer funds to another taxing district other than the state where the regular property tax levy rate of the second district may affect the regular property tax levy rate of the first district and where such transfer is part of an agreement whereby proration or reduction of property taxes is lessened or avoided. The governing body of every taxing district that could have its tax levy adversely affected by such an agreement shall be notified about the agreement. [1988 c 274 § 3; 1986 c 107 § 2.]

Purpose—Severability—1988 c 274: See notes following RCW 84.52.010.

Severability—Construction—1986 c 107: See notes following RCW 39.67.010.

Chapter 39.69

PUBLIC LOANS TO MUNICIPAL CORPORATIONS

Sections

- 39.69.010 "Municipal corporation" defined.
- 39.69.020 Loan agreements.
- 39.69.030 Application of constitutional debt limitations.
- 39.69.040 Chapter supplemental.

39.69.010 "Municipal corporation" defined. As used in this chapter, "municipal corporation" includes counties, cities, towns, port districts, sewer districts, water districts, school districts, metropolitan park districts, or such other units of local government which are authorized to issue obligations. [1987 c 19 § 1.]

39.69.020 Loan agreements. Any municipal corporation may enter into a loan agreement containing the terms and conditions of a loan from an agency of the state of Washington or the United States of America and evidencing the obligation of the municipal corporation to repay that loan under the terms and conditions set forth in the loan agreement. A loan agreement may provide that the municipal corporation will repay the loan solely from revenues set aside into a special fund for repayment of that loan. In the case of a municipal corporation authorized to borrow money payable from taxes, and authorized to levy such taxes, the loan agreement may provide that repayment of the loan is a general obligation of the municipal corporation, or both a general obligation and an obligation payable from revenues set aside into a special fund.

The state or federal agency making the loan shall have such rights of recovery in the event of default in payment or other breach of the loan agreement as may be provided in the loan agreement or otherwise by law. [1987 c 19 § 2.]

39.69.030 Application of constitutional debt limitations. Nothing in this chapter authorizes municipal corporations to incur indebtedness beyond constitutional indebtedness limitations. [1987 c 19 § 3.]

39.69.040 Chapter supplemental. The authority under this chapter is supplemental and in addition to the authority to issue obligations under any other provision of law. [1987 c 19 § 4.]

Chapter 39.72

LOST OR DESTROYED EVIDENCE OF INDEBTEDNESS

Sections

- 39.72.010 Local government indebtedness—Issuance of duplicate instrument.
- 39.72.020 Local government indebtedness—Records to be kept—Cancellation of originals.

39.72.010 Local government indebtedness—Issuance of duplicate instrument. In case of the loss or destruction of a warrant for the payment of money, or any bond or other instrument or evidence of indebtedness, issued by any county, city or town, district or other political subdivision or municipal corporation of the state of Washington, hereinafter referred to as a municipal corporation, or by any department or agency of such municipal corporation, such municipal corporation may cause a duplicate to be issued in lieu thereof, subject to the same requirements and conditions, and according to the same procedure, as prescribed for the issuance of duplicate state instruments in RCW 43.08.064 and 43.08.066 as now or hereafter amended: **PROVIDED,** That the requirements of *RCW 43.08.066(2) shall not be applicable to instruments received by employees of the above issuers for the payment of salary or wages or as other compensation for work performed nor shall those requirements be applicable to instruments received by former employees or their beneficiaries for the payment of pension benefits. [1975-'76 2nd ex.s. c 77 § 1; 1965 ex.s. c 61 § 4.]

***Reviser's note:** Subsection (2) of RCW 43.08.066 was removed by chapter 71, Laws of 1979 ex. sess.

Lost or destroyed evidence of indebtedness issued by state: RCW 43.08.064 through 43.08.068.

39.72.020 Local government indebtedness—Records to be kept—Cancellation of originals. When a municipal corporation issues a duplicate instrument, as authorized in this chapter, the issuing officer of such municipal corporation shall keep a full and complete record of all warrants, bonds or other instruments alleged to have been lost or destroyed, which were issued by such municipal corporation, and of the issue of any duplicate therefor; and upon the issuance of any duplicate such officer shall enter upon his books the cancellation of the original instrument and immediately notify the treasurer of the county, city or other municipal corporation, the state auditor, and all trustees and paying agencies authorized to redeem such instruments on behalf of the municipal corporation, of such cancellation. The treasurer shall keep a similar list of all warrants, bonds or other instruments so canceled. [1965 ex.s. c 61 § 5.]

Chapter 39.76

INTEREST ON UNPAID PUBLIC CONTRACTS

Sections

- 39.76.010 Interest on unpaid public contracts—Timely payment.
 39.76.011 Interest on unpaid public contracts—When payment is considered to be made.
 39.76.020 Interest on unpaid public contracts—Exceptions.
 39.76.030 Penalties by state agencies to be paid from administrative funds.
 39.76.040 Interest on unpaid public contracts—Attorney fees.

39.76.010 Interest on unpaid public contracts—Timely payment. (1) Except as provided in RCW 39.76.020, every state agency and unit of local government shall pay interest at the rate of one percent per month, but at least one dollar per month, on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel, whenever the state agency or unit of local government fails to make timely payment.

(2) For purposes of this section, payment shall be timely if:

(a) A check or warrant is mailed or is available on the date specified for the amount specified in the applicable contract documents or, if no date is specified, within thirty days of receipt of a properly completed invoice or receipt of goods or services, whichever is later.

(b) For any amount which is required to be withheld under state or federal law, a check or warrant is mailed or is available in the proper amount on the date the amount may be released under the applicable law. [1981 c 68 § 1.]

Application—1992 c 223: See RCW 39.04.901.

39.76.011 Interest on unpaid public contracts—When payment is considered to be made. (1) Except as provided in RCW 39.76.020, every state agency, county, city, town, school district, board, commission, or any other public body shall pay interest at a rate of one percent per month, but at least one dollar per month, on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel, whenever the public body fails to make timely payment.

(2) For purposes of this section, payment shall be timely if:

(a) Except as provided otherwise in this subsection, a check or warrant is mailed or is available on the date specified for the amount specified in the applicable contract documents but not later than thirty days of receipt of a properly completed invoice or receipt of goods or services, whichever is later. If a contract is funded by grant or federal money, the public body shall pay the prime contractor for satisfactory performance within thirty calendar days of the date the public body receives a payment request that complies with the contract or within thirty calendar days of the date the public body actually receives the grant or federal money, whichever is later.

(b) On written contracts for public works, when part or all of a payment is going to be withheld for unsatisfactory performance or if the payment request made does not comply with the requirements of the contract, the public body shall notify the prime contractor in writing within eight working days after receipt of the payment request stating

specifically why part or all of the payment is being withheld and what remedial actions must be taken by the prime contractor to receive the withheld amount.

(c) If the notification by the public body required by (b) of this subsection does not comply with the notice contents required under (b) of this subsection, the public body shall pay the interest under subsection (1) of this section from the ninth working day after receipt of the initial payment request until the contractor receives notice that does comply with the notice contents required under (b) of this subsection.

(d) If part or all of a payment is withheld under (b) of this subsection, the public body shall pay the withheld amount within thirty calendar days after the prime contractor satisfactorily completes the remedial actions identified in the notice. If the withheld amount is not paid within the thirty calendar days, the public body shall pay interest under subsection (1) of this section from the thirty-first calendar day until the date paid.

(e)(i) If the prime contractor on a public works contract, after making a request for payment to the public body but before paying a subcontractor for the subcontractor's performance covered by the payment request, discovers that part or all of the payment otherwise due to the subcontractor is subject to withholding from the subcontractor under the subcontract for unsatisfactory performance, the prime contractor may withhold the amount as allowed under the subcontract. If the prime contractor withholds an amount under this subsection, the prime contractor shall:

(A) Give the subcontractor notice of the remedial actions that must be taken as soon as practicable after determining the cause for the withholding but before the due date for the subcontractor payment;

(B) Give the contracting officer of the public body a copy of the notice furnished to the subcontractor under (e)(i)(A) of this subsection; and

(C) Pay the subcontractor within eight working days after the subcontractor satisfactorily completes the remedial action identified in the notice.

(ii) If the prime contractor does not comply with the notice and payment requirements of (e)(i) of this subsection, the contractor shall pay the subcontractor interest on the withheld amount from the eighth working day at an interest rate that is equal to the amount set forth in subsection (1) of this section.

(3) For the purposes of this section:

(a) A payment is considered to be made when mailed or personally delivered to the party being paid.

(b) An invoice is considered to be received when it is date-stamped or otherwise marked as delivered. If the invoice is not date-stamped or otherwise marked as delivered, the date of the invoice is considered to be the date when the invoice is received. [1992 c 223 § 1.]

Effective date—1992 c 223: "This act shall take effect September 1, 1992." [1992 c 223 § 9.]

Waiver of rights, construction—Application—1992 c 223: See RCW 39.04.900 and 39.04.901.

39.76.020 Interest on unpaid public contracts—Exceptions. RCW 39.76.010 does not apply to the following:

- (1) Interagency or intergovernmental transactions;

(2) Amounts payable to employees or prospective employees of state agencies or local governmental units as reimbursement for expenses;

(3) Belated claims for any time of delinquency after July 31 following the second year of the fiscal biennium;

(4) Claims subject to a good faith dispute, when before the date of timely payment, notice of the dispute is:

(a) Sent by certified mail;

(b) Personally delivered; or

(c) Sent in accordance with procedures in the contract;

(5) Delinquencies due to natural disasters, disruptions in postal or delivery service, work stoppages due to labor disputes, power failures, or any other cause resulting from circumstances clearly beyond the control of the unit of local government or state agency;

(6) Contracts entered before July 26, 1981; and

(7) Payment from any retirement system listed in RCW 41.50.030 and chapter 41.24 RCW. [1981 c 68 § 2.]

39.76.030 Penalties by state agencies to be paid from administrative funds. Any state agency required to pay late payment penalties under this chapter shall pay the penalties from funds designated for administrative costs of the agency receiving the public works, personal services, goods and services, equipment, or travel and shall not be paid from funds appropriated for client services. [1981 c 68 § 3.]

39.76.040 Interest on unpaid public contracts—Attorney fees. In any action brought to collect interest due under this chapter, the prevailing party is entitled to an award of reasonable attorney fees. [1981 c 68 § 4.]

Chapter 39.80

CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES

Sections

39.80.010	Legislative declaration.
39.80.020	Definitions.
39.80.030	Agency's requirement for professional services—Advance publication.
39.80.040	Procurement of architectural and engineering services—Submission of statement of qualifications and performance data—Participation by minority and women-owned firms.
39.80.050	Procurement of architectural and engineering services—Contract negotiations.
39.80.060	Procurement of architectural and engineering services—Exception for emergency work.
39.80.070	Contracts, modifications reported to the office of financial management.
39.80.900	Savings.
39.80.910	Severability—1981 c 61.

39.80.010 Legislative declaration. The legislature hereby establishes a state policy, to the extent provided in this chapter, that governmental agencies publicly announce requirements for architectural and engineering services, and negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices. [1981 c 61 § 1.]

Effective date—1981 c 61: "This act shall take effect on January 1, 1982." [1981 c 61 § 9.]

39.80.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "State agency" means any department, agency, commission, bureau, office, or any other entity or authority of the state government.

(2) "Local agency" means any city and any town, county, special district, municipal corporation, agency, port district or authority, or political subdivision of any type, or any other entity or authority of local government in corporate form or otherwise.

(3) "Special district" means a local unit of government, other than a city, town, or county, authorized by law to perform a single function or a limited number of functions, and including but not limited to, water districts, irrigation districts, fire districts, school districts, community college districts, hospital districts, sewer districts, transportation districts, and metropolitan municipal corporations organized under chapter 35.58 RCW.

(4) "Agency" means both state and local agencies and special districts as defined in subsection[s] (1), (2), and (3) of this section.

(5) "Architectural and engineering services" or "professional services" means professional services rendered by any person, other than as an employee of the agency, contracting to perform activities within the scope of the general definition of professional practice in chapters 18.08, 18.43, or 18.96 RCW.

(6) "Person" means any individual, organization, group, association, partnership, firm, joint venture, corporation, or any combination thereof.

(7) "Consultant" means any person providing professional services who is not an employee of the agency for which the services are provided.

(8) "Application" means a completed statement of qualifications together with a request to be considered for the award of one or more contracts for professional services. [1981 c 61 § 2.]

Effective date—1981 c 61: See note following RCW 39.80.010.

39.80.030 Agency's requirement for professional services—Advance publication. Each agency shall publish in advance that agency's requirement for professional services. The announcement shall state concisely the general scope and nature of the project or work for which the services are required and the address of a representative of the agency who can provide further details. An agency may comply with this section by: (1) Publishing an announcement on each occasion when professional services provided by a consultant are required by the agency; or (2) announcing generally to the public its projected requirements for any category or type of professional services. [1981 c 61 § 3.]

Effective date—1981 c 61: See note following RCW 39.80.010.

39.80.040 Procurement of architectural and engineering services—Submission of statement of qualifications and performance data—Participation by minority and women-owned firms. In the procurement of architec-

tural and engineering services, the agency shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The agency shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, based upon criteria established by the agency, the firm deemed to be the most highly qualified to provide the services required for the proposed project. Such agency procedures and guidelines shall include a plan to insure that minority and women-owned firms are afforded the maximum practicable opportunity to compete for and obtain public contracts for services. The level of participation by minority and women-owned firms shall be consistent with their general availability within the professional communities involved. [1981 c 61 § 4.]

Effective date—1981 c 61: See note following RCW 39.80.010.

39.80.050 Procurement of architectural and engineering services—Contract negotiations. (1) The agency shall negotiate a contract with the most qualified firm for architectural and engineering services at a price which the agency determines is fair and reasonable to the agency. In making its determination, the agency shall take into account the estimated value of the services to be rendered as well as the scope, complexity, and professional nature thereof.

(2) If the agency is unable to negotiate a satisfactory contract with the firm selected at a price the agency determines to be fair and reasonable, negotiations with that firm shall be formally terminated and the agency shall select other firms in accordance with RCW 39.80.040 and continue in accordance with this section until an agreement is reached or the process is terminated. [1981 c 61 § 5.]

Effective date—1981 c 61: See note following RCW 39.80.010.

39.80.060 Procurement of architectural and engineering services—Exception for emergency work. (1) This chapter need not be complied with by any agency when the contracting authority makes a finding in accordance with this or any other applicable law that an emergency requires the immediate execution of the work involved.

(2) Nothing in this chapter shall relieve the contracting authority from complying with applicable law limiting emergency expenditures. [1981 c 61 § 6.]

Effective date—1981 c 61: See note following RCW 39.80.010.

39.80.070 Contracts, modifications reported to the office of financial management. Contracts entered into by any state agency for architectural and engineering services, and modifications thereto, shall be reported to the office of financial management on a quarterly basis, in such form as the office of financial management prescribes. [1993 c 433 § 9.]

39.80.900 Savings. Nothing in this chapter shall affect the validity or effect of any contract in existence on January 1, 1982. [1981 c 61 § 7.]

Effective date—1981 c 61: See note following RCW 39.80.010.

39.80.910 Severability—1981 c 61. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 c 61 § 8.]

Effective date—1981 c 61: See note following RCW 39.80.010.

Chapter 39.84

INDUSTRIAL DEVELOPMENT REVENUE BONDS

Sections

39.84.010	Finding and declaration of necessity.
39.84.020	Definitions.
39.84.030	Public corporations—Creation, dissolution.
39.84.040	Board of directors of public corporation.
39.84.050	Public corporations—Directors—Conflicts of interest.
39.84.060	Public corporations—Limitations.
39.84.070	Public corporations—Audit by state.
39.84.080	Public corporations—Powers.
39.84.090	Reporting to the department of community, trade, and economic development.
39.84.100	Revenue bonds—Provisions.
39.84.110	Revenue bonds—Refunding.
39.84.120	Trust agreements.
39.84.130	Commingling of bond proceeds or revenues with municipal funds prohibited—Exception.
39.84.140	Subleases and assignments.
39.84.150	Determination of rent.
39.84.160	Proceedings in the event of default.
39.84.200	Authority of community economic revitalization board under this chapter.
39.84.900	Construction—Supplemental nature of chapter.
39.84.910	Captions not part of law.
39.84.920	Severability—1981 c 300.

Special revenue financing: State Constitution Art. 33 § 1.

39.84.010 Finding and declaration of necessity. The legislature hereby finds and declares that this state urgently needs to do the following: Promote higher employment; encourage the development of new jobs; maintain and supplement the capital investments in industry that currently exist in this state; encourage future employment by ensuring future capital investment; attract environmentally sound industry to the state; protect and enhance the quality of natural resources and the environment; and promote the production and conservation of energy. [1981 c 300 § 1.]

39.84.020 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Board of directors" means the board of directors of a public corporation.

(2) "Construction" or "construct" means construction and acquisition, whether by devise, purchase, gift, lease, or otherwise.

(3) "Facilities" means land, rights in land, buildings, structures, docks, wharves, machinery, transmission equipment, public broadcast equipment, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities.

(4) "Financing document" means a lease, sublease, installment sale agreement, conditional sale agreement, loan

agreement, mortgage, deed of trust guaranty agreement, or other agreement for the purpose of providing funds to pay or secure debt service on revenue bonds.

(5) "Improvement" means reconstruction, remodeling, rehabilitation, extension, and enlargement; and "to improve" means to reconstruct, to remodel, to rehabilitate, to extend, and to enlarge.

(6) "Industrial development facilities" means manufacturing, processing, research, production, assembly, warehousing, transportation, public broadcasting, pollution control, solid waste disposal, energy facilities, sports facilities, parking facilities associated with industrial development facilities as defined in this section or with historic properties as defined in RCW 84.26.020 and industrial parks. For the purposes of this section, the term "sports facilities" shall not include facilities which are constructed for use by members of a private club or as integral or subordinate parts of a hotel or motel, or which are not available on a regular basis for general public use.

(7) "Industrial park" means acquisition and development of land as the site for an industrial park. For the purposes of this chapter, "development of land" includes the provision of water, sewage, drainage, or similar facilities, or of transportation, energy, or communication facilities, which are incidental to the use of the site as an industrial park, but does not include the provision of structures or buildings.

(8) "Municipality" means a city, town, county, or port district of this state.

(9) "Ordinance" means any appropriate method of taking official action or adopting a legislative decision by any municipality, whether known as a resolution, ordinance, or otherwise.

(10) "Project costs" means costs of (a) acquisition, construction, and improvement of any facilities included in an industrial development facility; (b) architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, and construction of an industrial development facility, including costs of studies assessing the feasibility of an industrial development facility; (c) finance costs, including discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any trust agreement; (d) interest during construction and during the six months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves; (e) the refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and (f) other costs incidental to any of the costs listed in this section.

(11) "Revenue bond" means a nonrecourse revenue bond, nonrecourse revenue note, or other nonrecourse revenue obligation issued for the purpose of financing an industrial development facility on an interim or permanent basis.

(12) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and may include a party who transfers the right of use and occupancy to another party by lease, sublease, or otherwise. [1986 c 309 § 1; 1986 c 308 § 2; 1985 c 439 § 1; 1983 1st ex.s. c 51 § 1; 1981 c 300 § 2.]

Reviser's note: This section was amended by 1986 c 308 § 2 and by 1986 c 309 § 1, each without reference to the other. Both amendments are

incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1986 c 308: See note following RCW 67.28.210.

39.84.030 Public corporations—Creation, dissolution. (1) For the purpose of facilitating economic development and employment opportunities in the state of Washington through the financing of the project costs of industrial development facilities, a municipality may enact an ordinance creating a public corporation for the purposes authorized in this chapter. The ordinance creating the public corporation shall approve a charter for the public corporation containing such provisions as are authorized by and not in conflict with this chapter. Any charter issued under this chapter shall contain in substance the limitations set forth in RCW 39.84.060. In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the public corporation, the public corporation is conclusively presumed to be established and authorized to transact business and exercise its powers under this chapter upon proof of the adoption of the ordinance creating the public corporation by the governing body. A copy of the ordinance duly certified by the clerk of the governing body of the municipality shall be admissible in evidence in any suit, action, or proceeding.

(2) A public corporation created by a municipality pursuant to this chapter may be dissolved by the municipality if the public corporation: (a) Has no property to administer, other than funds or property, if any, to be paid or transferred to the municipality by which it was established; and (b) all its outstanding obligations have been satisfied. Such a dissolution shall be accomplished by the governing body of the municipality adopting an ordinance providing for the dissolution.

(3) The creating municipality may, at its discretion and at any time, alter or change the structure, organizational programs, or activities of a public corporation, including termination of the public corporation if contracts entered into by the public corporation are not impaired. Any net earnings of a public corporation, beyond those necessary for retirement of indebtedness incurred by it, shall not inure to the benefit of any person other than the creating municipality. Upon dissolution of a public corporation, title to all property owned by the public corporation shall vest in the municipality. [1981 c 300 § 3.]

39.84.040 Board of directors of public corporation.

The ordinance creating a public corporation shall include provisions establishing a board of directors to govern the affairs of the public corporation, what constitutes a quorum of the board of directors, and how the public corporation shall conduct its affairs. [1981 c 300 § 4.]

39.84.050 Public corporations—Directors—Conflicts of interest. It shall be illegal for a director, officer, agent, or employee of a public corporation to have, directly or indirectly, any financial interest in any property to be included in or any contract for property, services, or materials to be furnished or used in connection with any industrial development facility financed through the public corporation.

Violation of any provision of this section is a gross misdemeanor. [1981 c 300 § 5.]

39.84.060 Public corporations—Limitations. No municipality may give or lend any money or property in aid of a public corporation. The municipality that creates a public corporation shall annually review any financial statements of the public corporation and at all times shall have access to the books and records of the public corporation. No public corporation may issue revenue obligations under this chapter except upon the approval of both the municipality under the auspices of which it was created and the county, city, or town within whose planning jurisdiction the proposed industrial development facility lies. No revenue bonds may be issued pursuant to this chapter unless the board of directors of the public corporation proposing to issue revenue bonds makes a finding that in its opinion the interest paid on the bonds will be exempt from income taxation by the federal government. Revenue bonds issued by a public corporation under this chapter shall not be considered to constitute a debt of the state, of the municipality, or of any other municipal corporation, quasi municipal corporation, subdivision, or agency of this state or to pledge any or all of the faith and credit of any of these entities. The revenue bonds shall be payable solely from both the revenues derived as a result of the industrial development facilities funded by the revenue bonds, including, without limitation, amounts received under the terms of any financing document or by reason of any additional security furnished by the user of the industrial development facility in connection with the financing thereof, and money and other property received from private sources. Each revenue bond shall contain on its face statements to the effect that: (1) Neither the state, the municipality, or any other municipal corporation, quasi municipal corporation, subdivision, or agency of the state is obligated to pay the principal or the interest thereon; (2) no tax funds or governmental revenue may be used to pay the principal or interest thereon; and (3) neither any or all of the faith and credit nor the taxing power of the state, the municipality, or any other municipal corporation, quasi municipal corporation, subdivision, or agency thereof is pledged to the payment of the principal of or the interest on the revenue bond. A public corporation may incur only those financial obligations which will be paid from revenues received pursuant to financing documents, from fees or charges paid by users or prospective users of the industrial development facilities funded by the revenue bonds, or from the proceeds of revenue bonds. A public corporation established under the terms of this chapter constitutes an authority and an instrumentality (within the meaning of those terms in the regulations of the United States treasury and the rulings of the Internal Revenue Service prescribed pursuant to section 103 of the Internal Revenue Code of 1954, as amended) and may act on behalf of the municipality under whose auspices it is created for the specific public purposes authorized by this chapter. The public corporation is not a municipal corporation within the meaning of the state Constitution and the laws of the state, or a political subdivision within the meaning of the state Constitution and the laws of the state, including without limitation, Article VIII, section 7, of the Washington state

Constitution. A municipality shall not delegate to a public corporation any of the municipality's attributes of sovereignty, including, without limitation, the power to tax, the power of eminent domain, and the police power. [1981 c 300 § 6.]

39.84.070 Public corporations—Audit by state. The finances of any public corporation are subject to examination by the state auditor's office pursuant to RCW 43.09.260. [1981 c 300 § 7.]

39.84.080 Public corporations—Powers. (1) A public corporation created under this chapter has the following powers with respect to industrial development facilities together with all powers incidental thereto or necessary for the performance thereof:

(a) To construct and maintain one or more industrial development facilities;

(b) To lease to a lessee all or any part of any industrial development facility for such rentals and upon such terms and conditions, including options to purchase, as its board of directors considers advisable and not in conflict with this chapter;

(c) To sell by installment contract or otherwise and convey all or any part of any industrial development facility for such purchase price and upon such terms and conditions as its board of directors considers advisable which are not in conflict with this chapter;

(d) To make secured loans for the purpose of providing temporary or permanent financing or refinancing of all or part of the project cost of any industrial development facility, including the refunding of any outstanding obligations, mortgages, or advances issued, made, or given by any person for the project costs; and to charge and collect interest on the loans for the loan payments upon such terms and conditions as its board of directors considers advisable which are not in conflict with this chapter;

(e) To issue revenue bonds for the purpose of financing all or part of the project cost of any industrial development facility and to secure the payment of the revenue bonds as provided in this chapter;

(f) As security for the payment of the principal of and interest on any revenue bonds issued and any agreements made in connection therewith, to mortgage, pledge, or otherwise encumber any or all of its industrial development facilities or any part or parts thereof, whether then owned or thereafter acquired, and to assign any mortgage and repledge any security conveyed to the public corporation, to secure any loan made by the public corporation and to pledge the revenues and receipts therefrom;

(g) To sue and be sued, complain, and defend in its corporate name;

(h) To make contracts and to execute all instruments necessary or convenient for the carrying out of its business;

(i) To have a corporate seal and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced;

(j) Subject to the limitations of RCW 39.84.060, to borrow money, accept grants from, or contract with any local, state, or federal governmental agency or with any financial, public, or private corporation;

(k) To make and alter bylaws not inconsistent with its charter for the administration and regulation of the affairs of the corporation;

(l) To collect fees or charges from users or prospective users of industrial development facilities to recover actual or anticipated administrative costs;

(m) To execute financing documents incidental to the powers enumerated in this subsection.

(2) No public corporation created under this chapter may operate any industrial development facility as a business other than as lessor, seller, or lender. The purchase and holding of mortgages, deeds of trust, or other security interests and contracting for any servicing thereof is not considered the operation of an industrial development facility.

(3) No public corporation may exercise any of the powers authorized in this section or issue any revenue bonds with respect to any industrial development facility unless the industrial development facility is located wholly within the boundaries of the municipality under whose auspices the public corporation is created or unless the industrial development facility comprises energy facilities or solid waste disposal facilities which provide energy for or dispose of solid waste from the municipality or the residents thereof. [1981 c 300 § 8.]

39.84.090 Reporting to the department of community, trade, and economic development. (1) Prior to issuance of any revenue bonds, each public corporation shall submit a copy of its enabling ordinance and charter, a description of any industrial development facility proposed to be undertaken, and the basis for its qualification as an industrial development facility to the department of community, trade, and economic development.

(2) If the industrial development facility is not eligible under this chapter, the department of community, trade, and economic development shall give notice to the public corporation, in writing and by certified mail, within twelve working days of receipt of the description.

(3) The *department of trade and economic development shall report annually through 1989 to the chairs of the committees on ways and means of the senate and house of representatives, including one copy to the staff of each of the committees, and to the governor on the amount of capital investment undertaken under this chapter and the amount of permanent employment reasonably related to the existence of such industrial development facilities.

(4) The department of community, trade, and economic development shall provide such advice and assistance to public corporations and municipalities which have created or may wish to create public corporations as the public corporations or municipalities request and the department of community, trade, and economic development considers appropriate. [1995 c 399 § 56; 1987 c 505 § 22; 1985 c 466 § 46; 1981 c 300 § 9.]

***Reviser's note:** Powers, duties, and functions of the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

Department of community, trade, and economic development: Chapter 43.330 RCW.

39.84.100 Revenue bonds—Provisions. (1) The principal of and the interest on any revenue bonds issued by a public corporation shall be payable solely from the funds provided for this payment from the revenues of the industrial development facilities funded by the revenue bonds. Each issue of revenue bonds shall be dated, shall bear interest at such rate or rates, and shall mature at such time or times as may be determined by the board of directors, and may be made redeemable before maturity at such price or prices and under such terms and conditions as may be fixed by the board of directors prior to the issuance of the revenue bonds or other revenue obligations.

(2) The board of directors shall determine the form and the manner of execution of the revenue bonds and shall fix the denomination or denominations of the revenue bonds and the place or places of payment of principal and interest. If any officer whose signature or a facsimile of whose signature appears on any revenue bonds or any coupons ceases to be an officer before the delivery of the revenue bonds, the signature shall for all purposes have the same effect as if he had remained in office until delivery. The revenue bonds may be issued in coupon or in registered form, as provided in RCW 39.46.030, or both as the board of directors may determine, and provisions may be made for the registration of any coupon revenue bonds as to the principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. A public corporation may sell revenue bonds at public or private sale for such price and bearing interest at such fixed or variable rate as may be determined by the board of directors.

(3) The proceeds of the revenue bonds of each issue shall be used solely for the payment of all or part of the project cost of or for the making of a loan in the amount of all or part of the project cost of the industrial development facility for which authorized and shall be disbursed in such manner and under such restrictions, if any, provided in the resolution authorizing the issuance of the revenue bonds or in the trust agreement securing the bonds. If the proceeds of the revenue bonds of any series issued with respect to the cost of any industrial development facility exceeds the cost of the industrial development facility for which issued, the surplus shall be deposited to the credit of the debt service fund for the revenue bonds or used to purchase revenue bonds in the open market.

(4) A public corporation may issue interim notes in the manner provided for the issuance of revenue bonds to fund industrial development facilities prior to issuing other revenue bonds to fund such facilities. A public corporation may issue revenue bonds to fund industrial development facilities that are exchangeable for other revenue bonds when these other revenue bonds are executed and available for delivery.

(5) The principal of and interest on any revenue bonds issued by a public corporation shall be secured by a pledge of unexpended bond proceeds and the revenues and receipts received by the public corporation from the industrial development facilities funded by the revenue bonds pursuant to financing documents. The resolution under which the

revenue bonds are authorized to be issued and any financing document may contain agreements and provisions respecting the maintenance or use of the industrial development facility covered thereby, the fixing and collection of rents, purchase price payments or loan payments, the creation and maintenance of special funds from such revenues or from revenue bond proceeds, the rights and remedies available in the event of default, and other provisions relating to the security for the bonds, all as the board of directors consider advisable which are not in conflict with this chapter.

(6) The governing body of the municipality under whose auspices the public corporation is created shall approve by resolution any agreement to issue revenue bonds adopted by a public corporation, which agreement and resolution shall set out the amount and purpose of the revenue bonds. Additionally, no issue of revenue bonds, including refunding bonds, may be sold and delivered by a public corporation without a resolution of the governing body of the municipality under whose auspices the public corporation is created, adopted no more than sixty days before the date of sale of the revenue bonds specifically, approving the resolution of the public corporation providing for the issuance of the revenue bonds.

(7) All revenue bonds issued under this chapter and any interest coupons applicable thereto are negotiable instruments within the meaning of Article 8 of the Uniform Commercial Code, Title 62A RCW, regardless of form or character.

(8) Notwithstanding subsections (1) and (2) of this section, such bonds and interim notes may be issued and sold in accordance with chapter 39.46 RCW. [1983 c 167 § 115; 1981 c 300 § 10.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

39.84.110 Revenue bonds—Refunding. Each public corporation may provide by resolution for the issuance of revenue refunding bonds for the purpose of refunding any revenue bonds issued for an industrial development facility under this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption or maturity of the revenue bonds and, if considered advisable by the public corporation, for the additional purpose of financing improvements, extensions, or enlargements to the industrial development facility for another industrial development facility. The issuance of the revenue bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the public corporation in respect to the same shall be governed by this chapter insofar as applicable. [1981 c 300 § 11.]

39.84.120 Trust agreements. Any bonds issued under this chapter may be secured by a trust agreement between the public corporation and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. The trust agreement may evidence a pledge or assignment of the financing documents and lease, sale, or loan revenues to be received from a lessee or purchaser of or borrower with respect to an industrial development facility for the payment of principal of and interest and any premium on the bonds

as the same shall become due and payable and may provide for creation and maintenance of reserves for these purposes. A trust agreement or resolution providing for the issuance of the revenue bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties in relation to the acquisition of property and the construction, improvement, maintenance, use, repair, operation, and insurance of the industrial development facility for which the bonds are authorized, and the custody, safeguarding, and application of all money. Any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of revenue bonds or of revenues may furnish such indemnifying bonds or pledge such securities as may be required by the corporation. A trust agreement may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of private corporations. In addition, a trust agreement may contain such provisions as the public corporation considers reasonable and proper for the security of the bondholders which are not in conflict with this chapter. [1981 c 300 § 12.]

39.84.130 Commingling of bond proceeds or revenues with municipal funds prohibited—Exception. No part of the proceeds received from the sale of any revenue bonds under this chapter, of any revenues derived from any industrial development facility acquired or held under this chapter, or of any interest realized on moneys received under this chapter may be commingled by the public corporation with funds of the municipality creating the public corporation. However, those funds of the public corporation, other than proceeds received from the sale of revenue bonds, that are not otherwise encumbered for the payment of revenue bonds and are not reasonably anticipated by the board of directors to be necessary for administrative expenses of the public corporation may be transferred to the creating municipality and used for growth management, planning, or other economic development purposes. [1993 c 139 § 1; 1981 c 300 § 13.]

39.84.140 Subleases and assignments. A lessee or contracting party under a sale contract or loan agreement shall not be required to be the eventual user of an industrial development facility if any sublessee or assignee assumes all of the obligations of the lessee or contracting party under the lease, sale contract, or loan agreement, but the lessee or contracting party or their successors shall remain primarily liable for all of its obligations under the lease, sale contract, or loan agreement and the use of the industrial development facility shall be consistent with the purposes of this chapter. [1981 c 300 § 14.]

39.84.150 Determination of rent. Before entering into a lease, sale contract, or loan agreement with respect to any industrial development facility, the public corporation shall determine that there are sufficient revenues to pay (1) the principal of and the interest on the revenue bonds proposed to be issued to finance the industrial development

facility; (2) the amount necessary to be paid each year into any reserve funds which the public corporation considers advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the industrial development facility; and (3) unless the terms of the lease, sale contract, or loan agreement provide that the lessee or contracting party shall maintain the industrial development facility and carry all proper insurance with respect thereto, the estimated cost of maintaining the industrial development facility in good repair and keeping it properly insured. [1981 c 300 § 15.]

39.84.160 Proceedings in the event of default. The proceedings authorizing any revenue bonds under this chapter or any financing document securing the revenue bonds may provide that if there is a default in the payment of the principal of or the interest on the bonds or in the performance of any agreement contained in the proceedings or financing document, the payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan repayments, and to apply the revenues from the industrial development facility in accordance with the proceedings or provisions of the financing document. Any financing document entered into under this chapter to secure revenue bonds issued under this chapter may also provide that if there is a default in the payment thereof or a violation of any agreement contained in the financing document, the industrial development facility may be foreclosed and sold under proceedings in equity or in any other manner now or hereafter permitted by law. Any financing document may also provide that any trustee under the financing document or the holder of any revenue bonds secured thereby may become the purchaser at any foreclosure sale if it is the highest bidder. [1981 c 300 § 16.]

39.84.200 Authority of community economic revitalization board under this chapter. The community economic revitalization board under chapter 43.160 RCW shall have all the powers of a public corporation under this chapter. To the extent applicable, all duties of a public corporation apply to the community economic revitalization board in exercising its powers under this chapter. [1984 c 257 § 11.]

39.84.900 Construction—Supplemental nature of chapter. This chapter supplements and neither restricts nor limits any powers which a municipality or presently authorized public corporation might otherwise have under any laws of this state. [1981 c 300 § 17.]

39.84.910 Captions not part of law. As used in this chapter, captions constitute no part of the law. [1981 c 300 § 19.]

39.84.920 Severability—1981 c 300. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 c 300 § 20.]

Chapter 39.86

PRIVATE ACTIVITY BOND ALLOCATION

Sections

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39.86.100 Legislative findings and policy. The federal tax reform act of 1986 imposes an annual ceiling on the aggregate amount of federally tax-exempt private activity bonds, including bonds for housing, student loans, exempt facilities, small issue industrial, redevelopment, and certain public utility projects, that may be issued during any calendar year by or on behalf of states and their political subdivisions. The tax reform act of 1986 establishes a private activity bond ceiling for each state of seventy-five dollars per capita for 1987 and of fifty dollars per capita for 1988 and each year thereafter. However, a study by the *department of community development indicates that the dollar amount of the state ceiling is considerably less than the anticipated dollar amount for which issuers would need an allocation from the state ceiling. The tax reform act of 1986 provides a formula for allocating the annual ceiling among various issuers of private activity bonds within a state, but permits each state to enact a different allocation method that is appropriate to that state's needs. The purpose of this chapter is to provide a flexible and efficient method of allocating the annual state ceiling in Washington in a manner that recognizes the need of the state and its political subdivisions to finance activities or projects that satisfy a substantial public purpose. [1987 c 297 § 1.]

*Reviser's note: Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

39.86.110 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means the department of community, trade, and economic development.

(2) "Board" means the community economic revitalization board established under chapter 43.160 RCW.

(3) "Bonds" means bonds, notes, or other obligations of an issuer.

(4) "Bond use category" means any of the following categories of bonds which are subject to the state ceiling: (a) Housing, (b) student loans, (c) small issue, (d) exempt facility, (e) redevelopment, (f) public utility, and (g) remainder.

(5) "Carryforward" is an allocation or reallocation of the state ceiling which is carried from one calendar year to a later year, in accordance with the code.

(6) "Code" means the federal internal revenue code of 1986 as it exists on May 8, 1987. It also means the code as amended after May 8, 1987, but only if the amendments are approved by the agency under RCW 39.86.180.

(7) "Director" means the director of the agency or the director's designee.

(8) "Exempt facility" means the bond use category which includes all bonds which are exempt facility bonds as described in the code, except those for qualified residential rental projects.

(9) "Firm and convincing evidence" means documentation that satisfies the director that the issuer is committed to the prompt financing of, and will issue tax exempt bonds for, the project or program for which it requests an allocation from the state ceiling.

(10) "Housing" means the bond use category which includes: (a) Mortgage revenue bonds and mortgage credit certificates as described in the code; and (b) exempt facility bonds for qualified residential rental projects as described in the code.

(11) "Initial allocation" means the portion or dollar value of the state ceiling which initially in each calendar year is allocated to a bond use category for the issuance of private activity bonds, in accordance with RCW 39.86.120.

(12) "Issuer" means the state, any agency or instrumentality of the state, any political subdivision, or any other entity authorized to issue private activity bonds under state law.

(13) "Private activity bonds" means obligations that are private activity bonds as defined in the code or bonds for purposes described in section 1317(25) of the tax reform act of 1986.

(14) "Program" means the activities for which housing bonds or student loan bonds may be issued.

(15) "Public utility" means the bond use category which includes those bonds described in section 1317(25) of the tax reform act of 1986.

(16) "Redevelopment" means the bond use category which includes qualified redevelopment bonds as described in the code.

(17) "Remainder" means that portion of the state ceiling remaining after initial allocations are made under RCW 39.86.120 for any other bond use category.

(18) "Small issue" means the bond use category which includes all industrial development bonds that constitute qualified small issue bonds, as described in the code.

(19) "State" means the state of Washington.

(20) "State ceiling" means the volume limitation for each calendar year on tax-exempt private activity bonds, as imposed by the code.

(21) "Student loans" means the bond use category which includes qualified student loan bonds as described in the code. [1995 c 399 § 57; 1987 c 297 § 2.]

1989 and THEREAFTER
(If the small issue category is permitted under federal law)

1990 and THEREAFTER
(If the small issue category is not permitted under federal law)

BOND USE CATEGORY	1987	1988	1989 and THEREAFTER (If the small issue category is permitted under federal law)	1990 and THEREAFTER (If the small issue category is not permitted under federal law)
Housing	5%	25%	25%	35%
Student Loans	10%	15%	15%	15%
Exempt Facility	40%	20%	20%	35%
Public Utility	10%	10%	10%	10%
Small Issue	30%	25%	25%	0%
Remainder and redevelopment	5%	5%	5%	5%

(2) Initial allocations may be modified by the agency only to reflect an issuer's carryforward amount. Any reduction of the initial allocation shall be added to the remainder and be available for allocation or reallocation.

(3) The remainder shall be allocated by the agency among one or more issuers from any bond use category with regard to the criteria specified in RCW 39.86.130.

(4) Should any bond use category no longer be subject to the state ceiling due to federal or state provisions of law, the agency shall divide the amount of that initial allocation among the remaining categories as necessary or appropriate with regard to the criteria specified in RCW 39.86.130.

(5)(a) Prior to September 1 of each calendar year, any available portion of an initial allocation may be allocated or reallocated only to an issuer within the same bond use category, except that the remainder category, or portions thereof, may be allocated at any time to any bond use category.

(b) Beginning September 1 of each calendar year, the agency may allocate or reallocate any available portion of the state ceiling to any bond use category with regard to the criteria specified in RCW 39.86.130. [1990 c 50 § 1; 1987 c 297 § 3.]

39.86.130 Criteria. (1) In granting an allocation, reallocation, or carryforward of the state ceiling as provided in this chapter, the agency shall consider existing state priorities and other such criteria, including but not limited to, the following criteria:

(a) Need of issuers to issue private activity bonds within a bond use category;

(b) Amount of the state ceiling available;

(c) Public benefit and purpose to be satisfied, including economic development, educational opportunity, and public health, safety, or welfare;

(d) Cost or availability of alternative methods of financing for the project or program; and

(e) Certainty of using the allocation which is being requested.

(2) In determining whether to allocate an amount of the state ceiling to an issuer within any bond use category, the agency shall consider, but is not limited to, the following criteria for each of the bond use categories:

(a) Housing: Criteria which comply with RCW 43.180.200.

(b) Student loans: Criteria which comply with the applicable provisions of Title 28B RCW and rules adopted by the higher education coordinating board or applicable state agency dealing with student financial aid.

39.86.120 Initial allocation. (1) Except as provided in subsections (2) and (4) of this section, the initial allocation of the state ceiling shall be for each year as follows:

(c) Small issue: Recommendation by the board regarding how the amount of the state ceiling set aside for the small issue bond use category shall be allocated among issuers. Factors may include:

(i) The number of employment opportunities the project is likely to create or retain in relation to the amount of the bond issuance;

(ii) The level of unemployment existing in the geographic area likely to be affected by the project;

(iii) A commitment to providing employment opportunities to low-income persons in cooperation with the employment security department;

(iv) Geographic distribution of projects;

(v) The number of persons who will benefit from the project;

(vi) Consistency with criteria identified in subsection (1) of this section;

(vii) Order in which requests were received; and

(viii) Requirements of the board's umbrella bond program.

(d) Exempt facility or redevelopment: Factors which may include:

(i) State issuance needs;

(ii) Consistency with criteria identified in subsection (1) of this section;

(iii) Order in which requests were received;

(iv) The proportionate number of persons in relationship to the size of the community who will benefit from the project; and

(v) The unique timing and issuance needs of large scale projects that may require allocations in more than one year.

(e) Public utility: Factors which may include:

(i) Consistency with criteria identified in subsection (1) of this section; and

(ii) Timing needs for issuance of bonds over a multi-year period. [1987 c 297 § 4.]

39.86.140 Procedure for obtaining state ceiling allocation. (1) No issuer may receive an allocation of the state ceiling without a certificate of approval from the agency.

(2)(a) For each state ceiling allocation request, an issuer shall submit to the agency, no sooner than ninety days prior to the beginning of a calendar year for which an allocation of the state ceiling is being requested, a form identifying:

(i) The amount of the allocation sought;

(ii) The bond use category from which the allocation sought would be made;

(iii) The project or program for which the allocation is requested;

(iv) The financing schedule for which the allocation is needed; and

(v) Any other such information required by the agency, including information which corresponds to the allocation criteria of RCW 39.86.130.

(b) Nothing in (a) of this subsection precludes a public utility issuer from filing and the agency from considering a request at such times as may be appropriate in order to meet the criteria set forth in RCW 39.86.130(2)(e)(ii).

(3) The agency may approve or deny an allocation for all or a portion of the issuer's request. Any denied request,

however, shall remain on file with the agency for the remainder of the calendar year and shall be considered for receiving any allocation, reallocation, or carryforward of unused portions of the state ceiling during that period.

(4) After receiving an allocation request, the agency shall mail to the requesting issuer a written certificate of approval or notice of denial for an allocation amount, by a date no later than the latest of the following:

(a) Forty-five days from May 8, 1987;

(b) February 1 of the calendar year, other than 1987, for which the request is made;

(c) Fifteen days from the date the agency receives an allocation request; or

(d) Fifteen days from the date the agency receives a recommendation by the board with regard to a small issue allocation request, should the board choose to review individual requests.

(5)(a) For requests of the state ceiling of any calendar year, the following applies to all bond use categories except housing and student loans:

(i) Except for housing and student loans, any allocations granted prior to April 1, for which bonds have not been issued by September 1 of the same calendar year, shall revert to the agency on September 1 of the same calendar year for reallocation unless an extension or carryforward is granted;

(ii) Except for housing and student loans, any allocations granted on or after April 1, for which bonds have not been issued by December 15 of the same calendar year, shall revert to the agency on December 15 of the same calendar year for reallocation unless an extension or carryforward is granted.

(b) For each calendar year, any housing or student loan allocations, for which bonds have not been issued by December 15 of the same calendar year, shall revert to the agency on December 15 of the same calendar year for reallocation unless an extension or carryforward is granted.

(6) An extension of the deadlines provided by subsection (5) of this section may be granted by the agency for the approved allocation amount or a portion thereof, based on:

(a) Firm and convincing evidence that the bonds will be issued before the end of the calendar year if the extension is granted; and

(b) Any other criteria the agency deems appropriate.

(7) If an issuer determines that bonds subject to the state ceiling will not be issued for the project or program for which an allocation was granted, the issuer shall promptly notify the agency in writing so that the allocation may be canceled and the amount may be available for reallocation.

(8) Bonds subject to the state ceiling may be issued only to finance the project or program for which a certificate of approval is granted.

(9) Within three business days of the date that bonds for which an allocation of the state ceiling is granted have been delivered to the original purchasers, the issuer shall mail to the agency a written notification of the bond issuance. In accordance with chapter 39.44 RCW, the issuer shall also complete bond issuance information on the form provided by the agency.

(10) If the total amount of tax-exempt bonds issued for a project or program is less than the amount allocated, the remaining portion of the allocation shall revert to the agency

for reallocation in accordance with the criteria in RCW 39.86.130. If the amount of tax-exempt bonds actually issued under the state ceiling is greater than the amount allocated, the entire allocation shall be disallowed. [1987 c 297 § 5.]

39.86.150 Reallocation process and carryforwards.

(1) Beginning September 1 of each calendar year, the agency may allocate or reallocate any portions of the state ceiling for which no certificate of approval is in effect. Reallocations may also be made from the remainder category at any time during the year.

(2) Prior to the end of each calendar year, the agency shall allocate or reallocate any unused portions of the state ceiling among one or more issuers as carryforward, to be used within three years, in accordance with the code and relevant criteria described in RCW 39.86.130. [1987 c 297 § 6.]

39.86.160 Executive orders. If federal legislation is enacted or federal regulations are promulgated which affect the state ceiling, when the legislature is not in session or is less than forty-five days from the constitutional end of session, the governor may establish by executive order an alternative system for the allocation of tax-exempt bonds under the state ceiling, effective until the legislature acts. In allocating or reallocating under this section, the governor shall take into account the requirements of federal law, the policy choices expressed in state law, and the projected needs of issuers. [1987 c 297 § 7.]

39.86.170 Fees. A fee schedule shall be established by rule by the agency to assist in support of bond allocation activities. Fees shall reflect costs actually incurred or expected to be incurred by the agency in its bond allocation activities. [1987 c 297 § 8.]

39.86.180 Code amendments. In order to permit the full use of the authorized state ceiling under federal law, the agency may adopt rules approving any amendments made to the code after May 8, 1987. [1987 c 297 § 9.]

39.86.190 Annual and biennial reports. By February 1 of each year, the agency shall summarize for the legislature each previous year's bond allocation requests and issuance. Beginning in June of 1988 and thereafter in June of each even-numbered year, the agency shall also submit a biennial report summarizing usage of the bond allocation proceeds and any policy concerns for future bond allocations. [1987 c 297 § 10.]

39.86.200 Ratification. Any state ceiling allocations taken prior to May 8, 1987, in conformance with the code and an applicable executive order of the governor are ratified and confirmed and shall remain in full force and effect notwithstanding any other provision of this chapter. [1987 c 297 § 11.]

39.86.905 Captions. As used in this chapter, captions constitute no part of the law. [1987 c 297 § 15.]

39.86.906 Severability—1987 c 297. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 297 § 14.]

Chapter 39.88

COMMUNITY REDEVELOPMENT FINANCING ACT

Sections

39.88.010	Declaration.
39.88.020	Definitions.
39.88.030	Authority—Limitations.
39.88.040	Procedure for adoption of public improvement.
39.88.050	Notice of public improvement.
39.88.060	Disagreements between taxing districts.
39.88.070	Apportionment of taxes.
39.88.080	Application of tax allocation revenues.
39.88.090	General obligation bonds.
39.88.100	Tax allocation bonds.
39.88.110	Legal investments.
39.88.120	Notice to state.
39.88.130	Conclusive presumption of validity.
39.88.900	Supplemental nature of chapter.
39.88.905	Short title.
39.88.910	Captions not part of law—1982 1st ex.s. c 42.
39.88.915	Severability—1982 1st ex.s. c 42.

Reviser's note: Senate Joint Resolution No. 143, amending the state Constitution to authorize the use of increased property tax revenues resulting from a public improvement for the purpose of paying obligations incurred for the improvement, was enacted during the 1982 first extraordinary session of the legislature and was submitted to the voters at the November 1982 state general election. It was defeated by a vote of 393,030 in favor and 882,194 against. A similar constitutional amendment, House Joint Resolution No. 23, was defeated at the November 1985 state general election.

39.88.010 Declaration. It is declared to be the public policy of the state of Washington to promote and facilitate the orderly development and economic stability of its urban areas. The provision of adequate government services and the creation of employment opportunities for the citizens within urban areas depends upon the economic growth and the strength of their tax base. The construction of necessary public improvements in accordance with local community planning will encourage investment in job-producing private development and will expand the public tax base.

It is the purpose of this chapter to allocate a portion of regular property taxes for limited periods of time to assist in the financing of public improvements which are needed to encourage private development of urban areas; to prevent or arrest the decay of urban areas due to the inability of existing financing methods to provide needed public improvements; to encourage local taxing districts to cooperate in the allocation of future tax revenues arising in urban areas in order to facilitate the long-term growth of their common tax base; and to encourage private investment within urban areas. [1982 1st ex.s. c 42 § 2.]

39.88.020 Definitions. As used in this chapter the following terms have the following meanings unless a different meaning is clearly indicated by the context:

(1) "Apportionment district" means the geographic area, within an urban area, from which regular property taxes are

to be apportioned to finance a public improvement contained therein.

(2) "Assessed value of real property" means the valuation of real property as placed on the last completed assessment roll of the county.

(3) "City" means any city or town.

(4) "Ordinance" means any appropriate method of taking a legislative action by a county or city, whether known as a statute, resolution, ordinance, or otherwise.

(5) "Public improvement" means an undertaking to provide public facilities in an urban area which the sponsor has authority to provide.

(6) "Public improvement costs" means the costs of design, planning, acquisition, site preparation, construction, reconstruction, rehabilitation, improvement, and installation of the public improvement; costs of relocation, maintenance, and operation of property pending construction of the public improvement; costs of utilities relocated as a result of the public improvement; costs of financing, including interest during construction, legal and other professional services, taxes, and insurance; costs incurred by the assessor to revalue real property for the purpose of determining the tax allocation base value that are in excess of costs incurred by the assessor in accordance with his revaluation plan under chapter 84.41 RCW, and the costs of apportioning the taxes and complying with this chapter and other applicable law; and administrative costs reasonably necessary and related to these costs. These costs may include costs incurred prior to the adoption of the public improvement ordinance, but subsequent to July 10, 1982.

(7) "Public improvement ordinance" means the ordinance passed under RCW 39.88.040(4).

(8) "Regular property taxes" means regular property taxes as now or hereafter defined in RCW 84.04.140, except regular property taxes levied by port districts or public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness.

(9) "Sponsor" means any county or city initiating and undertaking a public improvement.

(10) "Tax allocation base value of real property" means the true and fair value of real property within an apportionment district for the year in which the apportionment district was established.

(11) "Tax allocation bonds" means any bonds, notes, or other obligations issued by a sponsor pursuant to *section 10 of this act.

(12) "Tax allocation revenues" means those tax revenues allocated to a sponsor under RCW 39.88.070(1)(b).

(13) "Taxing districts" means any governmental entity which levies or has levied for it regular property taxes upon real property located within a proposed or approved apportionment district.

(14) "Value of taxable property" means value of taxable property as defined in RCW 39.36.015.

(15) "Urban area" means an area in a city or located outside of a city that is characterized by intensive use of the land for the location of structures and receiving such urban services as sewers, water, and other public utilities and services normally associated with urbanized areas. Not more than twenty-five percent of the area within the urban area proposed apportionment district may be vacant land. [1982 1st ex.s. c 42 § 3.]

***Reviser's note:** "section 10 of this act," codified as RCW 39.88.090, deals with general obligation bonds. Tax allocation bonds are the subject of section 11 (RCW 39.88.100), which was apparently intended. The error arose in the renumbering of sections in the engrossing of amendments to Second Substitute Senate Bill No. 4603 [1982 1st ex.s. c 42].

39.88.030 Authority—Limitations. (1) Only public improvements which are determined by the legislative authority of the sponsor to meet the following criteria are eligible to be financed under this chapter:

(a) The public improvement is located within an urban area;

(b) The public improvement will encourage private development within the apportionment district;

(c) The public improvement will increase the fair market value of the real property located within the apportionment district;

(d) The private development which is anticipated to occur within the apportionment district as a result of the public improvement is consistent with an existing comprehensive land use plan and approved growth policies of the jurisdiction within which it is located;

(e) A public improvement located within a city has been approved by the legislative authority of such city; and

(f) A public improvement located within an urban area in an unincorporated area has been approved by the legislative authority of the county within whose boundaries the area lies.

(2) Apportionment of regular property tax revenues to finance the public improvements is subject to the following limitations:

(a) No apportionment of regular property tax revenues may take place within a previously established apportionment district where regular property taxes are still apportioned to finance public improvements without the concurrence of the sponsor which established the district;

(b) No apportionment district may be established which includes any geographic area included within a previously established apportionment district which has outstanding bonds payable in whole or in part from tax allocation revenues;

(c) The total amount of outstanding bonds payable in whole or in part from tax allocation revenues arising from property located within a city shall not exceed two percent of the value of taxable property within the city, and the total amount of outstanding bonds payable in whole or in part from tax allocation revenues arising from property located within the unincorporated areas of a county shall not exceed two percent of the value of taxable property within the entire unincorporated area of the county; and

(d) No taxes other than regular property taxes may be apportioned under this chapter.

(3) Public improvements may be undertaken and coordinated with other programs or efforts undertaken by the sponsor or others and may be funded in whole or in part from sources other than those provided by this chapter. [1982 1st ex.s. c 42 § 4.]

39.88.040 Procedure for adoption of public improvement. Public improvements funded by tax allocation revenues may only be located within an urban area. In order

to secure an allocation of regular property taxes to finance a public improvement, a sponsor shall:

(1) Propose by ordinance a plan for the public improvement which includes a description of the contemplated public improvement, the estimated cost thereof, the boundaries of the apportionment district, the estimated period during which tax revenue apportionment is contemplated, and the ways in which the sponsor plans to use tax allocation revenues to finance the public improvement, and which sets at least three public hearings thereon before the legislative authority of the sponsor or a committee thereof: PROVIDED, That public hearings for the public improvement that is undertaken in combination or coordination by two or more sponsors may be held jointly; and public hearings, held before the legislative authority or a committee of a majority thereof may be combined with public hearings held for other purposes;

(2) At least fifteen days in advance of the hearing:

(a) Deliver notice of the hearing to all taxing districts, the county treasurer, and the county assessor, which notice includes a map or drawing showing the location of the contemplated public improvement and the boundaries of the proposed apportionment district, a brief description of the public improvement, the estimated cost thereof, the anticipated increase in property values within the apportionment district, the location of the sponsor's principal business office where it will maintain information concerning the public improvement for public inspection, and the date and place of hearing; and

(b) Post notice in at least six public places located in the proposed apportionment district and publish notice in a legal newspaper of general circulation within the sponsor's jurisdiction briefly describing the public improvement, the proposed apportionment, the boundaries of the proposed apportionment district, the location where additional information concerning the public improvement may be inspected, and the date and place of hearing;

(3) At the time and place fixed for the hearing under subsection (1) of this section, and at such times to which the hearing may be adjourned, receive and consider all statements and materials as may be submitted, and objections and letters filed before or within ten days thereafter;

(4) Within one hundred twenty days after completion of the public hearings, pass an ordinance establishing the apportionment district and authorizing the proposed public improvement, including any modifications which in the sponsor's opinion the hearings indicated should be made, which includes the boundaries of the apportionment district, a description of the public improvement, the estimated cost thereof, the portion of the estimated cost thereof to be reimbursed from tax allocation revenues, the estimated time during which regular property taxes are to be apportioned, the date upon which apportionment of the regular property taxes will commence, and a finding that the public improvement meets the conditions of RCW 39.88.030. [1982 1st ex.s. c 42 § 5.]

39.88.050 Notice of public improvement. Within fifteen days after enactment of the public improvement ordinance, the sponsor shall publish notice in a legal newspaper circulated within the designated apportionment district summarizing the final public improvement, including a brief

description of the public improvement, the boundaries of the apportionment district, and the location where the public improvement ordinance and any other information concerning the public improvement may be inspected.

Within fifteen days after enactment of the public improvement ordinance, the sponsor shall deliver a certified copy thereof to each taxing district, the county treasurer, and the county assessor. [1982 1st ex.s. c 42 § 6.]

39.88.060 Disagreements between taxing districts.

(1) Any taxing district that objects to the apportionment district, the duration of the apportionment, the manner of apportionment, or the propriety of cost items established by the public improvement ordinance of the sponsor may, within thirty days after mailing of the ordinance, petition for review thereof by the state board of tax appeals. The state board of tax appeals shall meet within a reasonable time, hear all the evidence presented by the parties on matters in dispute, and determine the issues upon the evidence as may be presented to it at the hearing. The board may approve or deny the public improvement ordinance as enacted or may grant approval conditioned upon modification of the ordinance by the sponsor. The decision by the state board of tax appeals shall be final and conclusive but shall not preclude modification or discontinuation of the public improvement.

(2) If the sponsor modifies the public improvement ordinance as directed by the board, the public improvement ordinance shall be effective without further hearings or findings and shall not be subject to any further appeal. If the sponsor modifies the public improvement ordinance in a manner other than as directed by the board, the public improvement ordinance shall be subject to the procedures established pursuant to RCW 39.88.040 and 39.88.050. [1989 c 378 § 1; 1982 1st ex.s. c 42 § 7.]

39.88.070 Apportionment of taxes. (1) Upon the date established in the public improvement ordinance, but not sooner than the first day of the calendar year following the passage of the ordinance, the regular property taxes levied upon the assessed value of real property within the apportionment district shall be divided as follows:

(a) That portion of the regular property taxes produced by the rate of tax levied each year by or for each of the taxing districts upon the tax allocation base value of real property, or upon the assessed value of real property in each year, whichever is smaller, shall be allocated to and paid to the respective taxing districts; and

(b) That portion of the regular property taxes levied each year by or for each of the taxing districts upon the assessed value of real property within an apportionment district which is in excess of the tax allocation base value of real property shall be allocated and paid to the sponsor, or the sponsor's designated agent, until all public improvement costs to be paid from the tax allocation revenues have been paid, except that the sponsor may agree to receive less than the full amount of such portion as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of the taxes shall be allocated to the respective taxing districts as the sponsor and the taxing districts may agree.

(2) The county assessor shall revalue the real property within the apportionment district for the purpose of determining the tax allocation base value for the apportionment district and shall certify to the sponsor the tax allocation base value as soon as practicable after the assessor receives notice of the public improvement ordinance and shall certify to the sponsor the total assessed value of real property within thirty days after the property values for each succeeding year have been established, except that the assessed value of state-assessed real property within the apportionment district shall be certified as soon as the values are provided to the assessor by the department of revenue. Nothing in this section authorizes revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW.

(3) The date upon which the apportionment district was established shall be considered the date upon which the public improvement ordinance was enacted by the sponsor.

(4) The apportionment of regular property taxes under this section shall cease when tax allocation revenues are no longer necessary or obligated to pay public improvement costs or to pay principal of and interest on bonds issued to finance public improvement costs and payable in whole or in part from tax allocation revenues. At the time of termination of the apportionment, any excess money and any earnings thereon held by the sponsor shall be returned to the county treasurer and distributed to the taxing districts which were subject to the allocation in proportion to their regular property tax levies due for the year in which the funds are returned. [1982 1st ex.s. c 42 § 8.]

39.88.080 Application of tax allocation revenues.

Tax allocation revenues may be applied as follows:

(1) To pay public improvement costs;

(2) To pay principal of and interest on, and to fund any necessary reserves for, tax allocation bonds;

(3) To pay into bond funds established to pay the principal of and interest on general obligation bonds issued pursuant to law to finance public facilities that are specified in the public improvement ordinance and constructed following the establishment of and within the apportionment district; or

(4) To pay any combination of the foregoing. [1982 1st ex.s. c 42 § 9.]

39.88.090 General obligation bonds. General obligation bonds which are issued to finance public facilities that are specified in the public improvement ordinance, and for which part or all of the principal or interest is paid by tax allocation revenues, shall be subject to the following requirements:

(1) The intent to issue such bonds and the maximum amount which the sponsor contemplates issuing are specified in the public improvement ordinance; and

(2) A statement of the intent of the sponsor to issue such bonds is included in all notices required by RCW 39.88.040 and 39.88.050.

In addition, the ordinance or resolution authorizing the issuance of such general obligation bonds shall be subject to potential referendum approval by the voters of the issuing

entity when the bonds are part of the non-voter approved indebtedness limitation established pursuant to RCW 39.36.020. If the voters of the county or city issuing such bonds otherwise possess the general power of referendum on county or city matters, the ordinance or resolution shall be subject to that procedure. If the voters of the county or city issuing such bonds do not otherwise possess the general power of referendum on county or city matters, the referendum shall conform to the requirements and procedures for referendum petitions provided for code cities in RCW 35A.11.100. [1982 1st ex.s. c 42 § 10.]

39.88.100 Tax allocation bonds. (1) A sponsor may issue such tax allocation bonds as it may deem appropriate for the financing of public improvement costs and a reasonable bond reserve and for the refunding of any outstanding tax allocation bonds.

(2) The principal and interest of tax allocation bonds may be made payable from:

(a) Tax allocation revenues;

(b) Project revenues which may include (i) nontax income, revenues, fees, and rents from the public improvement financed with the proceeds of the bonds, or portions thereof, and (ii) contributions, grants, and nontax money available to the sponsor for payment of costs of the public improvement or the debt service of the bonds issued therefor;

(c) Any combination of the foregoing.

(3) Tax allocation bonds shall not be the general obligation of or guaranteed by all or any part of the full faith and credit of the sponsor or any other state or local government, or any tax revenues other than tax allocation revenues, and shall not be considered a debt of the sponsor or other state or local government for general indebtedness limitation purposes.

(4) The terms and conditions of tax allocation bonds may include provisions for the following matters, among others:

(a) The date of issuance, maturity date or dates, denominations, form, series, negotiability, registration, rank or priority, place of payment, interest rate or rates which may be fixed or may vary over the life of the tax allocation bonds, bond reserve, coverage, and such other terms related to repayment of the tax allocation bonds;

(b) The application of tax allocation bond proceeds; the use, sale, or disposition of property acquired; consideration or rents and fees to be charged in the sale or lease of property acquired; consideration or rents and fees to be charged in the sale or lease of property within a public improvement; the application of rents, fees, and revenues within a public improvement; the maintenance, insurance, and replacement of property within a public improvement; other encumbrances, if any, upon all or part of property within a public improvement, then existing or thereafter acquired; and the type of debts that may be incurred;

(c) The creation of special funds; the money to be so applied; and the use and disposition of the money;

(d) The securing of the tax allocation bonds by a pledge of property and property rights, by assignment of income generated by the public improvement, or by pledging such

additional specifically described resources other than tax revenues as are available to the sponsor;

(e) The terms and conditions for redemption;

(f) The replacement of lost and destroyed bond instruments;

(g) Procedures for amendment of the terms and conditions of the tax allocation bonds;

(h) The powers of a trustee to enforce covenants and take other actions in event of default; the rights, liabilities, powers, and duties arising upon the breach of any covenant, condition, or obligation; and

(i) When consistent with the terms of this chapter, such other terms, conditions, and provisions which may make the tax allocation bonds more marketable and further the purposes of this chapter.

(5) Tax allocation bonds may be issued and sold in such manner as the legislative authority of the sponsor shall determine.

(6) The sponsor may also issue or incur obligations in anticipation of the receipt of tax allocation bond proceeds or other money available to pay public improvement costs. [1982 1st ex.s. c 42 § 11.]

39.88.110 Legal investments. Tax allocation bonds authorized in this chapter shall be legal investments for any of the funds of the state and of municipal corporations, for trustees, and for other fiduciaries. [1982 1st ex.s. c 42 § 13.]

39.88.120 Notice to state. Whenever notice is required to be given to the state, notice shall be given to the director of revenue. [1982 1st ex.s. c 42 § 14.]

39.88.130 Conclusive presumption of validity. No direct or collateral attack on any public improvement, public improvement ordinance, or apportionment district purported to be authorized or created in conformance with applicable legal requirements, including the requirements of this chapter, may be commenced more than thirty days after publication of notice as required by RCW 39.88.050. [1982 1st ex.s. c 42 § 15.]

39.88.900 Supplemental nature of chapter. This chapter supplements and neither restricts nor limits any powers which the state or any municipal corporation might otherwise have under any laws of this state. [1982 1st ex.s. c 42 § 16.]

39.88.905 Short title. This chapter may be known and cited as the Community Redevelopment Financing Act of 1982. [1982 1st ex.s. c 42 § 1.]

39.88.910 Captions not part of law—1982 1st ex.s. c 42. As used in this act, captions constitute no part of the law. [1982 1st ex.s. c 42 § 17.]

39.88.915 Severability—1982 1st ex.s. c 42. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the

application of the provision to other persons or circumstances is not affected. [1982 1st ex.s. c 42 § 18.]

Chapter 39.90

VALIDATION OF BONDS AND FINANCING PROCEEDINGS

Sections

- 39.90.010 Definition.
 39.90.020 Validation of bonds, proceedings for issuance, sales, etc.
 39.90.030 Validation of proceedings to finance or aid in financing.
 39.90.050 Revenue bonds—Sale or issuance with greater interest rate than that specified authorized.
 39.90.060 Validation of debts, contracts and obligations regardless of interest rates.

Cities and towns

*sewerage system bonds validated: RCW 35.67.194.
 validating indebtedness: Chapter 35.40 RCW.*

City and county armory sites: Chapter 36.64 RCW.

Counties: Chapter 36.67 RCW.

County road bonds: RCW 36.76.080.

Funding bonds, validation: RCW 39.52.015.

Irrigation district bonds, validating: See note following RCW 87.19.005.

Metropolitan park districts, validating bonds: See note following RCW 35.61.010.

Municipal utilities, validating bond proceedings: See notes following RCW 35.92.010.

School districts

validating bonds proceedings: RCW 28A.530.010, 28A.530.020, and note following RCW 39.36.020.

validating indebtedness: Chapter 28A.535 RCW.

Second class cities, validating bonds and proceedings: See note following RCW 35.23.545.

39.90.010 Definition. As used in this chapter, the term "public body" means any city, town, district or other governmental agency created by or under the laws of this state. [1947 c 242 § 1; Rem. Supp. 1947 § 5616-20.]

39.90.020 Validation of bonds, proceedings for issuance, sales, etc. All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking, or project by any public body, including all proceedings for the authorization and issuance of such bonds, and the sale, execution, and delivery thereof, are hereby validated, ratified, approved, and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing body or commission or officers thereof, to authorize and issue such bonds, or to sell, execute, or deliver the same, and notwithstanding any defects or irregularities (other than constitutional), including the failure to publish notices of elections, in such proceedings, or in such sale, execution or delivery, and notwithstanding that such governing body or commission or officers may not have been elected, appointed or qualified for the offices they purported to hold; and such bonds are and shall be binding, legal, valid, and enforceable obligations of such public body. [1947 c 242 § 2; Rem. Supp. 1947 § 5616-21.]

39.90.030 Validation of proceedings to finance or aid in financing. All proceedings which have been taken prior to March 19, 1947, for the purpose of financing or

aiding in the financing of any work, undertaking, or project by any public body, including all proceedings for the authorization and issuance of bonds and for the sale, execution, and delivery thereof, are hereby validated, ratified, approved, and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing body or commission or officers thereof, to authorize and issue such bonds, or to sell, execute, or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings. [1947 c 242 § 3; Rem. Supp. 1947 § 5616-22.]

39.90.050 Revenue bonds—Sale or issuance with greater interest rate than that specified authorized. All revenue bonds, the issuance of which was authorized or ratified at a general or special election held within the issuing jurisdiction prior to July 1, 1970 or the proposition for the issuance of which will be submitted at such an election pursuant to action of the legislative authority of the issuer taken prior to July 1, 1970, may be sold and issued with an interest rate or rates greater than any interest rate restriction contained in the ballot proposition or ordinance or resolution relating to such authorization or ratification. [1970 ex.s. c 66 § 6.]

39.90.060 Validation of debts, contracts and obligations regardless of interest rates. All debts, contracts and obligations heretofore made or incurred by or in favor of the state, state agencies, The Evergreen State College, community colleges, and regional and state universities, and the political subdivisions, municipal corporations and quasi municipal corporations of this state, are hereby declared to be legal and valid and of full force and effect from the date thereof, regardless of the interest rate borne by any such debts, contracts and obligations. [1977 ex.s. c 169 § 93; 1970 ex.s. c 66 § 7.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Chapter 39.92

LOCAL TRANSPORTATION ACT

Sections

39.92.010	Purpose.
39.92.020	Definitions.
39.92.030	Local programs authorized.
39.92.040	Transportation impact fee.
39.92.050	Interlocal cooperation—Consistency and assistance.
39.92.900	Severability—Prospective application—1988 c 179.
39.92.901	Section captions—1988 c 179.

39.92.010 Purpose. The legislature finds that there is an increasing need for local and regional transportation improvements as the result of both existing demands and the foreseeable future demands from economic growth and development within the state, including residential, commercial, and industrial development.

The legislature intends with this chapter to enable local governments to develop and adopt programs for the purpose of jointly funding, from public and private sources, transportation improvements necessitated in whole or in part by economic development and growth within their respective

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jurisdictions. The programs should provide a fair and predictable method for allocating the cost of necessary transportation improvements between the public and private sectors. The programs should include consideration of public transportation as a method of reducing off-site transportation impacts from development. The legislature finds that the private funds authorized to be collected pursuant to this chapter are for the purpose of mitigating the impacts of development and are not taxes. The state shall encourage and give priority to the state funding of local and regional transportation improvements that are funded in part by local, public, and private funds.

The authority provided by this chapter, RCW 35.43.182 through 35.43.188, and 36.88.072 through 36.88.078 for local governments to create and implement local transportation programs is intended to be supplemental, except as expressly provided in RCW 39.92.030(9), 82.02.020, and 36.73.120, to the existing authorities and responsibilities of local governments to regulate development and provide public facilities. [1988 c 179 § 1.]

39.92.020 Definitions. The definitions set forth in this section apply throughout this chapter.

(1) "Developer" means an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other person undertaking development and their successors and assigns.

(2) "Development" means the subdivision or short platting of land or the construction or reconstruction of residential, commercial, industrial, public, or any other building, building space, or land.

(3) "Direct result of the proposed development" means those quantifiable transportation impacts that are caused by vehicles or pedestrians whose trip origin or destination is the proposed development.

(4) "Local government" means all counties, cities, and towns in the state of Washington and transportation benefit districts created pursuant to chapter 36.73 RCW.

(5) "Off-site transportation improvements" means those transportation capital improvements designated in the local plan adopted under this chapter that are authorized to be undertaken by local government and that serve the transportation needs of more than one development.

(6) "Transportation impact fee" means a monetary charge imposed on new development for the purpose of mitigating off-site transportation impacts that are a direct result of the proposed development.

(7) "Fair market value" means the price in terms of money that a property will bring in a competitive and open market under all conditions of a fair sale, the buyer and seller each prudently knowledgeable, and assuming the price is not affected by undue stimulus, measured at the time of the dedication to local government of land or improved transportation facilities. [1988 c 179 § 2.]

39.92.030 Local programs authorized. Local governments may develop and adopt programs for the purpose of jointly funding, from public and private sources, transportation improvements necessitated in whole or in part by economic development and growth within their respective jurisdictions. Local governments shall adopt the programs

by ordinance after notice and public hearing. Each program shall contain the elements described in this section.

(1) The program shall identify the geographic boundaries of the entire area or areas generally benefited by the proposed off-site transportation improvements and within which transportation impact fees will be imposed under this chapter.

(2) The program shall be based on an adopted comprehensive, long-term transportation plan identifying the proposed off-site transportation improvements reasonable and necessary to meet the future growth needs of the designated plan area and intended to be covered by this joint funding program, including acquisition of right of way, construction and reconstruction of all major and minor arterials and intersection improvements, and identifying design standards, levels of service, capacities, and costs applicable to the program. The program shall also indicate how the transportation plan is coordinated with applicable transportation plans for the region and for adjacent jurisdictions. The program shall also indicate how public transportation and ride-sharing improvements and services will be used to reduce off-site transportation impacts from development.

(3) The program shall include at least a six-year capital funding program, updated annually, identifying the specific public sources and amounts of revenue necessary to pay for that portion of the cost of all off-site transportation improvements contained in the transportation plan that will not foreseeably be funded by transportation impact fees. The program shall include a proposed schedule for construction and expenditures of funds. The funding plan shall consider the additional local tax revenue estimated to be generated by new development within the plan area if all or a portion of the additional revenue is proposed to be earmarked as future appropriations for such off-site transportation improvements.

(4) The program shall authorize transportation impact fees to be imposed on new development within the plan area for the purpose of providing a portion of the funding for reasonable and necessary off-site transportation improvements to solve the cumulative impacts of planned growth and development in the plan area. Off-site transportation impacts shall be measured as a pro rata share of the capacity of the off-site transportation improvements being funded under the program. The fees shall not exceed the amount that the local government can demonstrate is reasonably necessary as a direct result of the proposed development.

(5) The program shall provide that the funds collected as a result of a particular new development shall be used in substantial part to pay for improvements mitigating the impacts of the development or be refunded to the property owners of record. Fees paid toward more than one transportation improvement may be pooled and expended on any one of the improvements mitigating the impact of the development. The funds shall be expended in all cases within six years of collection by the local government or the unexpended funds shall be refunded.

(6) The program shall also describe the formula, timing, security, credits, and other terms and conditions affecting the amount and method of payment of the transportation impact fees as further provided for in RCW 39.92.040. In calculating the amount of the fee, local government shall consider and give credit for the developer's participation in public transportation and ride-sharing improvements and services.

(7) The administrative element of the program shall include: An opportunity for administrative appeal by the developer and hearing before an independent examiner of the amount of the transportation impact fee imposed; establishment of a designated account for the public and private funds appropriated or collected for the transportation improvements identified in the plan; methods to enforce collection of the public and private funds identified in the program; designation of the administrative departments or other entities responsible for administering the program, including determination of fee amounts, transportation planning, and construction; and provisions for future amendment of the program including the addition of other off-site transportation improvements. The program shall not be amended in a manner to relieve local government of any contractual obligations made to prior developers.

(8) The program shall provide that private transportation impact fees shall not be collected for any off-site transportation improvement that is incapable of being reasonably carried out because of lack of public funds or other foreseeable impediment.

(9) The program shall provide that no transportation impact fee may be imposed on a development by local government pursuant to this program when mitigation of the same off-site transportation impacts for the development is being required by any government agency pursuant to any other local, state, or federal law. [1988 c 179 § 3.]

39.92.040 Transportation impact fee. The program shall describe the formula or method for calculating the amount of the transportation impact fees to be imposed on new development within the plan area. The program may require developers to pay a transportation impact fee for off-site transportation improvements not yet constructed and for those jointly-funded improvements constructed since the commencement of the program.

The program shall define the event in the development approval process that triggers a determination of the amount of the transportation impact fees and the event that triggers the obligation to make actual payment of the fees. However, the payment obligation shall not commence before the date the developer has obtained a building permit for the new development or, in the case of residential subdivisions or short plats, at the time of final plat approval, at the developer's option. If the developer of a residential subdivision or short plat elects to pay the fee at the date a building permit has been obtained, the option to pay the transportation impact fee by installments as authorized by this section is deemed to have been waived by the developer. The developer shall be given the option to pay the transportation impact fee in a lump sum, without interest, or by installment with reasonable interest over a period of five years or more as specified by the local government.

The local government shall require security for the obligation to pay the transportation impact fee, in the form of a recorded agreement, deed of trust, letter of credit, or other instrument determined satisfactory by the local government. The developer shall also be given credit against its obligations for the transportation impact fee, for the fair market value of off-site land and/or the cost of constructing off-site transportation improvements dedicated to the local

government. If the value of the dedication exceeds the amount of transportation impact fee obligation, the developer is entitled to reimbursement from transportation impact fees attributable to the dedicated improvements and paid by subsequent developers within the plan area.

Payment of the transportation impact fee entitles the developer and its successors and assigns to credit against any other fee, local improvement district assessment, or other monetary imposition made specifically for the designated off-site transportation improvements intended to be covered by the transportation impact fee imposed pursuant to this program. The program shall also define the criteria for establishing periodic fee increases attributable to construction and related cost increases for the improvements designated in the program. [1989 c 296 § 1; 1988 c 179 § 4.]

39.92.050 Interlocal cooperation—Consistency and assistance. Local governments are authorized and encouraged to enter into interlocal agreements to jointly develop and adopt with other local governments the transportation programs authorized by this chapter for the purpose of accomplishing regional transportation planning and development. Local governments shall also seek, to the greatest degree practicable, consistency among jurisdictions in the terms and conditions of their programs for the purpose of increasing fairness and predictability on a regional basis. Local governments shall seek comment, in the development of their programs, from other affected local governments, state agencies, and governments authorized to perform public transportation functions. Local governments are also encouraged to enter into interlocal agreements to provide technical assistance to each other, in return for reasonable reimbursement, for the purpose of developing and implementing such transportation programs. [1988 c 179 § 5.]

39.92.900 Severability—Prospective application—1988 c 179. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. This act is intended to be prospective, not retroactive, in its application. [1988 c 179 § 17.]

39.92.901 Section captions—1988 c 179. Section captions used in this act do not constitute any part of the law. [1988 c 179 § 18.]

Chapter 39.94

FINANCING CONTRACTS

Sections

39.94.010	Purposes—Construction.
39.94.020	Definitions.
39.94.030	Authority to enter into financing contracts—Terms—Intent.
39.94.040	State finance committee—Duties—Legislative approval required, when.
39.94.900	Application.

39.94.010 Purposes—Construction. The purposes of this chapter are to confirm the authority of the state, its agencies, departments, and instrumentalities, the *state board

for community college education, and the state institutions of higher education to enter into contracts for the acquisition of real and personal property which provide for payments over a term of more than one year and to exclude such contracts from the computation of indebtedness under RCW 39.42.060 and Article VIII, section 1 of the state Constitution. It is further the purpose of this chapter to permit the state, its agencies, departments, and instrumentalities, the *state board for community college education, and the state institutions of higher education to enter into financing contracts which make provision for the issuance of certificates of participation and other financing structures. Financing contracts, whether or not entered into under this chapter, shall be subject to approval by the state finance committee except as provided in this chapter.

This chapter shall be liberally construed to effect its purposes. [1989 c 356 § 1.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

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

(1) "Credit enhancement" includes insurance, letters of credit, lines of credit, or other similar agreements which enhance the security for the payment of the state's obligations under financing contracts.

(2) "Financing contract" means any contract entered into by the state which provides for the use and purchase of real or personal property by the state and provides for payment by the state over a term of more than one year, and which provides that title to the subject property shall secure performance of the state or transfer to the state by the end of the term, upon exercise of an option, for a nominal amount or for a price determined without reference to fair market value. Financing contracts shall include, but not be limited to, conditional sales contracts, financing leases, lease purchase contracts, or refinancing contracts, but shall not include operating or true leases. For purposes of this chapter, the term "financing contract" shall not include any nonrecourse financing contract or other obligation payable only from money or other property received from private sources and not payable from any public money or property. The term "financing contract" shall include a "master financing contract."

(3) "Master financing contract" means a financing contract which provides for the use and purchase of property by the state, and which may include more than one financing contract and appropriation.

(4) "State" means the state, agency, department, or instrumentality of the state, the *state board for community college education, and any state institution of higher education.

(5) "State finance committee" means the state finance committee under chapter 43.33 RCW.

(6) "Trustee" means a bank or trust company, within or without the state, authorized by law to exercise trust powers. [1990 c 47 § 3; 1989 c 356 § 2.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

39.94.030 Authority to enter into financing contracts—Terms—Intent. (1) The state may enter into financing contracts for the use and acquisition for public purposes of real and personal property. Payments under financing contracts shall be made by the state from currently appropriated funds or funds not constituting "general state revenues" as defined in Article VIII, section 1 of the state Constitution. The term of any financing contract shall not exceed thirty years or the remaining useful life of the property, whichever is shorter. Financing contracts may include other terms and conditions agreed upon by the parties.

(2) The state may enter into contracts for credit enhancement, which shall limit the recourse of the provider of credit enhancement solely to the security provided under the financing contract secured by the credit enhancement.

(3) The state may grant a security interest in real or personal property acquired under financing contracts. The security interest may be perfected as provided by the uniform commercial code - secured transactions, or otherwise as provided by law for perfecting liens on real estate. Other terms and conditions may be included as agreed upon by the parties.

(4) Financing contracts and contracts for credit enhancement entered into under the limitations set forth in this chapter shall not constitute a debt or the contracting of indebtedness under RCW 39.42.060 or any other law limiting debt of the state. It is the intent of the legislature that such contracts also shall not constitute a debt or the contracting of indebtedness under Article VIII, section 1 of the state Constitution. Certificates of participation in payments to be made under financing contracts also shall not constitute a debt or the contracting of an indebtedness under RCW 39.42.060 if payment is conditioned upon payment by the state under the financing contract with respect to which the same relates. It is the intent of the legislature that such certificates also shall not constitute a debt or the contracting of indebtedness under Article VIII, section 1 of the state Constitution if payment of the certificates is conditioned upon payment by the state under the financing contract with respect to which those certificates relate. [1989 c 356 § 3.]

39.94.040 State finance committee—Duties—Legislative approval required, when. (1) Except as provided in RCW 28B.10.022, the state may not enter into any financing contract if the aggregate principal amount payable thereunder is greater than an amount to be established from time to time by the state finance committee or participate in a program providing for the issuance of certificates of participation, including any contract for credit enhancement, without the prior approval of the state finance committee. Except as provided in RCW 28B.10.022, the state finance committee shall approve the form of all financing contracts or a standard format for all financing contracts. The state finance committee also may:

(a) Consolidate existing or potential financing contracts into master financing contracts with respect to property acquired by one or more agencies, departments, instrumentalities of the state, the *state board for community college education, or a state institution of higher learning;

(b) Approve programs providing for the issuance of certificates of participation in master financing contracts;

(c) Enter into agreements with trustees relating to master financing contracts; and

(d) Make appropriate rules for the performance of its duties under this chapter.

(2) In the performance of its duties under this chapter, the state finance committee may consult with representatives from the department of general administration, the office of financial management, and the department of information services.

(3) With the approval of the state finance committee, the state also may enter into agreements with trustees relating to financing contracts and the issuance of certificates of participation.

(4) The state may not enter into any financing contract for real property without prior approval of the legislature. [1989 c 356 § 4.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

39.94.900 Application. The provisions of this chapter shall apply to all financing contracts entered into following July 23, 1989. [1989 c 356 § 5.]

Chapter 39.96

PAYMENT AGREEMENTS

Sections

39.96.010	Findings and declaration—Seven-year expiration.
39.96.020	Definitions.
39.96.030	Payment agreements authorized—Conditions.
39.96.040	Terms and conditions.
39.96.050	Payments—Credit enhancements.
39.96.060	Calculations regarding payment of obligations—Status of payments.
39.96.070	Payment agreements not allowed after June 30, 2000—Exception—Report to legislature.
39.96.080	Authority cumulative.
39.96.900	Liberal construction—1993 c 273.
39.96.901	Captions not law—1993 c 273.
39.96.902	Severability—1993 c 273.
39.96.903	Effective date—1993 c 273.

39.96.010 Findings and declaration—Seven-year expiration. The legislature finds and declares that the issuance by state and local governments of bonds and other obligations, and the investment of moneys in connection with these obligations, involve exposure to changes in interest rates; that a number of financial instruments are available to lower the net cost of these borrowings, to increase the net return on these investments, or to reduce the exposure of state and local governments to changes in interest rates; that these reduced costs and increased returns for state and local governments will benefit taxpayers and ratepayers; and that the legislature desires to provide state and local governments with express statutory authority to take advantage of these instruments. In recognition of the complexity of these financial instruments, the legislature desires that this authority be subject to certain limitations, and be granted for a period of seven years. [1995 c 192 § 1; 1993 c 273 § 1.]

Effective date—1995 c 192: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 192 § 3.]

39.96.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Financial advisor" means a financial services or financial advisory firm:

(a) With recognized knowledge and experience in connection with the negotiation and execution of payment agreements;

(b) That is acting solely as financial advisor to the governmental entity in connection with the execution of the payment agreement and the issuance or incurring of any related obligations, and not as a principal, placement agent, purchaser, underwriter, or other similar party, and that does not control, nor is it controlled by or under common control with, any such party;

(c) That is compensated for its services in connection with the execution of payment agreements, either directly or indirectly, solely by the governmental entity; and

(d) Whose compensation is not based on a percentage of the notional amount of the payment agreement or of the principal amount of any related obligations.

(2) "Governmental entity" means state government or local government.

(3) "Local government" means any city, county, port district, or public utility district, or any joint operating agency formed under RCW 43.52.360, that has or will have outstanding obligations in an aggregate principal amount of at least one hundred million dollars as of the date a payment agreement is executed or is scheduled by its terms to commence or had at least one hundred million dollars in gross revenues during the preceding calendar year.

(4) "Obligations" means bonds, notes, bond anticipation notes, commercial paper, or other obligations for borrowed money, or lease, installment purchase, or other similar financing agreements or certificates of participation in such agreements.

(5) "Payment agreement" means a written agreement which provides for an exchange of payments based on interest rates, or for ceilings or floors on these payments, or an option on these payments, or any combination, entered into on either a current or forward basis.

(6) "State government" means (a) the state of Washington, acting by and through its state finance committee, (b) the Washington health care facilities authority, (c) the Washington higher education facilities authority, (d) the Washington state housing finance commission, or (e) the state finance committee upon adoption of a resolution approving a payment agreement on behalf of any state institution of higher education as defined under RCW 28B.10.016: PROVIDED, That such approval shall not constitute the pledge of the full faith and credit of the state, but a pledge of only those funds specified in the approved agreement. [1993 c 273 § 2.]

39.96.030 Payment agreements authorized—Conditions. (1) Subject to subsections (2) and (3) of this section, any governmental entity may enter into a payment

agreement in connection with, or incidental to, the issuance, incurring, or carrying of specific obligations, for the purpose of managing or reducing the governmental entity's exposure to fluctuations or levels of interest rates. No governmental entity may carry on a business of acting as a dealer in payment agreements.

(2) No governmental entity may enter into a payment agreement under this chapter unless it first:

(a) Finds and determines, by ordinance or resolution, that the payment agreement, if fully performed by all parties thereto, will (i) reduce the amount or duration of its exposure to changes in interest rates; or (ii) result in a lower net cost of borrowing with respect to the related obligations, or a higher net rate of return on investments made in connection with, or incidental to, the issuance, incurring, or carrying of those obligations;

(b) Obtains, on or prior to the date of execution of the payment agreement, a written certification from a financial advisor that (i) the terms and conditions of the payment agreement and any ancillary agreements, including without limitation, the interest rate or rates and any other amounts payable thereunder, are commercially reasonable in light of then existing market conditions; and (ii) the finding and determination contained in the ordinance or resolution required by (a) of this subsection is reasonable.

(3) Prior to selecting the other party to a payment agreement, a governmental entity shall solicit and give due consideration to proposals from at least two entities that meet the criteria set forth in RCW 39.96.040(2). Such solicitation and consideration shall be conducted in such manner as the governmental entity shall determine is reasonable. [1993 c 273 § 3.]

39.96.040 Terms and conditions. (1) Subject to subsections (2), (3), and (4) of this section, payment agreements entered into by any governmental entity may include those payment, term, security, default, remedy, termination, and other terms and conditions, and may be with those parties, as the governmental entity deems reasonably necessary or desirable.

(2) No governmental entity may enter into a payment agreement under this chapter unless:

(a) The other party to the agreement has a rating from at least two nationally recognized credit rating agencies, as of the date of execution of the agreement, that is within the two highest long-term investment grade rating categories, without regard to subcategories, or the payment obligations of the party under the agreement are unconditionally guaranteed by an entity that then has the required ratings; or

(b)(i) The other party to the agreement has a rating from at least two nationally recognized credit rating agencies, as of the date of execution of the agreement, that is within the three highest long-term investment grade rating categories, without regard to subcategories, or the payment obligations of the party under the agreement are unconditionally guaranteed by an entity that has the required ratings; and

(ii) The payment obligations of the other party under the agreement are collateralized by direct obligations of, or obligations the principal and interest on which are guaranteed by, the United States of America, that (A) are deposited with the governmental entity or an agent of the governmental

entity; and (B) maintain a market value of not less than one hundred two percent of the net market value of the payment agreement to the governmental entity, as such net market value may be defined and determined from time to time under the terms of the payment agreement.

(3) No governmental entity may enter into a payment agreement with a party who qualifies under subsection (2)(a) of this section unless the payment agreement provides that, in the event the credit rating of the other party or its guarantor falls below the level required by subsection (2)(a) of this section, such party will comply with the collateralization requirements contained in subsection (2)(b) of this section.

(4) No governmental entity may enter into a payment agreement unless:

(a) The notional amount of the payment agreement does not exceed the principal amount of the obligations with respect to which the payment agreement is made; and

(b) The term of the payment agreement does not exceed the final term of the obligations with respect to which the payment agreement is made. [1993 c 273 § 4.]

39.96.050 Payments—Credit enhancements. (1) Subject to any covenants or agreements applicable to the obligations issued or incurred by the governmental entity, any payments required to be made by the governmental entity under a payment agreement entered into in connection with the issuance, incurring, or carrying of those obligations may be made from money set aside or pledged to pay or secure the payment of those obligations or from any other legally available source.

(2) Any governmental entity may enter into credit enhancement, liquidity, line of credit, or other similar agreements in connection with, or incidental to, the execution of a payment agreement. The credit enhancement, liquidity, line of credit, or other similar agreement may include those payment, term, security, default, remedy, termination, and other terms and conditions, and may be with those parties, as the governmental entity deems reasonably necessary or desirable. [1993 c 273 § 5.]

39.96.060 Calculations regarding payment of obligations—Status of payments. (1) Subject to any covenants or agreements applicable to the obligations issued or incurred by the governmental entity, if the governmental entity enters into a payment agreement with respect to those obligations, then it may elect to treat the amounts payable from time to time with respect to those obligations as the amounts payable after giving effect to the payment agreement for the purposes of calculating:

(a) Rates and charges to be imposed by a revenue-producing enterprise if the revenues are pledged or used to pay those obligations;

(b) Any taxes to be levied and collected to pay those obligation[s]; and

(c) Payments or debt service on those obligations for any other purpose.

(2) A payment agreement and any obligation of the governmental entity to make payments under the agreement in future fiscal years shall not constitute debt or indebtedness of the governmental entity for purposes of state constitutional and statutory debt limitation provisions if the obligation to

make any payments is contingent upon the performance of the other party or parties to the agreement, and no moneys are paid to the governmental entity under the payment agreement that must be repaid in future fiscal years. [1993 c 273 § 6.]

39.96.070 Payment agreements not allowed after June 30, 2000—Exception—Report to legislature. (1) Except as provided in subsection (3) of this section, no governmental entity may enter a payment agreement under RCW 39.96.030 after June 30, 2000.

(2) The termination of authority to enter payment agreements after June 30, 2000, shall not affect the validity of any payment agreements or other contracts entered into under RCW 39.96.030 on or before that date.

(3) A governmental entity may enter into a payment agreement under and in accordance with this chapter after June 30, 2000, to replace a payment agreement that relates to specified obligations issued on or before that date and that has terminated before the final term of those obligations.

(4) The state finance committee shall make a report to the appropriate legislative committees on payment agreements authorized in this chapter. The report shall include the governmental entity entering into a payment agreement, the amount of the agreement, the expected savings resulting from the agreement, the transactions cost, and any other information the state finance committee determines relevant. The report shall be submitted each December. [1995 c 192 § 2; 1993 c 273 § 7.]

Effective date—1995 c 192: See note following RCW 39.96.010.

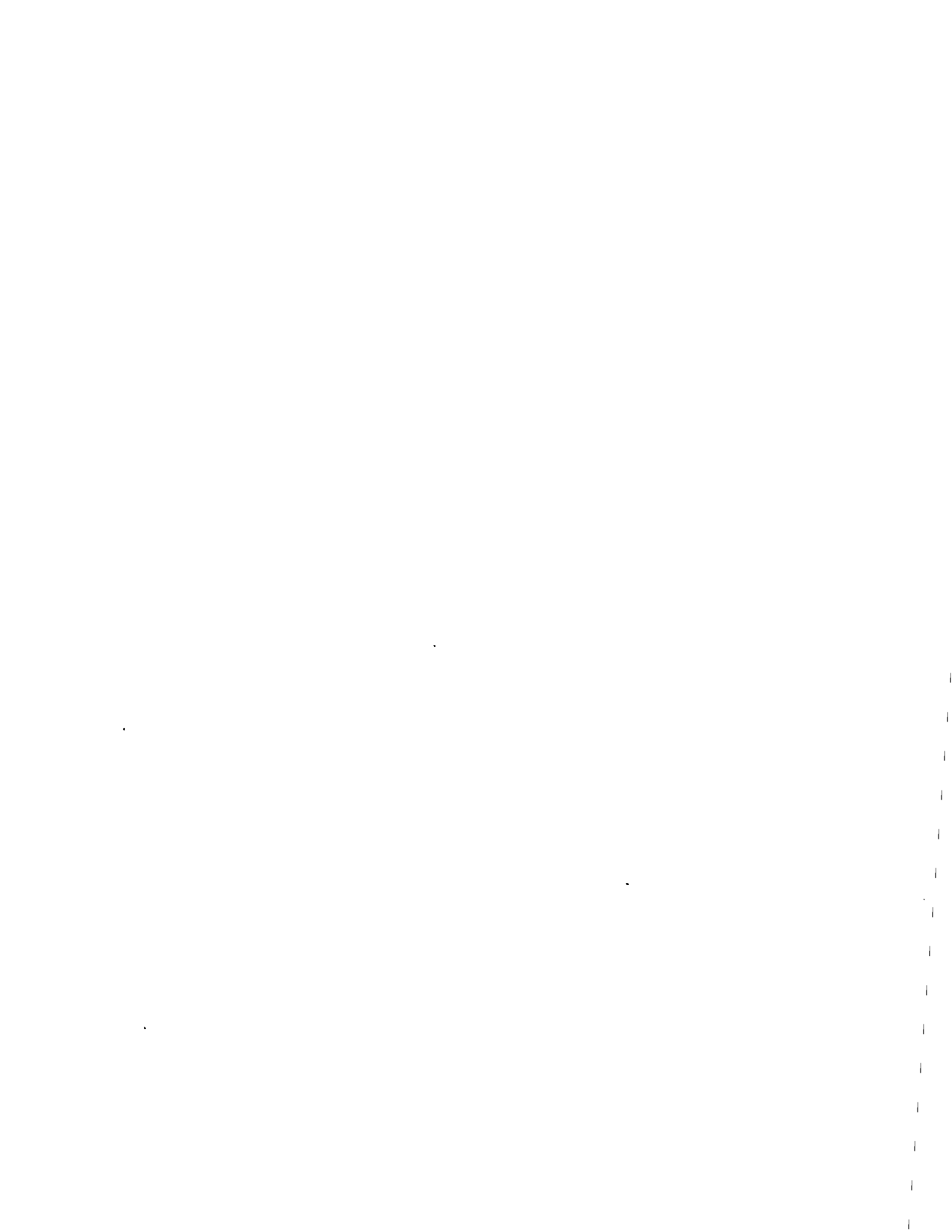
39.96.080 Authority cumulative. The powers conferred by this chapter are in addition to, and not in substitution for, the powers conferred by any existing law, and the limitations imposed by this chapter do not directly or indirectly modify, limit, or affect the powers conferred by any existing law. [1993 c 273 § 8.]

39.96.900 Liberal construction—1993 c 273. This chapter shall be liberally construed to effect its purposes. [1993 c 273 § 9.]

39.96.901 Captions not law—1993 c 273. Captions used in this chapter do not constitute any part of the law. [1993 c 273 § 10.]

39.96.902 Severability—1993 c 273. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 273 § 11.]

39.96.903 Effective date—1993 c 273. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 7, 1993]. [1993 c 273 § 13.]



Title 40

PUBLIC DOCUMENTS, RECORDS, AND PUBLICATIONS

Chapters

- 40.04** Public documents.
- 40.06** State publications distribution center.
- 40.07** Management and control of state publications.
- 40.10** Microfilming of records to provide continuity of civil government.
- 40.14** Preservation and destruction of public records.
- 40.16** Penal provisions.
- 40.20** Reproduced records for governments and business.
- 40.24** Address confidentiality for victims of domestic violence.

Disclosure of public records: Chapter 42.17 RCW.

Historical materials, preservation: Chapter 27.48 RCW.

Minutes of governmental agencies open to public inspection: RCW 42.32.030.

Newspapers: Chapter 19.56 RCW.

Public documents as evidence: Chapter 5.44 RCW.

Publication of legal notices: Chapter 65.16 RCW.

Recording, registration, and legal publication: Title 65 RCW.

Records and exhibits of superior court, destruction, reproduction: RCW 36.23.065, 36.23.067, 36.23.070.

State records

secretary of state as custodian: RCW 43.07.040.

to be kept at the seat of government: State Constitution Art. 3 § 24.

Uniform business records as evidence act: Chapter 5.45 RCW.

Uniform photographic copies of business and public records as evidence act: Chapter 5.46 RCW.

Chapter 40.04

PUBLIC DOCUMENTS

Sections

- 40.04.030** Session laws, legislative journals, supreme court and court of appeals reports—Duties of public printer, publisher.
- 40.04.035** Temporary edition of session laws—Distribution and sale.
- 40.04.040** Permanent edition of session laws—Distribution, sale, exchange—Sale of surplus copies.
- 40.04.090** Legislative journals—Distribution, sale, exchange.
- 40.04.100** Supreme court and court of appeals reports—Distribution, exchange—Duties of reporter of decisions.
- 40.04.110** Supreme court and court of appeals reports—Provision by publisher to reporter.

Attorney general to give written opinions: RCW 43.10.030.

Revised Code of Washington, publication: Chapter 1.08 RCW.

Session laws, publication, etc.: Chapter 44.20 RCW.

Supreme court reports, publication: Chapter 2.32 RCW, RCW 43.78.070.

40.04.030 Session laws, legislative journals, supreme court and court of appeals reports—Duties of public printer, publisher. The public printer shall deliver to the

statute law committee all bound volumes of the session laws. The public printer shall deliver the house and senate journals, as they are published to the chief clerk of the house of representatives and the secretary of the senate, as appropriate. The publisher of the supreme court reports and the court of appeals reports of the state of Washington shall deliver the copies that are purchased by the supreme court for the use of the state to the state law librarian. [1995 c 24 § 1; 1971 c 42 § 2; 1941 c 150 § 3; Rem. Supp. 1941 § 8217-3.]

40.04.035 Temporary edition of session laws—Distribution and sale. The statute law committee, after each legislative session, shall furnish one temporary bound copy of each act as published under chapter 44.20 RCW to each requesting member of the legislature at which such law was enacted, and to each requesting state department or division thereof, commission, committee, board, and council, and to community colleges. Copies shall be furnished to the senate and the house of representatives as may be requested. Two copies shall be furnished the administrator for the courts. One copy shall be furnished for each assistant attorney general; and one copy each to the Olympia representatives of the Associated Press and the United Press.

Each county auditor shall submit each year to the statute law committee a list of county officials requiring temporary session laws for official use only, and the auditor shall receive and distribute such copies to the county officials.

There shall be a charge established by the statute law committee for each of the complete sets of such temporary publications when delivered to any person, firm, corporation, or institution excepting the persons and institutions named in this section. All moneys received from the sale of such temporary sets shall be transmitted to the state treasurer, who shall deposit them in the state treasury to the credit of the general fund. [1995 c 24 § 2; 1982 1st ex.s. c 32 § 5.]

Publication of temporary edition of session laws: RCW 44.20.030.

40.04.040 Permanent edition of session laws—Distribution, sale, exchange—Sale of surplus copies. Permanent session laws shall be distributed, sold, and exchanged by the statute law committee as follows:

(1) Copies shall be given as follows: One to each requesting United States senator and representative in congress from this state; two to the Library of Congress; one to the United States supreme court library; three to the library of the circuit court of appeals of the ninth circuit; two to each United States district court room within this state; two to each office and branch office of the United States district attorneys in this state; one to each requesting state official whose office is created by the Constitution; one each to the secretary of the senate and the chief clerk of the house of representatives and such additional copies as they may

request; fourteen copies to the code reviser; two copies to the state library; two copies each to the law libraries of any accredited law schools established in this state; one copy to each state adult correctional institution; and one copy to each state mental institution.

(2) Copies, for official use only, shall be distributed as follows: Two copies to the governor; one each to the state historical society and the state bar association; and one copy to each prosecuting attorney.

Sufficient copies shall be furnished for the use of the supreme court, the court of appeals, the superior courts, and the state law library as from time to time are requested. One copy to the University of Washington library; one copy to the library of each of the regional universities and to The Evergreen State College; and one copy to the Washington State University library. Six copies shall be sent to the King county law library, and one copy to each of the county law libraries organized pursuant to law; one copy to each public library in cities of the first class, and one copy to the municipal reference branch of the Seattle public library.

(3) Surplus copies of the session laws shall be sold and delivered by the statute law committee, in which case the price of the bound volumes shall be sufficient to cover costs. All moneys received from the sale of such bound volumes of session laws shall be paid into the state treasury for the general fund.

(4) The statute law committee may exchange bound copies of the session laws for similar laws or legal materials of other states, territories, and governments, and make such other and further distribution of the bound volumes as in its judgment seems proper. [1995 c 24 § 3; 1982 1st ex.s. c 32 § 1; 1981 c 162 § 1; 1977 ex.s. c 169 § 94; 1973 c 33 § 1; 1969 c 6 § 8; 1941 c 150 § 4; Rem. Supp. 1941 § 8217-4. Formerly RCW 40.04.040 through 40.04.080.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Publication of permanent edition of session laws: RCW 44.20.050.

40.04.090 Legislative journals—Distribution, sale, exchange. The house and senate journals shall be distributed and sold by the chief clerk of the house of representatives and the secretary of the senate as follows:

(1) Subject to subsection (5) of this section, sets shall be distributed as follows: One to each requesting official whose office is created by the Constitution, and one to each requesting state department director; two copies to the state library; ten copies to the state law library; two copies to the University of Washington library; one to the King county law library; one to the Washington State University library; one to the library of each of the regional universities and to The Evergreen State College; one each to the law library of any accredited law school in this state; and one to each free public library in the state that requests it.

(2) House and senate journals of the preceding regular session during an odd- or even-numbered year, and of any intervening special session, shall be provided for use of legislators and legislative staff in such numbers as directed by the chief clerk of the house of representatives and secretary of the senate.

(3) Surplus sets of the house and senate journals shall be sold and delivered by the chief clerk of the house of

representatives and the secretary of the senate at a price set by them after consulting with the state printer to determine reasonable costs associated with the production of the journals, and the proceeds therefrom shall be paid to the state treasurer for the general fund.

(4) The chief clerk of the house of representatives and the secretary of the senate may exchange copies of the house and senate journals for similar journals of other states, territories, and governments, or for other legal materials, and make such other and further distribution of them as in their judgment seems proper.

(5) Periodically the chief clerk of the house of representatives and the secretary of the senate may canvas those entitled to receive copies under this section, and may reduce or eliminate the number of copies distributed to anyone who so concurs. [1995 c 24 § 4; 1993 c 169 § 1; 1982 1st ex.s. c 32 § 2; 1980 c 87 § 13; 1977 ex.s. c 169 § 95; 1973 c 33 § 2; 1941 c 150 § 5; Rem. Supp. 1941 § 8217-5.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

40.04.100 Supreme court and court of appeals reports—Distribution, exchange—Duties of reporter of decisions. The supreme court reports and the court of appeals reports shall be distributed by the reporter of decisions as follows:

(1) Each supreme court justice and court of appeals judge is entitled to receive one copy of each volume containing an opinion signed by him or her.

(2) The state law library shall receive such copies as are necessary of each for the benefit of the state law library, the supreme court and its subsidiary offices; and the court of appeals and its subsidiary offices.

(3) The reporter shall provide one copy of each volume to each county for use in the county law library and one copy of the same to each accredited law school established in the state.

(4) The reporter shall likewise provide the state law library with such copies of volumes as necessary to exchange copies of the supreme court reports and the court of appeals reports for similar reports of other states, territories, and governments. [1995 c 257 § 4; 1991 c 363 § 113; 1979 c 151 § 49; 1973 c 33 § 3; 1971 c 42 § 3; 1941 c 150 § 6; Rem. Supp. 1941 § 8217-6.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Commission on supreme court reports: RCW 2.32.160.

Publication of supreme court reports by public printer: RCW 43.78.070.

40.04.110 Supreme court and court of appeals reports—Provision by publisher to reporter. On the publication of each volume of reports the publisher to whom the contract is awarded shall provide to the reporter the number of copies of each volume of supreme court and court of appeals reports necessary for the reporter and the state law library to comply with RCW 40.04.100. [1995 c 257 § 5; 1971 c 42 § 4; 1941 c 150 § 7; Rem. Supp. 1941 § 8217-7.]

Chapter 40.06

STATE PUBLICATIONS DISTRIBUTION CENTER

Sections

- 40.06.010 Definitions.
- 40.06.020 Center created as division of state library—Depository library system—Rules and regulations.
- 40.06.030 Deposits by state agencies—Exemptions.
- 40.06.040 Inter-library depository contracts.
- 40.06.050 Center to publish list and other printed matter.
- 40.06.060 Agencies to furnish lists to center.
- 40.06.070 Exemptions.
- 40.06.900 Effective date—1963 c 233.

40.06.010 Definitions. As used in this chapter:

(1) "Print" includes all forms of reproducing multiple copies, with the exception of typewritten correspondence and interoffice memoranda.

(2) "State agency" includes every state office, officer, department, division, bureau, board, commission and agency of the state, and, where applicable, all subdivisions of each.

(3) "State publication" includes annual, biennial, and special reports, state periodicals and magazines, books, pamphlets, leaflets, and all other materials, other than news releases sent exclusively to the news media, typewritten correspondence and interoffice memoranda, issued in print by the state, the legislature, constitutional officers, or any state department, committee, or other state agency supported wholly or in part by state funds. [1977 ex.s. c 232 § 8; 1963 c 233 § 1.]

40.06.020 Center created as division of state library—Depository library system—Rules and regulations. There is hereby created as a division of the state library, and under the direction of the state librarian, a state publications distribution center. The center shall utilize the depository library system to permit citizens economical and convenient access to state publications. To this end the state library commission shall make such rules and regulations as may be deemed necessary to carry out the provisions of this chapter. [1977 ex.s. c 232 § 9; 1963 c 233 § 2.]

40.06.030 Deposits by state agencies—Exemptions.

(1) Every state agency shall promptly deposit copies of each of its state publications with the state library in quantities as certified by the state librarian as required to meet the needs of the depository library system. Upon consent of the issuing state agency such state publications as are printed by the public printer shall be delivered directly to the center.

(2) In the interest of economy and efficiency, the state librarian may specifically or by general rule exempt a given state publication or class of publications from the requirements of this section in full or in part. [1977 ex.s. c 232 § 10; 1963 c 233 § 3.]

40.06.040 Inter-library depository contracts. To provide economical public access to state publications, the center may enter into depository contracts with any free public library, The Evergreen State College, regional university, or state university library, or, if needed, the library of any privately incorporated college or university in this state. The requirements for eligibility to contract as a

depository library shall be established by the state library commission upon recommendations of the state librarian. The standards shall include and take into consideration the type of library, available housing and space for the publications, the number and qualifications of personnel, and availability for public use. The center may also contract with public, out-of-state libraries for the exchange of state and other publications on a reciprocal basis. Any state publication to be distributed to the public and the legislature shall be mailed at the lowest available postal rate. [1981 c 260 § 8. Prior: 1977 ex.s. c 232 § 11; 1977 ex.s. c 169 § 96; 1963 c 233 § 4.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

40.06.050 Center to publish list and other printed matter. The center shall publish and distribute regularly a list of available state publications, and may publish and distribute such other descriptive printed matter as will facilitate the distribution of state publications. [1963 c 233 § 5.]

40.06.060 Agencies to furnish lists to center. Upon request by the center, issuing state agencies shall furnish the center with a complete list of its current state publications and a copy of its mailing and/or exchange lists. [1963 c 233 § 6.]

40.06.070 Exemptions. This chapter shall not apply to nor affect the duties concerning publications distributed by, or officers of:

- (1) The state law library; and
 - (2) The statute law committee and the code reviser.
- [1983 c 3 § 83; 1963 c 233 § 7.]

40.06.900 Effective date—1963 c 233. The effective date of this chapter shall be July 1, 1963. [1963 c 233 § 8.]

Chapter 40.07

MANAGEMENT AND CONTROL OF STATE PUBLICATIONS

Sections

- 40.07.010 Legislative declaration.
- 40.07.020 Definitions.
- 40.07.030 Reports—Where filed—Review of state publications—Duties of agency head with respect to publications—Guidelines for publications—Director's duties.
- 40.07.040 Duties of the governor.
- 40.07.050 Prohibition of state publications not in accordance with RCW 40.07.030—Exceptions.
- 40.07.060 Notification—Removal from mailing lists, exceptions—Mailing rates.
- 40.07.070 Advertising in state publications—Prerequisites for advertisers.

40.07.010 Legislative declaration. It is the intent of this legislation to improve executive management and control of state publications and reduce state expenditures through: (1) Elimination of reports and publications which are economically or otherwise unjustified; and (2) the simplifi-

cation and consolidation of other reports and publications. [1977 ex.s. c 232 § 1.]

40.07.020 Definitions. The terms defined in this section shall have the meanings indicated when used in this chapter.

(1) "Director" means the director of financial management.

(2) "State agency" includes every state office, department, division, bureau, board, commission, committee, higher education institution, community college, and agency of the state and all subordinate subdivisions of such agencies in the executive branch financed in whole or in part from funds held in the state treasury, but does not include the offices of executive officials elected on a state-wide basis, agricultural commodity commissions, the legislature, the judiciary, or agencies of the legislative or judicial branches of state government.

(3)(a) "State publication" means publications of state agencies and shall include any annual and biennial reports, any special report required by law, state agency newsletters, periodicals and magazines, and other printed informational material intended for general dissemination to the public or to the legislature.

(b) "State publication" may include such other state agency printed informational material as the director may prescribe by rule or regulation, in the interest of economy and efficiency, after consultation with the governor, the state librarian, and any state agencies affected.

(c) "State publication" does not include:

(i) Business forms, preliminary draft reports, working papers, or copies of testimony and related exhibit material prepared solely for purposes of a presentation to a committee of the state legislature;

(ii) Typewritten correspondence and interoffice memoranda, and staff memoranda and similar material prepared exclusively as testimony or exhibits in any proceeding in the courts of this state, the United States, or before any administrative entity;

(iii) Any notices of intention to adopt rules under RCW 34.05.320;

(iv) Publications relating to a multistate program financed by more than one state or by federal funds or private subscriptions; or

(v) News releases sent exclusively to the news media.

(4) "Print" includes all forms of reproducing multiple copies with the exception of typewritten correspondence and interoffice memoranda. [1989 c 175 § 86; 1979 c 151 § 50; 1977 ex.s. c 232 § 2.]

Effective date—1989 c 175: See note following RCW 34.05.010.

40.07.030 Reports—Where filed—Review of state publications—Duties of agency head with respect to publications—Guidelines for publications—Director's duties. (1) Any annual, biennial, or special report required to be made by any state officer, board, agency, department, commissioner, regents, trustees, or institution to the governor or to the legislature may be typewritten and a copy shall be filed with the governor, or the governor's designee, and the legislature as the law may require. An additional copy shall be filed with the state library as a public record.

(2) The director or the director's designee may selectively review state publications in order to determine if specific state publications are economically and effectively contributing to the accomplishment of state agency program objectives. The director or the director's designee shall provide general guidelines as to the number of copies to be printed for use or distribution by the issuing agency and any public or other distribution under chapter 40.06 RCW as now or hereafter amended, or other applicable directives.

(3) No agency head shall recommend a state publication for printing and distribution, other than those required by law, unless the benefits from the publication and distribution thereof to the citizens and taxpayers of this state clearly exceed the costs of preparation, printing, and distribution.

(4) The director, after consultation with affected agencies, shall prepare and publish guidelines for use by state agencies in determining and evaluating the benefits and costs of current and proposed state publications. All state agencies shall evaluate each new state publication they propose and shall annually evaluate each continuing state publication they produce in accordance with the guidelines published by the director.

(5) The director shall, after consultation with affected state agencies, also provide by general rules and regulations for overall control of the quality of the printing of state publications. Necessary publications are to be prepared and printed in the most economic manner consistent with effectiveness and achievement of program objectives. [1977 ex.s. c 232 § 3.]

40.07.040 Duties of the governor. (1) The governor or the governor's designee shall take such other action as may be necessary to maximize the economy, efficiency, and effectiveness of state publications and to do so may eliminate, consolidate, or simplify state agency publications.

(2) Nothing in this chapter shall be construed in any way as restricting public access to public records or the public right to copy such records as provided by RCW 42.17.250 through 42.17.340 as now existing or hereafter amended. [1977 ex.s. c 232 § 4.]

40.07.050 Prohibition of state publications not in accordance with RCW 40.07.030—Exceptions. Neither the public printer nor any state agency shall print or authorize for printing any state publication that has been determined by the director to be inconsistent with RCW 40.07.030 except to the extent this requirement may conflict with the laws of the United States or any rules or regulations lawfully promulgated under those laws. A copy of any state publication printed without the approval of the director under the exceptions authorized in this section shall be filed with the director with a letter of transmittal citing the federal statute, rule, or regulation requiring the publication. [1986 c 158 § 5; 1977 ex.s. c 232 § 5.]

40.07.060 Notification—Removal from mailing lists, exceptions—Mailing rates. Each state agency shall at least once each biennium notify the addressees of each state publication in or with that publication that they may be removed from the mailing list by notifying the originating agency. Mailings required by a state or federal statute, rule,

or regulation, those maintained by an institution of higher education for official fund raising or curriculum offerings, bulk mailings addressed to "occupant" or a similar designation, and paid subscriptions are excluded from the provisions of this paragraph.

All publications shall be distributed or mailed at the lowest available rate. [1977 ex.s. c 232 § 6.]

40.07.070 Advertising in state publications—Prerequisites for advertisers. A state agency may not accept advertising for placement in a state publication unless the advertiser: (1) Has obtained a certificate of registration from the department of revenue under chapter 82.32 RCW; and (2) if the advertiser is not otherwise obligated to collect and remit Washington retail sales tax or use tax, the advertiser either (a) agrees to voluntarily collect and remit the Washington use tax upon all sales to Washington consumers, or (b) agrees to provide to the department of revenue, no less frequently than quarterly, a listing of the names and addresses of Washington customers to whom sales were made. This section does not apply to advertising that does not offer items for sale or to advertising that does not solicit orders for sales. [1993 c 74 § 1.]

Effective date—1993 c 74: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 74 § 2.]

Chapter 40.10

MICROFILMING OF RECORDS TO PROVIDE CONTINUITY OF CIVIL GOVERNMENT

Sections

- 40.10.010 Essential records—Designation—List—Security and protection—Reproduction.
40.10.020 Essential records—Reproduction and storage—Coordination of protection program—Fees.

40.10.010 Essential records—Designation—List—Security and protection—Reproduction. In order to provide for the continuity and preservation of civil government, each elected and appointed officer of the state shall designate those public documents which are essential records of his office and needed in an emergency and for the reestablishment of normal operations after any such emergency. A list of such records shall be forwarded to the state archivist on forms prescribed by the state archivist. This list shall be reviewed at least annually by the elected or appointed officer to insure its completeness. Any changes or revisions following this review shall be forwarded to the state archivist. Each such elected and appointed officer of state government shall insure that the security of essential records of his office is by the most economical means commensurate with adequate protection. Protection of essential records may be by vaulting, planned or natural dispersal of copies, or any other method approved by the state archivist. Reproductions of essential records may be by photo copy, magnetic tape, microfilm or other method approved by the state archivist. Local government offices may coordinate the protection of their essential records with the state archivist as necessary to provide continuity of local

government under emergency conditions. [1982 c 36 § 1; 1973 c 54 § 1; 1963 c 241 § 1.]

Severability—1973 c 54: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 54 § 6.] For codification of 1973 c 54, see Codification Tables, Volume 0.

40.10.020 Essential records—Reproduction and storage—Coordination of protection program—Fees. The state archivist is authorized to reproduce those documents designated as essential records by the several elected and appointed officials of the state and local government by microfilm or other miniature photographic process and to assist and cooperate in the storage and safeguarding of such reproductions in such place as is recommended by the state archivist with the advice of the director of community, trade, and economic development. The state archivist shall coordinate the essential records protection program and shall carry out the provisions of the state emergency plan as they relate to the preservation of essential records. The state archivist is authorized to charge the several departments of the state and local government the actual cost incurred in reproducing, storing and safeguarding such documents: PROVIDED, That nothing herein shall authorize the destruction of the originals of such documents after reproduction thereof. [1995 c 399 § 58; 1986 c 266 § 45; 1985 c 7 § 106; 1982 c 36 § 2; 1973 c 54 § 2; 1963 c 241 § 2.]

Severability—1986 c 266: See note following RCW 38.52.005.

Chapter 40.14

PRESERVATION AND DESTRUCTION OF PUBLIC RECORDS

Sections

- 40.14.010 Definition and classification of public records.
40.14.020 Division of archives and records management—State archivist—Powers and duties—Duties of public officials.
40.14.025 Division of archives and records management—Allocation of costs of services—Archives and records management account.
40.14.027 Public archives and records management services—Judgment debtor surcharge.
40.14.030 Transfer to state archives—Certified copies, cost.
40.14.040 Records officers—Designation—Powers and duties.
40.14.050 Records committee—Composition, travel expenses, meetings, powers and duties—Retention schedules.
40.14.060 Destruction, disposition of official public records or office files and memoranda—Record retention schedules.
40.14.070 Destruction, disposition of local government records—Preservation for historical interest—Local records committee, duties—Record retention schedules.
40.14.080 Chapter not to affect other laws.
40.14.100 Legislative records—Defined.
40.14.110 Legislative records—Contribution of papers by legislators and employees.
40.14.120 Legislative records—"Clerk," "secretary" defined.
40.14.130 Legislative records—Duties of legislative officials, employees and state archivist—Delivery of records—Custody—Availability.
40.14.140 Legislative records—Party caucuses to be advised—Information and instructions.
40.14.150 Legislative records—Use for research.
40.14.160 Legislative records—Rules for access to records.
40.14.170 Legislative records—Sound recordings.
40.14.180 Legislative records—Construction—Confidentiality of bill drafting records.

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

40.14.010 Definition and classification of public records. As used in this chapter, the term "public records" shall include any paper, correspondence, completed form, bound record book, photograph, film, sound recording, map drawing, machine-readable material, compact disc meeting current industry ISO specifications, or other document, regardless of physical form or characteristics, and including such copies thereof, that have been made by or received by any agency of the state of Washington in connection with the transaction of public business, and legislative records as described in RCW 40.14.100.

For the purposes of this chapter, public records shall be classified as follows:

(1) Official public records shall include all original vouchers, receipts, and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use, and disposition of all public property and public income from all sources whatsoever; all agreements and contracts to which the state of Washington or any agency thereof may be a party; all fidelity, surety, and performance bonds; all claims filed against the state of Washington or any agency thereof; all records or documents required by law to be filed with or kept by any agency of the state of Washington; all legislative records as defined in RCW 40.14.100; and all other documents or records determined by the records committee, created in RCW 40.14.050, to be official public records.

(2) Office files and memoranda include such records as correspondence, exhibits, drawings, maps, completed forms, or documents not above defined and classified as official public records; duplicate copies of official public records filed with any agency of the state of Washington; documents and reports made for the internal administration of the office to which they pertain but not required by law to be filed or kept with such agency; and other documents or records as determined by the records committee to be office files and memoranda. [1996 c 71 § 1; 1982 c 36 § 3; 1981 c 32 § 4; 1971 ex.s. c 102 § 1; 1957 c 246 § 1.]

40.14.020 Division of archives and records management—State archivist—Powers and duties—Duties of public officials. All public records shall be and remain the property of the state of Washington. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with the provisions of this chapter. In order to insure the proper management and safeguarding of public records, the division of archives and records management is established in the office of the secretary of state. The state archivist, who shall administer the division and have reasonable access to all public records, wherever kept, for purposes of information, surveying, or cataloguing, shall undertake the following functions, duties, and responsibilities:

(1) To manage the archives of the state of Washington;
 (2) To centralize the archives of the state of Washington, to make them available for reference and scholarship, and to insure their proper preservation;

(3) To inspect, inventory, catalog, and arrange retention and transfer schedules on all record files of all state departments and other agencies of state government;

(4) To insure the maintenance and security of all state public records and to establish safeguards against unauthorized removal or destruction;

(5) To establish and operate such state record centers as may from time to time be authorized by appropriation, for the purpose of preserving, servicing, screening and protecting all state public records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment;

(6) To adopt rules under chapter 34.05 RCW:

(a) Setting standards for the durability and permanence of public records maintained by state and local agencies;

(b) Governing procedures for the creation, maintenance, transmission, cataloging, indexing, storage, or reproduction of photographic, optical, electronic, or other images of public documents or records in a manner consistent with current standards, policies, and procedures of the department of information services for the acquisition of information technology;

(c) Governing the accuracy and durability of, and facilitating access to, photographic, optical, electronic, or other images used as public records; or

(d) To carry out any other provision of this chapter;

(7) To gather and disseminate to interested agencies information on all phases of records management and current practices, methods, procedures, techniques, and devices for efficient and economical management and preservation of records;

(8) To operate a central microfilming bureau which will microfilm, at cost, records approved for filming by the head of the office of origin and the archivist; to approve microfilming projects undertaken by state departments and all other agencies of state government; and to maintain proper standards for this work;

(9) To maintain necessary facilities for the review of records approved for destruction and for their economical disposition by sale or burning; directly to supervise such destruction of public records as shall be authorized by the terms of this chapter; [and]

(10) To assist and train state and local agencies in the proper methods of creating, maintaining, cataloging, indexing, transmitting, storing, and reproducing photographic, optical, electronic, or other images used as public records. [1995 c 326 § 1. Prior: 1991 c 237 § 4; 1991 c 184 § 1; 1986 c 275 § 1; 1983 c 84 § 1; 1981 c 115 § 1; 1957 c 246 § 2.]

Effective date—1991 c 237: See note following RCW 43.07.220.

Effective date—1981 c 115: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 115 § 10.]

40.14.025 Division of archives and records management—Allocation of costs of services—Archives and records management account. (1) The secretary of state and the director of financial management shall jointly establish a procedure and formula for allocating the costs of services provided by the division of archives and records management to state agencies. The total amount allotted for

services to state agencies shall not exceed the appropriation to the archives and records management account during any allotment period.

[(2)] There is created the archives and records management account in the state treasury which shall consist of all fees and charges collected under this section, RCW 36.22.175, and 40.14.027. The account shall be appropriated exclusively for the payment of costs and expenses incurred in the operation of the division of archives and records management as specified by law. [1996 c 245 § 3; 1991 sp.s. c 13 § 5; 1985 c 57 § 22; 1981 c 115 § 4.]

Effective date—1996 c 245: See note following RCW 36.22.175.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Effective date—1981 c 115: See note following RCW 40.14.020.

40.14.027 Public archives and records management services—Judgment debtor surcharge. State agencies shall collect a surcharge of twenty dollars from the judgment debtor upon the satisfaction of a warrant filed in superior court for unpaid taxes or liabilities. The surcharge is imposed on the judgment debtor in the form of a penalty in addition to the filing fee provided in RCW 36.18.012(3). The surcharge revenue shall be transmitted to the state treasurer for deposit in the archives and records management account.

Surcharge revenue deposited in the archives and records management account shall be expended by the secretary of state exclusively for disaster recovery, essential records protection services, and records management training for local government agencies by the division of archives and records management. The secretary of state shall, with local government representatives, establish a committee to advise the state archivist on the local government archives and records management program. [1996 c 245 § 4; 1995 c 292 § 17; 1994 c 193 § 2.]

Effective date—1996 c 245: See note following RCW 36.22.175.

Findings—1994 c 193: "The legislature finds that: (1) Accountability for and the efficient management of local government records are in the public interest and that compliance with public records management requirements significantly affects the cost of local government administration; (2) the secretary of state is responsible for insuring the preservation of local government archives and may assist local government compliance with public records statutes; (3) as provided in RCW 40.14.025, all archives and records management services provided by the secretary of state are funded exclusively by a schedule of fees and charges established jointly by the secretary of state and the director of financial management; (4) the secretary of state's costs for preserving and providing public access to local government archives and providing records management assistance to local government agencies have been funded by fees paid by state government agencies; (5) local government agencies are responsible for costs associated with managing, protecting, and providing public access to the records in their custody; (6) local government should help fund the secretary of state's local government archives and records management services; (7) the five-dollar fee collected by county clerks for processing warrants for unpaid taxes or liabilities filed by the state of Washington is not sufficient to cover processing costs and is far below filing fees commonly charged for similar types of minor civil actions; (8) a surcharge of twenty dollars would bring the filing fee for warrants for the collection of unpaid taxes and liabilities up to a level comparable to other minor civil filings and should be applied to the support of the secretary of state's local government archives and records services without placing an undue burden on local government; and (9) the process of collecting and transmitting surcharge revenue should not have an undue impact on the operations of the state agencies that file

warrants for the collection of unpaid taxes and liabilities or the clerks of superior court who process them." [1994 c 193 § 1.]

Effective date—1994 c 193: "This act shall take effect July 1, 1994." [1994 c 193 § 3.]

40.14.030 Transfer to state archives—Certified copies, cost. All public records, not required in the current operation of the office where they are made or kept, and all records of every agency, commission, committee, or any other activity of state government which may be abolished or discontinued, shall be transferred to the state archives so that the valuable historical records of the state may be centralized, made more widely available, and insured permanent preservation: PROVIDED, That this section shall have no application to public records approved for destruction under the subsequent provisions of this chapter.

When so transferred, copies of the public records concerned shall be made and certified by the archivist, which certification shall have the same force and effect as though made by the officer originally in charge of them. Fees may be charged to cover the cost of reproduction. In turning over the archives of his office, the officer in charge thereof, or his successor, thereby loses none of his rights of access to them, without charge, whenever necessary. [1957 c 246 § 3.]

Columbia River boundary compact, transfer of records to division of archives: RCW 43.58.070.

40.14.040 Records officers—Designation—Powers and duties. Each department or other agency of the state government shall designate a records officer to supervise its records program and to represent the office in all contacts with the records committee, hereinafter created, and the division of archives and records management. The records officer shall:

(1) Coordinate all aspects of the records management program.

(2) Inventory, or manage the inventory, of all public records at least once during a biennium for disposition scheduling and transfer action, in accordance with procedures prescribed by the state archivist and state records committee: PROVIDED, That essential records shall be inventoried and processed in accordance with chapter 40.10 RCW at least annually.

(3) Consult with any other personnel responsible for maintenance of specific records within his state organization regarding records retention and transfer recommendations.

(4) Analyze records inventory data, examine and compare divisional or unit inventories for duplication of records, and recommend to the state archivist and state records committee minimal retentions for all copies commensurate with legal, financial and administrative needs.

(5) Approve all records inventory and destruction requests which are submitted to the state records committee.

(6) Review established records retention schedules at least annually to insure that they are complete and current.

(7) Exercise internal control over the acquisition of filming and file equipment.

If a particular agency or department does not wish to transfer records at a time previously scheduled therefor, the records officer shall, within thirty days, notify the archivist and request a change in such previously set schedule,

including his reasons therefor. [1982 c 36 § 4; 1979 c 151 § 51; 1973 c 54 § 3; 1957 c 246 § 4.]

40.14.050 Records committee—Composition, travel expenses, meetings, powers and duties—Retention schedules. There is created a committee, to be known as the records committee, composed of the archivist, an appointee of the state auditor, an appointee of the attorney general, and an appointee of the director of financial management. Committee members shall serve without additional salary, but shall be entitled to travel expenses incurred in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Such expenses shall be paid from the appropriations made for operation of their respective departments or offices.

The records committee shall meet at least once every quarter or oftener as business dictates. Action by the committee shall be by majority vote and records shall be kept of all committee business.

It shall be the duty of the records committee to approve, modify or disapprove the recommendations on retention schedules of all files of public records and to act upon requests to destroy any public records: PROVIDED, That any modification of a request or recommendation must be approved by the head of the agency originating the request or recommendation.

The division of archives and records management shall provide forms, approved by the records committee, upon which it shall prepare recommendations to the committee in cooperation with the records officer of the department or other agency whose records are involved. [1985 c 192 § 1; 1975-'76 2nd ex.s. c 34 § 83; 1957 c 246 § 5.]

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

40.14.060 Destruction, disposition of official public records or office files and memoranda—Record retention schedules. (1) Any destruction of official public records shall be pursuant to a schedule approved under RCW 40.14.050. Official public records shall not be destroyed unless:

(a) The records are six or more years old;

(b) The department of origin of the records has made a satisfactory showing to the state records committee that the retention of the records for a minimum of six years is both unnecessary and uneconomical, particularly if lesser federal retention periods for records generated by the state under federal programs have been established; or

(c) The originals of official public records less than six years old have been copied or reproduced by any photographic or other process approved by the state archivist which accurately reproduces or forms a durable medium for so reproducing the original.

(2) Any lesser term of retention than six years must have the additional approval of the director of financial management, the state auditor and the attorney general, except when records have federal retention guidelines the state records committee may adjust the retention period accordingly. An automatic reduction of retention periods from seven to six years for official public records on record retention schedules existing on June 10, 1982, shall not be

made, but the same shall be reviewed individually by the state records committee for approval or disapproval of the change to a retention period of six years.

Recommendations for the destruction or disposition of office files and memoranda shall be submitted to the records committee upon approved forms prepared by the records officer of the agency concerned and the archivist. The committee shall determine the period of time that any office file or memorandum shall be preserved and may authorize the division of archives and records management to arrange for its destruction or disposition. [1982 c 36 § 5; 1979 c 151 § 52; 1973 c 54 § 4; 1957 c 246 § 6.]

40.14.070 Destruction, disposition of local government records—Preservation for historical interest—Local records committee, duties—Record retention schedules. County, municipal, and other local government agencies may request authority to destroy noncurrent public records having no further administrative or legal value by submitting to the division of archives and records management lists of such records on forms prepared by the division. The archivist, a representative appointed by the state auditor, and a representative appointed by the attorney general shall constitute a committee, known as the local records committee, which shall review such lists and which may veto the destruction of any or all items contained therein.

A local government agency, as an alternative to submitting lists, may elect to establish a records control program based on recurring disposition schedules recommended by the agency to the local records committee. The schedules are to be submitted on forms provided by the division of archives and records management to the local records committee, which may either veto, approve, or amend the schedule. Approval of such schedule or amended schedule shall be by unanimous vote of the local records committee. Upon such approval, the schedule shall constitute authority for the local government agency to destroy the records listed thereon, after the required retention period, on a recurring basis until the schedule is either amended or revised by the committee.

Except as otherwise provided by law, no public records shall be destroyed until approved for destruction by the local records committee. Official public records shall not be destroyed unless:

(1) The records are six or more years old;

(2) The department of origin of the records has made a satisfactory showing to the state records committee that the retention of the records for a minimum of six years is both unnecessary and uneconomical, particularly where lesser federal retention periods for records generated by the state under federal programs have been established; or

(3) The originals of official public records less than six years old have been copied or reproduced by any photographic, photostatic, microfilm, miniature photographic, or other process approved by the state archivist which accurately reproduces or forms a durable medium for so reproducing the original.

An automatic reduction of retention periods from seven to six years for official public records on record retention schedules existing on June 10, 1982, shall not be made, but the same shall be reviewed individually by the local records

committee for approval or disapproval of the change to a retention period of six years.

The state archivist may furnish appropriate information, suggestions, and guidelines to local government agencies for their assistance in the preparation of lists and schedules or any other matter relating to the retention, preservation, or destruction of records under this chapter. The local records committee may adopt appropriate regulations establishing procedures to be followed in such matters.

Records of county, municipal, or other local government agencies, designated by the archivist as of primarily historical interest, may be transferred to a recognized depository agency. [1995 c 301 § 71; 1982 c 36 § 6; 1973 c 54 § 5; 1971 ex.s. c 10 § 1; 1957 c 246 § 7.]

Copying, preserving, and indexing of documents recorded by county auditor: RCW 36.22.160 through 36.22.190.

Destruction and reproduction of court records: RCW 36.23.065 through 36.23.070.

40.14.080 Chapter not to affect other laws. The provisions of this chapter shall not be construed as repealing or modifying any other acts or parts of acts authorizing the destruction of public records save for those specifically named in *section 9 of this act; nor shall this chapter affect the provisions of chapter 40.07 RCW requiring the deposit of all state publications in the state library. [1983 c 3 § 84; 1957 c 246 § 8.]

***Reviser's note:** "section 9 of this act" refers to 1957 c 246 § 9, which repealed RCW 40.08.010 through 40.08.050 and 40.12.010 through 40.12.110.

40.14.100 Legislative records—Defined. As used in RCW 40.14.010 and 40.14.100 through 40.14.180, unless the context requires otherwise, "legislative records" shall be defined as correspondence, amendments, reports, and minutes of meetings made by or submitted to legislative committees or subcommittees and transcripts or other records of hearings or supplementary written testimony or data thereof filed with committees or subcommittees in connection with the exercise of legislative or investigatory functions, but does not include the records of an official act of the legislature kept by the secretary of state, bills and their copies, published materials, digests, or multi-copied matter which are routinely retained and otherwise available at the state library or in a public repository, or reports or correspondence made or received by or in any way under the personal control of the individual members of the legislature. [1971 ex.s. c 102 § 2.]

40.14.110 Legislative records—Contribution of papers by legislators and employees. Nothing in RCW 40.14.010 and 40.14.100 through 40.14.180 shall prohibit a legislator or legislative employee from contributing his personal papers to any private library, public library, or the state archives. The state archivist is authorized to receive papers of legislators and legislative employees and is directed to encourage the donation of such personal records to the state. The state archivist is authorized to establish such guidelines and procedures for the collection of personal papers and correspondence relating to the legislature as he sees fit. Legislators and legislative employees are encour-

aged to contribute their personal papers to the state for preservation. [1971 ex.s. c 102 § 3.]

40.14.120 Legislative records—"Clerk," "secretary" defined. As used in RCW 40.14.010 and 40.14.100 through 40.14.180 "clerk" means clerk of the Washington state house of representatives and "secretary" means the secretary of the Washington state senate. [1971 ex.s. c 102 § 4.]

40.14.130 Legislative records—Duties of legislative officials, employees and state archivist—Delivery of records—Custody—Availability. The legislative committee chairman, subcommittee chairman, committee member, or employed personnel of the state legislature having possession of legislative records that are not required for the regular performance of official duties shall, within ten days after the adjournment sine die of a regular or special session, deliver all such legislative records to the clerk of the house or the secretary of the senate.

The clerk of the house and the secretary of the senate are charged to include requirements and responsibilities for keeping committee minutes and records as part of their instructions to committee chairmen and employees.

The clerk or the secretary, with the assistance of the state archivist, shall classify and arrange the legislative records delivered to the clerk or secretary in a manner that he considers best suited to carry out the efficient and economical utilization, maintenance, preservation, and disposition of the records. The clerk or the secretary may deliver to the state archivist all legislative records in his possession when such records have been classified and arranged and are no longer needed by either house. The state archivist shall thereafter be custodian of the records so delivered, but shall deliver such records back to either the clerk or secretary upon his request.

The chairman, member, or employee of a legislative interim committee responsible for maintaining the legislative records of that committee shall, on a scheduled basis agreed upon by the chairman, member, or employee of the legislative interim committee, deliver to the clerk or secretary all legislative records in his possession, as long as such records are not required for the regular performance of official duties. He shall also deliver to the clerk or secretary all records of an interim committee within ten days after the committee ceases to function. [1971 ex.s. c 102 § 5.]

40.14.140 Legislative records—Party caucuses to be advised—Information and instructions. It shall be the duty of the clerk and the secretary to advise the party caucuses in each house concerning the necessity to keep public records. The state archivist or his representative shall work with the clerk and secretary to provide information and instructions on the best method for keeping legislative records. [1971 ex.s. c 102 § 6.]

40.14.150 Legislative records—Use for research. Committee records may be used by legislative employees for research at the discretion of the clerk or the secretary. [1971 ex.s. c 102 § 7.]

40.14.160 Legislative records—Rules for access to records. The clerk or the secretary shall, with advice of the state archivist, prescribe rules for access to records more than three years old when such records have been delivered to the state archives for preservation and maintenance. [1971 ex.s. c 102 § 8.]

40.14.170 Legislative records—Sound recordings. Any sound recording of debate in the house or senate made by legislative employees shall be preserved by the chief clerk of the house and by the secretary of the senate, respectively, for two years from the end of the session at which made, and thereafter shall be transmitted to the state archivist. The chief clerk and the secretary shall catalogue or index the recordings in their custody according to a uniform system, in order to allow easy access to the debate on specific questions before either house, and shall make available to any court of record, at the cost of reproduction, such portions of the recordings as the court may request. [1971 ex.s. c 102 § 9.]

40.14.180 Legislative records—Construction—Confidentiality of bill drafting records. The provisions of RCW 40.14.010 and 40.14.100 through 40.14.180 shall not be construed as repealing or modifying any other acts or parts of acts authorizing the retention or destruction of public records nor shall RCW 40.14.010 and 40.14.100 through 40.14.180 affect the provisions of chapter 40.07 RCW requiring the deposit of all state publications in the state library nor shall it affect the confidentiality of the bill drafting records of the code reviser's office. [1983 c 3 § 85; 1971 ex.s. c 102 § 10.]

Chapter 40.16 PENAL PROVISIONS

Sections

- 40.16.010 Injury to public record.
40.16.020 Injury to and misappropriation of record.
40.16.030 Offering false instrument for filing or record.

Fraud: Chapter 9A.60 RCW.

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

Misconduct of public officers: Chapter 42.20 RCW.

Public works accounts and records, penalty for falsifying: RCW 39.04.110.

40.16.010 Injury to public record. Every person who shall willfully and unlawfully remove, alter, mutilate, destroy, conceal, or obliterate a record, map, book, paper, document, or other thing filed or deposited in a public office, or with any public officer, by authority of law, shall be punished by imprisonment in a state correctional facility for not more than five years, or by a fine of not more than one thousand dollars, or by both. [1992 c 7 § 34; 1909 c 249 § 95; RRS § 2347.]

40.16.020 Injury to and misappropriation of record. Every officer who shall mutilate, destroy, conceal, erase, obliterate, or falsify any record or paper appertaining to the officer's office, or who shall fraudulently appropriate to the

officer's own use or to the use of another person, or secrete with intent to appropriate to such use, any money, evidence of debt or other property intrusted to the officer by virtue of the officer's office, shall be punished by imprisonment in a state correctional facility for not more than ten years, or by a fine of not more than five thousand dollars, or by both. [1992 c 7 § 35; 1909 c 249 § 96; RRS § 2348.]

40.16.030 Offering false instrument for filing or record. Every person who shall knowingly procure or offer any false or forged instrument to be filed, registered, or recorded in any public office, which instrument, if genuine, might be filed, registered or recorded in such office under any law of this state or of the United States, shall be punished by imprisonment in a state correctional facility for not more than five years, or by a fine of not more than five thousand dollars, or by both. [1992 c 7 § 36; 1909 c 249 § 97; RRS § 2349.]

Chapter 40.20

REPRODUCED RECORDS FOR GOVERNMENTS AND BUSINESS

Sections

- 40.20.010 "Business" defined.
40.20.020 Reproduction by film or photograph.
40.20.030 Use as original.

Court records, destruction and reproduction: RCW 36.23.065 through 36.23.070.

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

Method for recordation of plats and documents: RCW 65.04.040.

Uniform business records as evidence act: Chapter 5.45 RCW.

Uniform photographic copies of business and public records as evidence act: Chapter 5.46 RCW.

40.20.010 "Business" defined. For the purpose of this chapter, the term "business" shall mean and include business, industry, profession, occupation and calling of every kind. [1949 c 223 § 3; Rem. Supp. 1949 § 1257-6.]

40.20.020 Reproduction by film or photograph. The head of any business or the head of any state, county or municipal department, commission, bureau or board may cause any or all records required or authorized by law to be made or kept by such official, department, commission, bureau, board, or business to be photographed, microphotographed, reproduced on film, or photocopied for all purposes of recording documents, plats, files or papers, or copying or reproducing such records. Such film or reproducing material shall be of permanent material and the device used to reproduce such records on such film or material shall be such as to accurately reproduce and perpetuate the original records in all details, and shall be approved for the intended purpose: PROVIDED, That the state archivist shall approve such material for state records use: PROVIDED, FURTHER, That the state auditor shall approve such material for use by local governmental subdivisions. [1981 c 32 § 5; 1973 c 95 § 1; 1949 c 223 § 1; Rem. Supp. 1949 § 1257-4.]

40.20.030 Use as original. Such photostatic copy, photograph, microphotograph or photographic film record, or copy of the original records shall be deemed to be an original record for all purposes, and shall be admissible in evidence in all courts or administrative agencies. A facsimile, exemplification or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification or certified copy of the original. [1949 c 223 § 2; Rem. Supp. 1949 § 1257-5.]

Chapter 40.24

ADDRESS CONFIDENTIALITY FOR VICTIMS OF DOMESTIC VIOLENCE

Sections

40.24.010	Findings—Purpose.
40.24.020	Definitions.
40.24.030	Address confidentiality program—Application—Certification.
40.24.040	Certification cancellation.
40.24.050	Agency use of designated address.
40.24.060	Voting by program participant—Use of designated address by county auditor.
40.24.070	Disclosure of address prohibited—Exceptions.
40.24.080	Assistance for program applicants.
40.24.090	Adoption of rules.
40.24.900	Effective dates—1991 c 23.

40.24.010 Findings—Purpose. The legislature finds that persons attempting to escape from actual or threatened domestic violence frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, and to enable state and local agencies to accept a program participant's use of an address designated by the secretary of state as a substitute mailing address. [1991 c 23 § 1.]

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

(1) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this chapter.

(2) "Program participant" means a person certified as a program participant under RCW 40.24.030.

(3) "Domestic violence" means an act as defined in RCW 10.99.020 and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers. [1991 c 23 § 2.]

40.24.030 Address confidentiality program—Application—Certification. (1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, as defined in RCW 11.88.010, may apply to the secretary of state to have an

address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state and if it contains:

(a) A sworn statement by the applicant that the applicant has good reason to believe (i) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence; and (ii) that the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made;

(b) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(c) The mailing address where the applicant can be contacted by the secretary of state, and the phone number or numbers where the applicant can be called by the secretary of state;

(d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence;

(e) The signature of the applicant and of any individual or representative of any office designated in writing under RCW 40.24.080 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications shall be filed with the office of the secretary of state.

(3) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall be punishable under RCW 40.16.030 or other applicable statutes. [1991 c 23 § 3.]

40.24.040 Certification cancellation. (1) If the program participant obtains a name change, he or she loses certification as a program participant.

(2) The secretary of state may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the secretary of state with seven days' prior notice of the change of address.

(3) The secretary of state may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

(4) The secretary of state shall cancel certification of a program participant who applies using false information. [1991 c 23 § 4.]

40.24.050 Agency use of designated address. (1) A program participant may request that state and local agencies

use the address designated by the secretary of state as his or her address. When creating a new public record, state and local agencies shall accept the address designated by the secretary of state as a program participant's substitute address, unless the secretary of state has determined that:

(a) The agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this chapter; and

(b) This address will be used only for those statutory and administrative purposes.

(2) A program participant may use the address designated by the secretary of state as his or her work address.

(3) The office of the secretary of state shall forward all first class mail to the appropriate program participants. [1991 c 23 § 5.]

40.24.060 Voting by program participant—Use of designated address by county auditor. (1) A program participant who is otherwise qualified to vote may apply as a service voter under RCW 29.01.155. The program participant shall automatically receive absentee ballots for all elections in the jurisdictions for which that individual resides in the same manner as absentee voters who qualify under RCW 29.36.013, except that the program participant shall not be required to reapply following January 1st of each odd-numbered year. The county auditor shall transmit the absentee ballot to the program participant at the address designated by the participant in his or her application as a service voter. Neither the name nor the address of a program participant shall be included in any list of registered voters available to the public.

(2) The county auditor may not make the participant's address contained in voter registration records available for public inspection or copying except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency; and

(b) If directed by a court order, to a person identified in the order. [1991 c 23 § 6.]

40.24.070 Disclosure of address prohibited—Exceptions. The secretary of state may not make a program participant's address, other than the address designated by the secretary of state, available for inspection or copying, except under the following circumstances:

(1) If requested by a law enforcement agency, to the law enforcement agency;

(2) If directed by a court order, to a person identified in the order; and

(3) If certification has been canceled. [1991 c 23 § 7.]

40.24.080 Assistance for program applicants. The secretary of state shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence to assist persons applying to be program participants. Any assistance and counseling rendered by the office of the secretary of state or its designees to applicants shall in no way be construed as legal advice. [1991 c 23 § 8.]

40.24.090 Adoption of rules. The secretary of state may adopt rules to facilitate the administration of this chapter by state and local agencies. [1991 c 23 § 9.]

40.24.900 Effective dates—1991 c 23. (1) Sections 10 and 11 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 22, 1991].

(2) Sections 1 through 9 and 12 through 15 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991. [1991 c 23 § 16.]

Title 41

PUBLIC EMPLOYMENT, CIVIL SERVICE, AND PENSIONS

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- 41.05 State health care authority.
- 41.06 State civil service law.
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Chapter 41.04

GENERAL PROVISIONS

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- 41.04.650 Leave sharing program—Intent.
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- 41.04.700 Employee assistance program—Intent.
- 41.04.710 Employee assistance program—Created.
- 41.04.720 Employee assistance program—Director of human resources—Duties.
- 41.04.730 Employee assistance program—Information confidential—Exceptions.
- 41.04.800 Chapter not applicable to officers and employees of state convention and trade center.

Payroll deductions authorized for school district employees: RCW 28A.405.400 and 28A.405.410.

41.04.005 "Veteran" defined for certain purposes.

(1) As used in RCW 41.04.005, 41.16.220, and 41.20.050 "veteran" includes every person, who at the time he or she seeks the benefits of RCW 41.04.005, 41.04.010, 41.16.220, 41.20.050, 41.40.170, 73.04.110, or 73.08.080 has received an honorable discharge or received a discharge for physical reasons with an honorable record and who meets at least one of the following criteria:

(a) The person has served between World War I and World War II or during any period of war, as defined in subsection (2) of this section, as either:

(i) A member in any branch of the armed forces of the United States;

(ii) A member of the women's air forces service pilots;

(iii) A U.S. documented merchant mariner with service aboard an oceangoing vessel operated by the war shipping administration, the office of defense transportation, or their agents, during the period of armed conflict, December 7, 1941, to August 15, 1945; or

(iv) A civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945; or

(b) The person has received the armed forces expeditionary medal, or marine corps and navy expeditionary medal, for opposed action on foreign soil, for service:

(i) In any branch of the armed forces of the United States; or

(ii) As a member of the women's air forces service pilots.

(2) A "period of war" includes:

(a) World War I;

(b) World War II;

(c) The Korean conflict;

(d) The Vietnam era, which was the period beginning August 5, 1964, and ending on May 7, 1975;

(e) The Persian Gulf War, which was the period beginning August 2, 1990, and ending on the date prescribed by presidential proclamation or law;

(f) The period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress; and

(g) The following armed conflicts, if the participant was awarded the respective campaign badge or medal: The crisis in Lebanon; the invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation Restore Hope; Haiti, Operation Uphold Democracy; and Bosnia, Operation Joint Endeavor. [1996 c 300 § 1; 1991 c 240 § 1; 1984 c 36 § 1; 1983 c 230 § 1; 1982 1st ex.s. c 37 § 20; 1969 ex.s. c 269 § 1.]

Effective date—1983 c 230: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983." [1983 c 230 § 3.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

41.04.010 Veterans' preference in examinations. In all competitive examinations, unless otherwise provided

herein, to determine the qualifications of applicants for public offices, positions or employment, the state, and all of its political subdivisions and all municipal corporations, shall give a preference status to all veterans as defined in RCW 41.04.005, by adding to the passing mark, grade or rating only, based upon a possible rating of one hundred points as perfect a percentage in accordance with the following:

(1) Ten percent to a veteran who is not receiving any veterans retirement payments and said percentage shall be utilized in said veteran's competitive examination and not in any promotional examination until one of such examinations results in said veteran's first appointment: **PROVIDED,** That said percentage shall not be utilized in any promotional examination;

(2) Five percent to a veteran who is receiving any veterans retirement payments and said percentage shall be utilized in said veteran's competitive examination only and not in any promotional examination until one of such examinations results in said veteran's first appointment: **PROVIDED,** That said percentage shall not be utilized in any promotional examination;

(3) Five percent to a veteran who, after having previously received employment with the state or any of its political subdivisions or municipal corporations, shall be called, or recalled, to active military service for a period of one year, or more, during any period of war, for his first promotional examination only, upon compliance with RCW 73.16.035 as it now exists or may hereafter be amended;

(4) There shall be no examination preferences other than those which have been specifically provided for above and all preferences above specified in (1), (2) and (3) must be claimed by a veteran within eight years of the date of his release from active service. [1974 ex.s. c 170 § 1; 1969 ex.s. c 269 § 2; 1953 ex.s. c 9 § 1; 1949 c 134 § 1; 1947 c 119 § 1; 1945 c 189 § 1; Rem. Supp. 1949 § 9963-5.]

Veterans and veterans' affairs: Title 73 RCW.

41.04.015 Public employment—Evidence of educational competence. A Washington certificate of educational competence as awarded by the Washington state superintendent of public instruction or an official report of equivalent acceptable scores of the general educational development test shall be accepted in lieu of a high school diploma by the state and any local political subdivision when considering applicants for employment or promotion. [1971 c 43 § 1.]

41.04.020 Public employees—Payroll deductions authorized. Any employee or group of employees of the state of Washington or any of its political subdivisions, or of any institution supported, in whole or in part, by the state or any of its political subdivisions, may authorize the deduction from his or their salaries or wages and payment to another, the amount or amounts of his or their subscription payments or contributions to any person, firm, or corporation administering, furnishing, or providing (1) medical, surgical, and hospital care or either of them, or (2) life insurance or accident and health disability insurance, or (3) any individual retirement account selected by the employee or the employee's spouse established under applicable state or federal law, or (4) any individual retirement account which is (a) offered through the committee for deferred compen-

sation, (b) selected by the employee, and (c) established under applicable state or federal law: PROVIDED, That such authorization by said employee or group of employees, shall be first approved by the head of the department, division office or institution of the state or any political subdivision thereof, employing such person or group of persons, and filed with the department of personnel; or in the case of political subdivisions of the state of Washington, with the auditor of such political subdivision or the person authorized by law to draw warrants against the funds of said political subdivision. [1982 c 107 § 1; 1973 c 106 § 15; 1947 c 70 § 1; Rem. Supp. 1947 § 9963-10.]

Group insurance

disability: Chapter 48.21 RCW.

for employees of

cities and towns: RCW 35.23.460.

counties: RCW 36.32.400.

life: Chapter 48.24 RCW.

41.04.030 Payroll deductions—Duty of auditing officer. Upon being authorized by any employee or group of employees so to do under the provisions of RCW 41.04.020, the auditor or other person authorized to draw warrants against the funds involved is authorized, and if such medical, surgical, and hospital care or either of them, or life insurance or accident and health disability insurance is to be provided on a group basis for groups each of not less than twenty-five individuals such auditor or other person is hereby required, to draw and issue a proper warrant or warrants directly to and in favor of the person, firm, or corporation, or organization named in the authorization for the total amount authorized to be deducted from the payroll of any such office, department, division, or institution. [1953 c 260 § 1; 1947 c 70 § 2; Rem. Supp. 1947 § 9963-11.]

41.04.035 Salary and wage deductions for contributions to charitable agencies—"United Fund" defined. For the purpose of RCW 41.04.035 and 41.04.036 "United Fund" means the organization conducting the single, annual, consolidated effort to secure funds for distribution to agencies engaged in charitable and public health, welfare and service purposes, which is commonly known as the United Fund, or the organization which serves in place of the United Fund organizations in communities where an organization known as the United Fund is not organized. [1957 c 208 § 1.]

41.04.036 Salary and wage deductions for contributions to charitable agencies—Deduction and payment to United Fund—Regulations, procedures. Any official of the state or of any of its political subdivisions authorized to disburse funds in payment of salaries or wages of public officers or employees is authorized, upon written request of the officer or employee, to deduct from the salary or wages of the officer or employee the amount of money designated by the officer or employee for payment to the United Fund.

The moneys so deducted shall be paid over promptly to the United Fund designated by the officer or employee. Subject to any regulations prescribed by the office of financial management, the official authorized to disburse the funds in payment of salaries or wages may prescribe any procedures necessary to carry out RCW 41.04.035 and

41.04.036. [1983 1st ex.s. c 28 § 2; 1979 c 151 § 53; 1973 c 106 § 16; 1957 c 208 § 2.]

Application—1983 1st ex.s. c 28: See note following RCW 42.16.010.

41.04.110 Persons employed by more than one agency—Joint operation—May provide membership in single system. When there exists a joint operation of a public service, the authorities may make provision for membership of all new employees in one designated retirement system by agreement with the proper authorities. [1951 c 98 § 5.]

41.04.120 Civil service and retirement rights preserved when elective office assumed. Any civil service employee of the state of Washington or of any political subdivision thereof who is on leave of absence by reason of having been elected or appointed to an elective office shall be preserved in his civil service status, his seniority, rank and retirement rights so long as he regularly continues to make the usual contribution incident to the retention of such beneficial rights as if he were not on leave of absence: PROVIDED, That such contributions being made shall be based on the rank at the time of taking such leave of absence. [1957 c 164 § 1.]

41.04.130 Extension of provisions of retirement and pension systems by cities of the first class to nonincluded personnel. Any city of the first class may, by ordinance, extend, upon conditions deemed proper, the provisions of retirement and pension systems for superannuated and disabled officers and employees to officers and employees with five years of continuous service and acting in capacities in which they would otherwise not be entitled to participation in such systems: PROVIDED, That the following shall be specifically exempted from the provisions of this section.

(1) Members of the police departments who are entitled to the benefits of the police relief and pension fund as established by state law.

(2) Members of the fire department who are entitled to the benefits of the firemen's relief and pension fund as established by state law. [1945 c 52 § 1; 1941 c 192 § 1; Rem. Supp. 1945 § 9592-129. Formerly codified as RCW 41.28.250.]

41.04.140 Interchange of personnel between federal and state agencies—"State agency" defined. "State agency" means a board, department, commission or institution of the state or its political subdivisions. [1959 c 102 § 1.]

41.04.150 Interchange of personnel between federal and state agencies—Agreements—Provisions. A state agency may enter into agreements with departments or other subdivisions of the federal government for the interchange of personnel on projects which are of mutual benefit to the state and federal government.

An interchange agreement shall specify the fiscal arrangements to be made, including compensations, rights, benefits and obligations of the employees concerned, travel and transportation of employees, their immediate families

and household goods, and the duties and supervision of employees while on assignment. [1959 c 102 § 2.]

41.04.160 Interchange of personnel between federal and state agencies—Employment status of state employees participating—Retirement—Civil service. State agency employees participating in an interchange may be carried on detail or in a leave of absence status.

(1) Wherever practicable, employees should be carried on detail. While on detail under an interchange agreement, employees shall remain employees of the state agency for all fiscal purposes, but shall receive no reimbursement for travel or other expenses except as provided in RCW 41.04.150.

(2) State agency employees who receive temporary appointments with federal agencies shall be carried by the state agency in a leave of absence status. Participation in an interchange shall be considered as service under any retirement system of which the employees are members. Arrangements for payment of employees' contributions to a retirement system may be by the interchange agreement or otherwise. Employees participating in an interchange shall be entitled to credit the full period toward promotion or salary increase as provided by any applicable civil service laws or regulations. [1959 c 102 § 3.]

41.04.170 Interchange of personnel between federal and state agencies—Employment status of federal employees participating—Retirement—Civil service. Federal employees participating in an interchange may receive appointment by the state agency, or may be considered to be on detail with the state agency.

(1) Appointments of federal employees shall be made without regard to civil service laws or regulations. Compensation shall be in accordance with the usual rates paid by the state agency for similar positions.

An appropriate percentage of compensation shall be deducted and transmitted to the federal agency for retirement and insurance where the interchange agreement so provides.

(2) Federal employees on detail with a state agency remain employees of and shall continue to receive their compensation from the federal agency, subject to the terms of the interchange agreement. [1959 c 102 § 4.]

41.04.180 Hospitalization and medical aid for county, municipal and other political subdivision employees—Governmental contributions authorized. Any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body may, whenever funds shall be available for that purpose provide for all or a part of hospitalization and medical aid for its employees and their dependents through contracts with regularly constituted insurance carriers or with health care service contractors as defined in chapter 48.44 RCW or self-insurers as provided for in chapter 48.62 RCW, for group hospitalization and medical aid policies or plans: PROVIDED, That any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body shall provide the employees thereof a choice of policies or plans through contracts with not less than two regularly constituted insurance carriers or health care service contractors or other

health care plans, including but not limited to, trusts of self-insurance as provided for in chapter 48.62 RCW: AND PROVIDED FURTHER, That any county may provide such hospitalization and medical aid to county elected officials and their dependents on the same basis as such hospitalization and medical aid is provided to other county employees and their dependents: PROVIDED FURTHER, That provision for school district personnel shall not be made under this section but shall be as provided for in RCW 28A.400.350. [1991 sp.s. c 30 § 18; 1974 ex.s. c 82 § 1; 1973 1st ex.s. c 147 § 6; 1970 ex.s. c 39 § 10; 1969 ex.s. c 237 § 1; 1967 c 135 § 1; 1965 c 57 § 1; 1963 c 75 § 1.]

Effective date, implementation, application—Severability—1991 sp.s. c 30: See RCW 48.62.900 and 48.62.901.

Effective date—Effect of veto—Savings—Severability—1973 1st ex.s. c 147: See notes following RCW 41.05.050.

Severability—1970 ex.s. c 39: See note following RCW 41.05.050.

Effective date—1969 ex.s. c 237: "The effective date of this 1969 amendatory act shall be July 1, 1969: PROVIDED, That health benefit contracts awarded under the provisions of RCW 41.04.180 which expire after July 1, 1969 may be extended up to one year with the approval of the state employees' insurance and health care advisory committee as established under the provisions of section 8 of this act." [1969 ex.s. c 237 § 10.]

Retirement allowance deductions for health care benefit plans: RCW 41.04.235.

State health care authority: Chapter 41.05 RCW.

41.04.190 Hospitalization and medical aid for county, municipal and other political subdivision employees—Cost not additional compensation—Disbursement. (Effective until July 1, 1997.) The cost of a policy or plan to a public agency or body is not additional compensation to the employees or elected officials covered thereby. The elected officials to whom this section applies include but are not limited to commissioners elected under chapters 28A.315, 52.14, 53.12, 54.12, 56.12, 57.12, 70.44, and 87.03 RCW, as well as any county elected officials who are provided insurance coverage under RCW 41.04.180. Any officer authorized to disburse such funds may pay in whole or in part to an insurance carrier or health care service contractor the amount of the premiums due under the contract. [1992 c 146 § 13; 1983 1st ex.s. c 37 § 1; 1965 c 57 § 2; 1963 c 75 § 2.]

Action disqualifying legislators proscribed—Severability—1965 c 57: "No board of county commissioners shall take any action under this 1965 amendatory act which shall disqualify members of the present legislature, under Article II, section 13, of the Constitution, from being candidates for or being elected or appointed to county elected offices.

If any provision of the action of a board of county commissioners is held invalid under the preceding paragraph of this section, the remainder of the action or the application of the provision to other persons or circumstances shall not be affected." [1965 c 57 § 3.]

41.04.190 Hospitalization and medical aid for county, municipal and other political subdivision employees—Cost not additional compensation—Disbursement. (Effective July 1, 1997.) The cost of a policy or plan to a public agency or body is not additional compensation to the employees or elected officials covered thereby. The elected officials to whom this section applies include but are not limited to commissioners elected under chapters 28A.315, 52.14, 53.12, 54.12, 57.12, 70.44, and 87.03 RCW, as well as any county elected officials who are provided insurance

coverage under RCW 41.04.180. Any officer authorized to disburse such funds may pay in whole or in part to an insurance carrier or health care service contractor the amount of the premiums due under the contract. [1996 c 230 § 1610; 1992 c 146 § 13; 1983 1st ex.s. c 37 § 1; 1965 c 57 § 2; 1963 c 75 § 2.]

Part headings not law—Effective date—1996 c 230: See notes following RCW 57.02.001.

Action disqualifying legislators proscribed—Severability—1965 c 57: "No board of county commissioners shall take any action under this 1965 amendatory act which shall disqualify members of the present legislature, under Article II, section 13, of the Constitution, from being candidates for or being elected or appointed to county elected offices.

If any provision of the action of a board of county commissioners is held invalid under the preceding paragraph of this section, the remainder of the action or the application of the provision to other persons or circumstances shall not be affected." [1965 c 57 § 3.]

41.04.205 Participation of county, municipal, and other political subdivision employees in state employees' insurance or self-insurance and health care program—Transfer procedure. (1) Notwithstanding the provisions of RCW 41.04.180, the employees, with their dependents, of any county, municipality, or other political subdivision of this state shall be eligible to participate in any insurance or self-insurance program for employees administered under chapter 41.05 RCW if the legislative authority of any such county, municipality, or other political subdivisions of this state determines, subject to collective bargaining under applicable statutes, a transfer to an insurance or self-insurance program administered under chapter 41.05 RCW should be made. In the event of a special district employee transfer pursuant to this section, members of the governing authority shall be eligible to be included in such transfer if such members are authorized by law as of June 25, 1976 to participate in the insurance program being transferred from and subject to payment by such members of all costs of insurance for members.

(2) When the legislative authority of a county, municipality, or other political subdivision determines to so transfer, the state health care authority shall:

- (a) Establish the conditions for participation; and
- (b) Have the sole right to reject the application.

Approval of the application by the state health care authority shall effect a transfer of the employees involved to the insurance, self-insurance, or health care program applied for.

(3) Any application of this section to members of the law enforcement officers' and fire fighters' retirement system under chapter 41.26 RCW is subject to chapter 41.56 RCW.

(4) School districts may voluntarily transfer, except that all eligible employees in a bargaining unit of a school district may transfer only as a unit and all nonrepresented employees in a district may transfer only as a unit. [1995 1st sp.s. c 6 § 8; 1993 c 386 § 3; 1992 c 199 § 1; 1990 c 222 § 1; 1988 c 107 § 17; 1975-'76 2nd ex.s. c 106 § 1.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Effective date—1993 c 386 §§ 3, 7, and 11: "Sections 3, 7, and 11 of this act shall take effect October 1, 1993." [1993 c 386 § 17.]

Intent—1993 c 386: See note following RCW 28A.400.391.

Implementation—Effective dates—1988 c 107: See RCW 41.05.901.

41.04.220 Department of general administration to procure health benefit programs—Other governmental entities may use services. Any governmental entity other than state agencies, may use the services of the department of general administration upon the approval of the director, in procuring health benefit programs as provided by RCW 41.04.180, 28A.400.350 and 28B.10.660: PROVIDED, That the department of general administration may charge for the administrative cost incurred in the procuring of such services. [1983 c 3 § 88; 1969 ex.s. c 237 § 7.]

Effective date—1969 ex.s. c 237: See note following RCW 41.04.180.

41.04.230 Payroll deductions authorized. Any official of the state authorized to disburse funds in payment of salaries and wages of public officers or employees is authorized, upon written request of the officer or employee, to deduct from the salaries or wages of the officers or employees, the amount or amounts of subscription payments, premiums, contributions, or continuation thereof, for payment of the following:

(1) Credit union deductions: PROVIDED, That twenty-five or more employees of a single state agency or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same credit union. An agency may, in its own discretion, establish a minimum participation requirement of fewer than twenty-five employees.

(2) Parking fee deductions: PROVIDED, That payment is made for parking facilities furnished by the agency or by the department of general administration.

(3) U.S. savings bond deductions: PROVIDED, That a person within the particular agency shall be appointed to act as trustee. The trustee will receive all contributions; purchase and deliver all bond certificates; and keep such records and furnish such bond or security as will render full accountability for all bond contributions.

(4) Board, lodging or uniform deductions when such board, lodging and uniforms are furnished by the state, or deductions for academic tuitions or fees or scholarship contributions payable to the employing institution.

(5) Dues and other fees deductions: PROVIDED, That the deduction is for payment of membership dues to any professional organization formed primarily for public employees or college and university professors: AND PROVIDED, FURTHER, That twenty-five or more employees of a single state agency, or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same professional organization.

(6) Labor or employee organization dues may be deducted in the event that a payroll deduction is not provided under a collective bargaining agreement under the provisions of RCW 41.06.150: PROVIDED, That twenty-five or more officers or employees of a single agency, or a total of one hundred or more officers or employees of several agencies have authorized such a deduction for payment to the same labor or employee organization: PROVIDED, FURTHER, That labor or employee organiza-

tions with five hundred or more members in state government may have payroll deduction for employee benefit programs.

(7) Insurance contributions to the authority for payment of premiums under contracts authorized by the state health care authority. However, enrollment or assignment by the state health care authority to participate in a health care benefit plan, as required by RCW 41.05.065(5), shall authorize a payroll deduction of premium contributions without a written consent under the terms and conditions established by the public employees' benefits board.

(8) Deductions to a bank, savings bank, or savings and loan association if (a) the bank, savings bank, or savings and loan association is authorized to do business in this state; and (b) twenty-five or more employees of a single agency, or fewer, if a lesser number is established by such agency, or a total of one hundred or more state employees of several agencies have authorized a deduction for payment to the same bank, savings bank, or savings and loan association.

Deductions from salaries and wages of public officers and employees other than those enumerated in this section or by other law, may be authorized by the director of financial management for purposes clearly related to state employment or goals and objectives of the agency and for plans authorized by the state health care authority.

The authority to make deductions from the salaries and wages of public officers and employees as provided for in this section shall be in addition to such other authority as may be provided by law: PROVIDED, That the state or any department, division, or separate agency of the state shall not be liable to any insurance carrier or contractor for the failure to make or transmit any such deduction. [1995 1st sp.s. c 6 § 21. Prior: 1993 c 2 § 26 (Initiative Measure No. 134, approved November 3, 1992); 1992 c 192 § 1; 1988 c 107 § 19; 1985 c 271 § 1; 1983 1st ex.s. c 28 § 3; 1980 c 120 § 1; 1979 c 151 § 54; 1973 1st ex.s. c 147 § 5; 1970 ex.s. c 39 § 11; 1969 c 59 § 5.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Implementation—Effective dates—1988 c 107: See RCW 41.05.901.

Application—1983 1st ex.s. c 28: See note following RCW 42.16.010.

Effective date—Effect of veto—Savings—Severability—1973 1st ex.s. c 147: See notes following RCW 41.05.050.

Severability—1970 ex.s. c 39: See note following RCW 41.05.050.

41.04.232 Transition to two payrolls per month—Guidelines on deductions and deferrals. In order to facilitate the transition from one payroll per month to two payrolls per month, the following guidelines concerning payroll deductions and deferrals are established:

(1) All mandatory and voluntary deductions which are based upon a percentage of salary shall be deducted, after August 23, 1983, from the salaries payable for each pay period. This subsection shall apply regardless of when the deductions were authorized or required.

(2) The office of financial management shall adopt reasonable procedures providing for deductions, including deferrals, which are not based on a percentage of salary.

(3) Amounts which are deducted in accordance with subsections (1) and (2) of this section shall be paid to the

designated recipient no later than the established paydates except when other agreements are reached with the designated recipient.

(4) Payment of deductions and deferrals to the designated recipient shall be made by warrant or check except when the designated recipient requests payment by electronic funds transfer. If recipients request electronic funds transfers, sufficient time shall be made available to establish the process. The elapsed time to establish the process shall not exceed three months from the time the recipient has requested in writing to the appropriate data processing payroll systems manager to receive payment by electronic funds transfer.

Documentation and itemization of deductions or deferrals paid shall be in printed form unless the designated recipient requests computer tapes. If recipients request computer tapes, sufficient time shall be made available to establish the process. Computer tapes shall be made available to the requesting designated recipient if at least one hundred employees paid from an automated payroll system have such deductions. The elapsed time to establish the process for providing computer tapes shall not exceed three months from the time the recipient has requested in writing to the appropriate data processing payroll systems manager to receive computer tapes. With the approval of the office of financial management, more advanced technology may be utilized to provide payment, documentation, and itemization of deductions to designated recipients. [1983 1st ex.s. c 28 § 4.]

Application—1983 1st ex.s. c 28: See note following RCW 42.16.010.

41.04.233 Payroll deductions for capitation payments to health maintenance organizations. Any employee or retired employee of the state or its departments, agencies, or subdivisions and any employee or retired employee of a county, public or municipal corporation, school district, or tax supported institution may authorize the deduction from his salary or wages of the amount of his capitation payments to any health maintenance organization receiving a certificate of authority under this chapter. Upon the filing of an authorization with the auditor or fiscal officer of the employer, such auditor or fiscal officer shall make payments in favor of the health maintenance organizations referred to in the authorization for the amounts of the deductions authorized, *RCW 41.04.230(7) notwithstanding. [1975 1st ex.s. c 290 § 20.]

***Reviser's note:** RCW 41.04.230 was amended by 1993 c 2 § 26 (Initiative Measure No. 134), and subsection (7) was deleted.

Severability—1975 1st ex.s. c 290: See RCW 48.46.910.

41.04.235 Retirement allowance deductions for health care benefit plans. Participants in a health care benefit plan approved pursuant to RCW 41.04.180, 41.05.065, or 28A.400.350, whichever is applicable, who are retired public employees, may authorize the deduction from their retirement allowances, of the amount or amounts of their subscription payments, premiums, or contributions to any person, firm, or corporation furnishing or providing medical, surgical, and hospital care or other health care insurance upon the approval by the retirement board of an

application for such deduction on the prescribed form, and the treasurer of the state shall duly and timely draw and issue proper warrants directly to and in favor of the person, firm, or corporation, or organization named in the authorization for the amount authorized to be deducted. [1993 c 386 § 4; 1983 c 3 § 89; 1975 1st ex.s. c 73 § 1.]

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.04.240 Direct deposit of salaries into financial institutions authorized. Any official of the state or of any political subdivision, municipal corporation, or quasi municipal corporation authorized to disburse funds in payment of salaries and wages of employees is authorized upon written request of at least twenty-five employees to pay all or part of such salaries or wages to any financial institution for either: (1) Credit to the employees' accounts in such financial institution; or (2) immediate transfer therefrom to the employees' accounts in any other financial institutions: PROVIDED, That nothing in this section shall be construed as authorizing any employer to require the employees to have an account in any particular financial institution or type of financial institution. A single warrant may be drawn in favor of such financial institution, for the total amount due the employees involved, and written directions provided to such financial institution of the amount to be credited to the account of an employee or to be transferred to an account in another financial institution for such employee. The issuance and delivery by the disbursing officer of a warrant in accordance with the procedure set forth herein and proper indorsement thereof by the financial institution shall have the same legal effect as payment directly to the employee.

For the purposes of this section "financial institution" means any bank or trust company established in this state pursuant to chapter 2, Title 12, United States Code, or Title 30 RCW, and any credit union established in this state pursuant to chapter 14, Title 12, United States Code, or chapter 31.12 RCW, and any mutual savings bank established in this state pursuant to Title 32 RCW, and any savings and loan association established in this state pursuant to chapter 12, Title 12, United States Code, or Title 33 RCW. [1977 ex.s. c 269 § 1; 1969 c 59 § 6.]

41.04.245 Payroll deductions to a bank, savings bank, credit union, or savings and loan association. Any official of any local political subdivision of the state, municipal corporation, or quasi-municipal corporation authorized to disburse funds in payment of salaries and wages of employees is authorized upon written request of any employee, to deduct all or part of such employee's salary or wages for payment to any bank, savings bank, credit union, or savings and loan association if (1) the bank, savings bank, credit union, or savings and loan association is authorized to do business in this state; and (2) twenty-five or more employees of a single local political subdivision, or fewer, if a lesser number is established by such local political subdivision, authorize such a deduction for payment to the same bank, savings bank, credit union, or savings and loan association. [1992 c 192 § 2.]

41.04.270 Public retirement systems—Members or beneficiaries estopped from becoming a member or accruing rights in any other public retirement system.

(1) Notwithstanding any provision of chapter 2.10, 2.12, 41.26, 41.28, 41.32, 41.40, or 43.43 RCW to the contrary, on and after March 19, 1976, any member or former member who (a) receives a retirement allowance earned by said former member as deferred compensation from any public retirement system authorized by the general laws of this state, or (b) is eligible to receive a retirement allowance from any public retirement system listed in RCW 41.50.030, but chooses not to apply, or (c) is the beneficiary of a disability allowance from any public retirement system listed in RCW 41.50.030 shall be estopped from becoming a member of or accruing any contractual rights whatsoever in any other public retirement system listed in RCW 41.50.030: PROVIDED, That (a) and (b) of this subsection shall not apply to persons who have accumulated less than fifteen years service credit in any such system.

(2) Nothing in this section is intended to apply to any retirement system except those listed in RCW 41.50.030 and the city employee retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b) of this section does not apply to a dual member as defined in RCW 41.54.010. [1988 c 195 § 5; 1987 c 192 § 9; 1980 c 29 § 1; 1975-'76 2nd ex.s. c 105 § 1.]

Effective date—1988 c 195: See RCW 41.54.901.

Effective dates—1987 c 192: See RCW 41.54.900.

Severability—1975-'76 2nd ex.s. c 105: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 105 § 28.]

41.04.275 Pension funding account created. The pension funding account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the continuing costs of any state retirement system benefits in effect on July 1, 1993, consistent with section 919, chapter 24, Laws of 1993 sp. sess. [1994 c 298 § 6.]

Intent—1994 c 298: See note following RCW 41.40.010.

41.04.300 Travel expenses of state officials and employees. Except as otherwise provided by law the payment of travel expenses by the state to any appointive official or employee of any commission, agency, or other body of the executive, judicial, or legislative branches of state government shall be in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 3.]

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

41.04.340 State employee attendance incentive program—Sick leave records to be kept—Remuneration or benefits for unused sick leave. (1) An attendance incentive program is established for all eligible employees. As used in this section the term "eligible employee" means any employee of the state, other than teaching and research faculty at the state and regional universities and The Evergreen State College, entitled to accumulate sick leave and for

whom accurate sick leave records have been maintained. No employee may receive compensation under this section for any portion of sick leave accumulated at a rate in excess of one day per month. The state and regional universities and The Evergreen State College shall maintain complete and accurate sick leave records for all teaching and research faculty.

(2) In January of the year following any year in which a minimum of sixty days of sick leave is accrued, and each January thereafter, any eligible employee may receive remuneration for unused sick leave accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued sick leave in excess of sixty days. Sick leave for which compensation has been received shall be deducted from accrued sick leave at the rate of four days for every one day's monetary compensation.

(3) At the time of separation from state service due to retirement or death, an eligible employee or the employee's estate may elect to receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days of accrued sick leave.

(4) Pursuant to this subsection, in lieu of cash remuneration the state may, with equivalent funds, provide eligible employees with a benefit plan providing for reimbursement of medical expenses. The committee for deferred compensation shall develop any benefit plan established under this subsection, but may offer and administer the plan only if (a) each eligible employee has the option of whether to receive cash remuneration or to have his or her employer transfer equivalent funds to the plan; and (b) the committee has received an opinion from the United States internal revenue service stating that participating employees, prior to the time of receiving reimbursement for expenses, will incur no United States income tax liability on the amount of the equivalent funds transferred to the plan.

(5) Remuneration or benefits received under this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

(6) With the exception of subsection (4) of this section, this section shall be administered, and rules shall be adopted to carry out its purposes, by the Washington personnel resources board for persons subject to chapter 41.06 RCW: PROVIDED, That determination of classes of eligible employees shall be subject to approval by the office of financial management.

(7) Should the legislature revoke any remuneration or benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right. [1993 c 281 § 17; 1991 c 249 § 1; 1990 c 162 § 1; 1980 c 182 § 1; 1979 ex.s. c 150 § 1.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1980 c 182: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 182 § 7.]

41.04.350 Mandatory retirement prior to seventy years of age prohibited—Exceptions—Waiver of mandatory retirement. (1) Notwithstanding any other provisions of law, no employee of the state of Washington or any of its

political subdivisions or any institution supported in total or in part by the state or any of its political subdivisions, other than employees covered by chapters 41.26 and 43.43 RCW, shall be compelled to retire solely on the basis of age prior to attaining seventy years of age.

(2) All compulsory retirement provisions relating to public employees, other than employees covered by chapters 41.26 and 43.43 RCW, may be waived for individuals attaining seventy years of age by the individual's employer. [1979 ex.s. c 159 § 1.]

41.04.360 State-employed chaplains—Housing allowance. In the case of a minister or other clergy person employed as a chaplain in a state institution or agency, there is designated in the salary or wage paid to the person an amount up to forty percent of the gross salary as either of the following:

(1) The rental value of a home furnished to the person as part of the person's compensation; or

(2) The housing/rental allowance paid to the person as part of the person's compensation, to the extent used by the person to rent or provide a home. [1982 c 190 § 1.]

Appointment and duties of institutional chaplains: RCW 72.01.210 through 72.01.260.

Volunteer law enforcement chaplains: Chapter 41.22 RCW.

41.04.362 State employee wellness program. (1) The director of the department of personnel, in consultation with applicable state agencies and employee organizations, may develop and administer a voluntary state employee wellness program.

(2) The director may:

(a) Develop and implement state employee wellness policies, procedures, and activities;

(b) Disseminate wellness educational materials to state agencies and employees;

(c) Encourage the establishment of wellness activities in state agencies;

(d) Provide technical assistance and training to agencies conducting wellness activities for their employees;

(e) Develop standards by which agencies sponsoring specific wellness activities may impose a fee to participating employees to help defray the cost of those activities;

(f) Monitor and evaluate the effectiveness of this program, including the collection, analysis, and publication of relevant statistical information; and

(g) Perform other duties and responsibilities as necessary to carry out the purpose of this section.

(3) No wellness program or activity that involves or requires organized or systematic physical exercise may be implemented or conducted during normal working hours. [1987 c 248 § 2.]

Legislative findings—Purpose—1987 c 248: "The legislature finds that:

(1) Improved health among employees will result in a more productive workforce, better morale, reduced stress, lower injury rates and absenteeism, and improved recruitment and retention rates;

(2) A substantial amount of illness and injury in the work force is preventable because it results from lifestyle decisions;

(3) Illness and injury among state employees can be reduced if employees engage in healthier lifestyles.

The state, as an employer, desires to foster a working environment that promotes the health and well-being of its employees. Therefore, it is the

purpose of this act to establish a state employee wellness program. "Wellness program" means those policies, procedures, and activities that promote the health and well-being of state employees and that contribute to a healthful work environment." [1987 c 248 § 1.]

41.04.364 State employee wellness program—Confidentiality of individually identifiable information. Individual employees' participation in the wellness program and all individually identifiable information gathered in the process of conducting the program shall be held in strict confidence and shall not in any way jeopardize any employee's job security, promotional opportunities, or other employment rights. [1987 c 248 § 3.]

Legislative findings—Purpose—1987 c 248: See note following RCW 41.04.362.

41.04.370 Child care—Legislative intent. The legislature recognizes that supporting child care for employees of public and private organizations is a worthwhile pursuit. To further the goals of affordable, accessible, and quality child care for working parents, the legislature intends to provide for the development of self-supporting child care programs for employees of state government. [1993 c 194 § 1; 1984 c 162 § 1.]

41.04.375 Child care—Rental of suitable space. An agency may identify space they wish to use for child care facilities or they may request assistance from the department of general administration in identifying the availability of suitable space in state-owned or state-leased buildings for use as child care centers for the children of state employees.

When suitable space is identified in state-owned or state-leased buildings, the department of general administration shall establish a rental rate for organizations to pay for the space used by persons who are not state employees. [1993 c 194 § 2; 1984 c 162 § 2.]

41.04.380 Child care—Contracts—Provision of suitable space at reduced cost authorized. When suitable space is determined to be available, either agencies or organizations of state employees may contract with one or more providers to operate child care facilities.

Subject to the approval of the director of financial management, suitable space for child care centers may be provided to organizations of state employees without charge or at reduced charge for rent or services solely for the purpose of reducing employee child care costs. [1993 c 194 § 3; 1984 c 162 § 3.]

41.04.382 Child care organizations—Qualifications for services. In order to qualify for services under RCW 41.04.380, state employee child care organizations shall be organized as nonprofit under chapter 24.03 RCW. [1993 c 194 § 4.]

41.04.385 Child care—Legislative findings—State policy—Responsibilities of director of personnel. The legislature finds that (1) demographic, economic, and social trends underlie a critical and increasing demand for child care in the state of Washington; (2) working parents and their children benefit when the employees' child care needs

have been resolved; (3) the state of Washington should serve as a model employer by creating a supportive atmosphere, to the extent feasible, in which its employees may meet their child care needs; and (4) the state of Washington should encourage the development of partnerships between state agencies, state employees, state employee labor organizations, and private employers to expand the availability of affordable quality child care. The legislature finds further that resolving employee child care concerns not only benefits the employees and their children, but may benefit the employer by reducing absenteeism, increasing employee productivity, improving morale, and enhancing the employer's position in recruiting and retaining employees. Therefore, the legislature declares that it is the policy of the state of Washington to assist state employees by creating a supportive atmosphere in which they may meet their child care needs. Policies and procedures for state agencies to address employee child care needs will be the responsibility of the director of personnel in consultation with the child care coordinating committee, as provided in RCW 74.13.090 and state employee representatives as provided under RCW 41.06.140. [1993 c 194 § 5; 1986 c 135 § 1.]

41.04.390 Flexible-time work schedules. (1) The legislature finds that flexible-time work schedules, which provide varying times for employees to arrive at and depart from work, tend to alleviate traffic congestion during peak rush hour periods and thereby reduce hazardous traffic conditions; provide more efficient use of highways and other transit facilities; and decrease fuel consumption. In addition, the legislature finds that flexible-time work schedules provide families in which both parents work outside of the home with the flexibility necessary to provide for day care; provide employees with flexibility allowing them to spend more time with their families; improve employee morale and, in-so-doing, improve productivity. Therefore, due to the clear advantages to both agencies and employees, the legislature finds that flexible-time work schedules should be utilized by agencies to the maximum extent possible.

(2) As used in this section, "flexible-time work schedule" means a daily work schedule which contains a core time of required hours during which an employee subject to the schedule is required to be present for work and designated hours before or after the core time during which an employee, with the approval of his or her agency, may elect a time of arrival to work and departure from work.

(3) Each agency shall prepare a flexible-time work schedule or schedules and shall offer the schedule or schedules to employees as an option to the traditional eight o'clock a.m. to five o'clock p.m. working day. However, an agency shall not be required to prepare or offer a flexible-time work schedule or schedules if the agency head determines that the implementation of such a schedule would serve as an impediment to the provision of services to the public or would in any other way impede the agency in accomplishing its mission.

(4) Any employee wishing to use a flexible-time work schedule prepared under subsection (3) of this section must first obtain the permission of the agency head or the agency head's designee. However, if there is an employee organization certified as an exclusive bargaining representative for

a bargaining unit affected by the flexible-time work schedule, the agency shall first negotiate with the certified employee organization.

(5) Nothing in this section affects official hours during which state offices are required to be open for the transaction of business, as prescribed in RCW 42.04.060. [1985 c 411 § 1.]

41.04.395 Disability accommodation revolving fund—Disbursements. (1) The disability accommodation revolving fund is created in the custody of the state treasurer. Disbursements from the fund shall be on authorization of the director of the department of personnel or the director's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. The fund shall be used exclusively by state agencies to accommodate the unanticipated job site or equipment needs of persons of disability in state employ.

(2) The director of the department of personnel shall consult with the governor's committee on disability issues and employment regarding requests for disbursements from the disability accommodation revolving fund. The department shall establish application procedures, adopt criteria, and provide technical assistance to users of the fund.

(3) Agencies that receive moneys from the disability accommodation revolving fund shall return to the fund the amount received from the fund by no later than the end of the first month of the following fiscal biennium. [1994 sp.s. c 9 § 801; 1987 c 9 § 2.]

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Intent—1987 c 9: "The legislature recognizes that persons of disability have faced unfair discrimination in employment. Equal opportunity for persons of disability often necessitate job site changes and equipment purchases. It is the intent of the legislature to remove a potential barrier to employment of persons of disability by giving state agencies, including institutions of higher education, the ability to accommodate the job site and equipment needs of persons of disability without the delay of waiting for an appropriation from the legislature." [1987 c 9 § 1.]

41.04.400 Consolidation of local governmental unit and first class city retirement system—Intent. It is the purpose of RCW 41.04.405 through 41.04.430 to govern the retirement rights of persons whose employment status is altered when: (1) Two or more units of local government of this state, at least one of which is a first class city with its own retirement system, enter into an agreement for the consolidated performance of a governmental service, activity, or undertaking; (2) the service, activity, or undertaking is to be performed either by one of the participating local governmental units or by a newly established separate legal entity; and (3) the employees of the participating local governmental units are not all members of the same Washington public retirement system.

RCW 41.04.405 through 41.04.430 are not intended to and do not govern retirement rights of any members of the retirement systems established by chapter 41.16, 41.18, 41.20, or 41.26 RCW, or of employees described in RCW 35.58.265, 35.58.390, or 70.08.070. To the extent there is any conflict between RCW 41.04.405 through 41.04.430 and RCW 41.04.110, the provisions of RCW 41.04.405 through 41.04.430 shall govern. [1984 c 184 § 22.]

Severability—1984 c 184: See note following RCW 41.50.150.

41.04.405 Consolidation of local governmental unit and first class city retirement system—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.04.400 through 41.04.430.

(1) "Legal entity" means any political subdivision or municipal corporation of the state, including but not limited to public agencies created under RCW 35.63.070, 36.70.060, or 39.34.030.

(2) "Consolidated employer" means the legal entity assigned by agreement to perform a governmental service, activity, or undertaking for two or more units of local government of the state, at least one of which is a first class city with its own retirement system.

(3) "Existing employee" means a person who both (a) becomes employed by the consolidated employer within one year after the consolidation and (b) was employed by one of the combining legal entities at the time of the consolidation.

(4) "New employee" means an employee of the consolidated employer who is not an existing employee.

(5) "Active member" means a member of a retirement system who was making contributions to that retirement system at the time of the consolidation. [1984 c 184 § 23.]

Severability—1984 c 184: See note following RCW 41.50.150.

41.04.410 Consolidation of local governmental unit and first class city retirement system—Membership in public employees' retirement system. If a consolidated employer is a participating member in the public employees' retirement system under chapter 41.40 RCW prior to the consolidation:

(1) All existing employees of the consolidated employer who are active members of the public employees' retirement system immediately prior to the consolidation shall continue to be members of that retirement system while employed by the consolidated employer.

(2) All existing employees of the consolidated employer who are active members of a first class city retirement system under chapter 41.28 RCW immediately prior to the consolidation shall cease to be members of that system at the time of the consolidation and, if eligible, shall immediately become members of the public employees' retirement system. However, any such active member may, by a writing filed with the consolidated employer within thirty days after the consolidation or within thirty days after March 15, 1984, whichever is later, irrevocably elect instead to continue to be a member of the first class city retirement system, thereby forever waiving any rights under the public employees' retirement system based upon employment with the consolidated employer.

(3) Only prospective periods of qualifying service under the public employees' retirement system may be established under this section. [1984 c 184 § 24.]

Severability—1984 c 184: See note following RCW 41.50.150.

41.04.415 Consolidation of local governmental unit and first class city retirement system—Membership in first class city retirement system. If a consolidated

employer is a city operating a first class city retirement system under chapter 41.28 RCW prior to the consolidation:

(1) All existing employees of the consolidated employer who are active members of the first class city retirement system immediately prior to the consolidation shall continue to be members of that retirement system while employed by the consolidated employer.

(2) All existing employees of the consolidated employer who are active members of the public employees' retirement system under chapter 41.40 RCW immediately prior to the consolidation shall cease to be members of that system at the time of the consolidation and, if eligible, shall immediately become members of the first class city retirement system. However, any such active member may, by a writing filed with the consolidated employer within thirty days after the consolidation or within thirty days after March 15, 1984, whichever is later, irrevocably elect instead to continue to be a member of the public employees' retirement system, thereby forever waiving any rights under the first class city retirement system based upon such employment with the consolidated employer.

(3) Only prospective periods of qualifying service under the first class city retirement system may be established under this section. [1984 c 184 § 25.]

Severability—1984 c 184: See note following RCW 41.50.150.

41.04.420 Consolidation of local governmental unit and first class city retirement system—Newly created legal entity. If a consolidated employer is a newly created legal entity and does not immediately join the public employees' retirement system pursuant to RCW 41.40.062:

(1) All existing employees of the consolidated employer who are active members of a first class city retirement system or the public employees' retirement system immediately prior to the consolidation shall cease to be members of these systems. However, any such active members may, by a writing filed with the consolidated employer within thirty days after the consolidation or within thirty days after March 15, 1984, whichever is later, irrevocably elect instead to continue as members of the retirement system to which they belonged at the time of the consolidation for all periods of employment with the consolidated employer.

(2) If the consolidated employer later joins the public employees' retirement system, all existing employees still employed on that date shall, effective from that date, have the same retirement system rights and options, subject to the same conditions as employees governed by RCW 41.04.410, notwithstanding any previous election under subsection (1) of this section.

(3) No new employees of the consolidated employer may become members of an employer-sponsored retirement system until such time as the employer joins the public employees' retirement system pursuant to RCW 41.40.062. [1984 c 184 § 26.]

Severability—1984 c 184: See note following RCW 41.50.150.

41.04.425 Consolidation of local governmental unit and first class city retirement system—Limitations. Notwithstanding any provision of RCW 41.04.410, 41.04.415, or 41.04.420:

(1) No person may simultaneously accrue any contractual rights whatsoever in more than one Washington public retirement system as a consequence of employment by a consolidated employer.

(2) No person who makes a written election permitted by RCW 41.04.410, 41.04.415, or 41.04.420 may receive a retirement allowance from such retirement system under any circumstances while employed or reemployed by the consolidated employer.

(3) No person may accrue any benefits or rights under any Washington public retirement system as a result of RCW 41.04.410, 41.04.415, or 41.04.420 except such rights of continuing membership that are specifically and explicitly granted by RCW 41.04.410, 41.04.415, or 41.04.420.

(4) Nothing in RCW 41.04.400 through 41.04.425 is intended to constitute an amendment or waiver of any law or rule of any Washington public retirement system, including but not limited to those governing eligibility for service credit, benefits, or membership, except to broaden the class of legal entities that are deemed to be participating employers in the retirement systems in the specific circumstances stated in RCW 41.04.410, 41.04.415, and 41.04.420. [1984 c 184 § 27.]

Severability—1984 c 184: See note following RCW 41.50.150.

41.04.430 Consolidation of local governmental unit and first class city retirement system—Compliance with laws and rules—Application of sections. (1) Consolidated employers that employ persons governed by RCW 41.04.410, 41.04.415, or 41.04.420 shall comply with all laws and rules governing the retirement system in which the persons participate as members, including but not limited to the obligations to make employer contributions, to deduct and transmit employee contributions, and to submit required reports.

(2) RCW 41.04.410, 41.04.415, 41.04.420, and 41.04.425 govern any consolidation occurring on or after December 31, 1981. [1984 c 184 § 28.]

Severability—1984 c 184: See note following RCW 41.50.150.

41.04.440 Members' retirement contributions—Pick up by employer—Purpose—Benefits not contractual right. (1) The sole purpose of RCW 41.04.445 and 41.04.450 is to allow the members of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, and 43.43 RCW to enjoy the tax deferral benefits allowed under 26 U.S.C. 414(h). Chapter 227, Laws of 1984 does not alter in any manner the provisions of RCW 41.26.450 and 41.40.650 which require that the member contribution rates shall be set so as to provide fifty percent of the cost of the respective retirement plans.

(2) Should the legislature revoke any benefit allowed under 26 U.S.C. 414(h), no affected employee shall be entitled thereafter to receive such benefit as a matter of contractual right. [1995 c 239 § 322; 1984 c 227 § 1.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Effective date—1984 c 227: "This act shall take effect on September 1, 1984." [1984 c 227 § 4.]

Conflict with federal requirements—1984 c 227: "If any part of this act is found to be in conflict with federal requirements, the conflicting part of the act is hereby declared to be inoperative solely to the extent of the conflict and such finding or determination shall not affect the operation of the remainder of the act in its application: PROVIDED, That the employee proportional contributions required under RCW 41.26.450, 41.32.775 and 41.40.650 may not be altered in any manner. The rules under this act shall meet federal requirements." [1984 c 227 § 6.]

Severability—1984 c 227: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected: PROVIDED, That the employee proportional contributions required under RCW 41.26.450, 41.32.775 and 41.40.650 may not be altered in any manner." [1984 c 227 § 7.]

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.04.445 Members' retirement contributions—Pick up by employer—Implementation. (1) This section applies to all members who are:

(a) Judges under the retirement system established under chapter 2.10, 2.12, or 2.14 RCW;

(b) Employees of the state under the retirement system established by chapter 41.32, 41.40, or 43.43 RCW;

(c) Employees of school districts under the retirement system established by chapter 41.32 or 41.40 RCW, except for substitute teachers as defined by RCW 41.32.010;

(d) Employees of educational service districts under the retirement system established by chapter 41.32 or 41.40 RCW; or

(e) Employees of community college districts under the retirement system established by chapter 41.32 or 41.40 RCW.

(2) Only for compensation earned after the effective date of the implementation of this section and as provided by section 414(h) of the federal internal revenue code, the employer of all the members specified in subsection (1) of this section shall pick up only those member contributions as required under:

(a) RCW 2.10.090(1);

(b) RCW 2.12.060;

(c) RCW 2.14.090;

(d) RCW 41.32.263;

(e) RCW 41.32.350;

(f) RCW 41.40.330 (1) and (3);

(g) RCW 41.40.650;

(h) RCW 41.34.070;

(i) RCW 43.43.300; and

(j) RCW 41.34.040.

(3) Only for the purposes of federal income taxation, the gross income of the member shall be reduced by the amount of the contribution to the respective retirement system picked up by the employer.

(4) All member contributions to the respective retirement system picked up by the employer as provided by this section, plus the accrued interest earned thereon, shall be paid to the member upon the withdrawal of funds or lump-sum payment of accumulated contributions as provided under the provisions of the retirement systems.

(5) At least forty-five days prior to implementing this section, the employer shall provide:

(a) A complete explanation of the effects of this section to all members; and

(b) Notification of such implementation to the director of the department of retirement systems. [1995 c 239 § 323;

1992 c 212 § 15; 1990 c 274 § 6; 1988 c 109 § 24; 1985 c 13 § 2; 1984 c 227 § 2.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Findings—Effective date—Construction—1990 c 274: See notes following RCW 41.32.010.

Effective date—1988 c 109: See note following RCW 2.10.030.

Purpose—Application—1985 c 13: "The sole purpose of this 1985 act is to clarify and more explicitly state the intent of the legislature in enacting chapter 227, Laws of 1984. This 1985 act makes no substantive changes in the meaning or impact of that chapter and the provisions of this 1985 act shall be deemed to have retrospective application to September 1, 1984." [1985 c 13 § 1.]

Retrospective application—1985 c 13: "This act shall have retrospective application to September 1, 1984." [1985 c 13 § 8.]

Effective date—Conflict with federal requirements—Severability—1984 c 227: See notes following RCW 41.04.440.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.04.450 Members' retirement contributions—Pick up by employer—Optional implementation and withdrawal. (1) Employers of those members under chapters 41.26, 41.40, and 41.34 RCW who are not specified in RCW 41.04.445 may choose to implement the employer pick up of all member contributions without exception under RCW 41.26.080(1), 41.26.450, 41.40.330(1), 41.40.650, and chapter 41.34 RCW. If the employer does so choose, the employer and members shall be subject to the conditions and limitations of RCW 41.04.445 (3), (4), and (5) and RCW 41.04.455.

(2) An employer exercising the option under this section may later choose to withdraw from and/or reestablish the employer pick up of member contributions only once in a calendar year following forty-five days prior notice to the director of the department of retirement systems. [1995 c 239 § 324; 1985 c 13 § 3; 1984 c 227 § 3.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Purpose—Application—Retrospective application—1985 c 13: See notes following RCW 41.04.445.

Effective date—Conflict with federal requirements—Severability—1984 c 227: See notes following RCW 41.04.440.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.04.455 Members' retirement contributions—Pick up by employer—Conditions. The following two conditions apply to the employer pick up of member contributions authorized under RCW 41.04.445 (section 2, chapter 227, Laws of 1984):

(1) The retirement contributions, although designated as member contributions, will be picked up by the employer, as provided in RCW 41.04.445 (section 2, chapter 227, Laws of 1984) in lieu of contributions by the member.

(2) No retirement system member will have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement system. [1985 c 13 § 4.]

Purpose—Application—Retrospective application—1985 c 13: See notes following RCW 41.04.445.

41.04.460 Financial planning for retirement—Department of personnel to provide information to retirement system members. The department of personnel, through the combined benefits communication project, shall prepare information encouraging individual financial planning for retirement and describing the potential consequences of early retirement, including members' assumption of health insurance costs, members' receipt of reduced retirement benefits, and the increased period of time before members will become eligible for cost-of-living adjustments. The department of retirement systems shall distribute the information to members who are eligible to retire under the provisions of chapter 234, Laws of 1992. Prior to retiring, such members who elect to retire shall sign a statement acknowledging their receipt and understanding of the information. [1992 c 234 § 10.]

41.04.500 Disability leave supplement for law enforcement officers and fire fighters. County, municipal, and political subdivision employers of full-time, commissioned law enforcement officers and full-time, paid fire fighters shall provide a disability leave supplement to such employees who qualify for payments under RCW 51.32.090 due to a temporary total disability. [1985 c 462 § 1.]

Program and fiscal review—1985 c 462: "The legislative budget committee shall cause to be conducted a program and fiscal review of the program established by RCW 41.04.500 through 41.04.530. The review shall be conducted on or before June 30, 1987. In conducting the review, the legislative budget committee shall consider, but not be limited to, the following issues:

- (1) The fiscal impact of the program on local governmental entities;
- (2) The number of claims made and allowed, and duration of claims allowed, for disability leave supplement pursuant to RCW 41.04.500 through 41.04.530;
- (3) The number of claimants for disability leave supplement under RCW 41.04.500 through 41.04.530 who have not returned to active service within six months from the injury or illness causing disability;
- (4) The number of local governmental entities who have entered into agreements with law enforcement officers and fire fighters which establish benefits which are greater than those prescribed by RCW 41.04.500 through 41.04.530, and the number of employees covered by such agreements." [1985 c 462 § 10.]

41.04.505 Disability leave supplement for law enforcement officers and fire fighters—Amount. The disability leave supplement shall be an amount which, when added to the amount payable under RCW 51.32.090 will result in the employee receiving the same pay he or she would have received for full time active service, taking into account that industrial insurance payments are not subject to federal income or social security taxes. [1985 c 462 § 2.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

41.04.510 Disability leave supplement for law enforcement officers and fire fighters—Payment. The disability leave supplement shall be paid as follows:

(1) The disability leave supplement shall begin on the sixth calendar day from the date of the injury or illness which entitles the employee to benefits under RCW 51.32.090. For the purposes of this section, the day of injury shall constitute the first calendar day.

(2) One-half of the amount of the supplement as defined in RCW 41.04.505 shall be charged against the accrued paid

leave of the employee. In computing such charge, the employer shall convert accumulated days, or other time units as the case may be, to a money equivalent based on the base monthly salary of the employee at the time of the injury or illness. "Base monthly salary" for the purposes of this section means the amount earned by the employee before any voluntary or involuntary payroll deductions, and not including overtime pay.

(3) One-half of the amount of the supplement as defined in RCW 41.04.505 shall be paid by the employer.

If an employee has no accrued paid leave at the time of an injury or illness which entitles him to benefits under RCW 51.32.090, or if accrued paid leave is exhausted during the period of disability, the employee shall receive only that portion of the disability leave supplement prescribed by subsection (3) of this section. [1989 c 21 § 1; 1985 c 462 § 3.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

41.04.515 Disability leave supplement for law enforcement officers and fire fighters—Time limitation. The disability leave supplement provided by RCW 41.04.500 through 41.04.530 shall continue as long as the employee is receiving benefits under RCW 51.32.090, up to a maximum of six months from the date of the injury or illness. [1985 c 462 § 4.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

41.04.520 Disability leave supplement for law enforcement officers and fire fighters—Employee to perform light duty tasks. While an employee is receiving disability leave supplement, the employee, subject to the approval of his or her treating physician, shall perform light duty tasks in the employee's previous department as the employer may require, with no reduction in the disability leave supplement. [1985 c 462 § 5.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

41.04.525 Disability leave supplement for law enforcement officers and fire fighters—Continuation of employee insurance benefits. The disability leave supplement provided in RCW 41.04.510(3) shall not be considered salary or wages for personal services: PROVIDED, That the employee shall also continue to receive all insurance benefits provided in whole or in part by the employer, notwithstanding the fact that some portion of the cost of those benefits is paid by the employee: PROVIDED FURTHER, That the portion of the cost not paid by the employer continues to be paid by the employee. [1989 c 11 § 10; 1985 c 462 § 7.]

Severability—1989 c 11: See note following RCW 9A.56.220.

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

41.04.530 Disability leave supplement for law enforcement officers and fire fighters—Exhaustion of accrued sick leave. If an employee's accrued sick leave is exhausted during the period of disability, the employee may, for a period of two months following return to active

service, draw prospectively upon sick leave the employee is expected to accumulate up to a maximum of three days or three work shifts, whichever is greater. Any sick leave drawn prospectively as provided in this section shall be charged against earned sick leave until such time as the employee has accrued the amount needed to restore the amount used. In the event an employee terminates active service without having restored the sick leave drawn prospectively, the employer shall deduct the actual cost of any payments made under this section from compensation or other money payable to the employee, or otherwise recover such payments. [1985 c 462 § 8.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

41.04.535 Disability leave supplement for law enforcement officers and fire fighters—Greater benefits not precluded. Nothing in RCW 41.04.500 through 41.04.530 shall preclude employers of law enforcement officers and fire fighters and such employees from entering into agreements which provide benefits to employees which are greater than those prescribed by RCW 41.04.500 through 41.04.530, nor is there any intent by the legislature to alter or in any way affect any such agreements which may now exist. [1985 c 462 § 11.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

41.04.540 Disability leave supplement for law enforcement officers and fire fighters—Supplement not required in smaller cities, towns, and counties. Cities and towns with a population of less than twenty-five hundred and counties with a population of less than ten thousand shall not be required to provide a disability leave supplement to their commissioned law enforcement officers and full-time paid fire fighters who qualify for payments pursuant to RCW 51.32.090, due to temporary total disability. [1985 c 462 § 12.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

41.04.545 Disability leave supplement for law enforcement officers and fire fighters—Vested right not created. *This act neither grants employees a vested right to receive a disability leave supplement nor creates a contractual obligation on behalf of the state or its political subdivisions to provide a disability leave supplement. [1985 c 462 § 13.]

***Reviser's note:** "This act" [1985 c 462] consists of RCW 41.04.500 through 41.04.550 and the 1985 c 462 amendment to RCW 51.32.090.

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

41.04.550 Disability leave supplement for law enforcement officers and fire fighters—Not subject to interest arbitration. Disability leave supplement payments for employees covered by *this act shall not be subject to interest arbitration as defined in RCW 41.56.430 through 41.56.905. [1985 c 462 § 14.]

***Reviser's note:** "This act," see note following RCW 41.04.545.

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

(1996 Ed.)

41.04.580 Dismissal of municipal employees during World War II—Redress authorized. A municipality may by ordinance or resolution provide for redress to any municipal employee or the surviving spouse of a municipal employee who, due to the promulgation of federal Executive Order 9066, was dismissed, terminated from a temporary position, or rejected during the person's probationary period, or who voluntarily resigned in lieu of dismissal from municipal employment, and who incurred salary and other employment related losses as a result thereof during the years 1942 through 1947. [1986 c 225 § 2.]

Legislative findings—1986 c 225: "The dismissal or termination of various municipal employees during World War II resulted from the promulgation of federal Executive Order 9066 which was based mainly on fear and suspicion rather than on factual justification. It is fair and just that redress be made to those employees who were terminated from municipal employment during the wartime years because of these circumstances. The legislature therefore finds that equity and fairness will be served by authorizing municipalities to accept claims for salary and other employment related losses suffered by the municipal employees directly affected and to pay the claims subject to the provisions of this chapter." [1986 c 225 § 1.]

Severability—1986 c 225: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 225 § 7.]

Reparations to state employees terminated during World War II: Chapter 41.68 RCW.

41.04.585 Dismissal of municipal employees during World War II—Redress not mandatory. RCW 41.04.580 through 41.04.595 do not require a municipality to adopt an ordinance or resolution providing for redress of salary and other employment related losses. [1986 c 225 § 3.]

Legislative findings—Severability—1986 c 225: See notes following RCW 41.04.580.

41.04.590 Dismissal of municipal employees during World War II—Redress—Limitations. Under the system of redress authorized under RCW 41.04.580 through 41.04.595:

(1) A municipality may determine in its sole discretion the monetary amount of redress for salary and other employment related losses, which may not exceed five thousand dollars for any undivided claim.

(2) If a municipality adopts an ordinance or resolution providing for redress of salary and other employment related losses, it has no obligation to notify directly any person of possible eligibility for redress of salary and other employment related losses. [1986 c 225 § 4.]

Legislative findings—Severability—1986 c 225: See notes following RCW 41.04.580.

41.04.595 Dismissal of municipal employees during World War II—Definitions. For the purposes of this chapter, "municipality" means a city, town, county, special purpose district, municipal corporation, quasi-municipal corporation, or political subdivision of the state of Washington. For the purposes of this chapter, a "municipal employee" means an employee of a municipality. [1986 c 225 § 5.]

Legislative findings—Severability—1986 c 225: See notes following RCW 41.04.580.

41.04.600 Dependent care—Salary reduction plan—

Purpose. (1) The state of Washington may enter into salary reduction agreements with employees pursuant to the Internal Revenue Code, 26 U.S.C. Sec. 125 for the purpose of making it possible for employees to select on a "before-tax basis" certain taxable and nontaxable benefits pursuant to 26 U.S.C. Sec. 125. The purpose of the salary reduction plan established in this chapter is to attract and retain individuals in governmental service by permitting them to enter into agreements with the state to provide for benefits pursuant to 26 U.S.C. Sec. 129.

(2) Nothing in the salary reduction plan constitutes an employment agreement between the participant and the state, and nothing contained in the participant's salary reduction agreement, the plan, or RCW 41.04.605 through 41.04.645 gives a participant any right to be retained in state employment. [1987 c 475 § 1.]

Severability—1987 c 475: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 475 § 13.]

41.04.605 Dependent care—Salary reduction plan—

Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.04.610 through 41.04.635.

(1) "Salary reduction plan" means a plan whereby state employees and officers may agree to a reduction of salary which reduction will allow the employee to participate in benefits offered pursuant to 26 U.S.C. Sec. 125.

(2) "Committee" means the committee for deferred compensation.

(3) "Salary" means a state employee's or officer's monthly salary or wages.

(4) "Dependent care program" means the program for the care of dependents pursuant to 26 U.S.C. Sec. 129 financed from funds deposited in the salary reduction account in the state treasury for the purpose of holding and disbursing the funds deposited under the auspices of the salary reduction plan.

(5) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the salary reduction plan.

(6) "Plan year" means the time period established by the committee. [1987 c 475 § 2.]

Severability—1987 c 475: See note following RCW 41.04.600.

41.04.610 Dependent care—Salary reduction plan—

Powers and duties of committee. The committee shall have responsibility for the formulation and adoption of a plan and policies and procedures designed to guide, direct, and administer the salary reduction plan. [1987 c 475 § 3.]

Severability—1987 c 475: See note following RCW 41.04.600.

41.04.615 Dependent care—Salary reduction plan document—Funds, fees, and appropriations—Dependent care administrative account created—Presumptions. (1)

A plan document describing the salary reduction plan shall be adopted and administered by the committee. The committee shall represent the state in all matters concerning the administration of the plan. The state through the

committee, may engage the services of a professional consultant or administrator on a contractual basis to serve as an agent to assist the committee in carrying out the purposes of RCW 41.04.600 through 41.04.645.

(2) The committee shall formulate and establish policies and procedures for the administration of the salary reduction plan that are consistent with existing state law, the internal revenue code, and the regulations adopted by the internal revenue service as they may apply to the benefits offered to participants under the plan.

(3) The funds held by the state for the dependent care program shall be deposited in the salary reduction account in the state treasury. Any interest in excess of the amount used to defray the cost of administering the salary reduction plan shall become a part of the general fund. Unclaimed moneys remaining in the salary reduction account at the end of a plan year after all timely submitted claims for that plan year have been processed shall become a part of the dependent care administrative account. The committee may assess each participant a fee for administering the salary reduction plan. In addition to moneys for initial costs, moneys may be appropriated from the general fund or dependent care administrative account for any expense relating to the administration of the salary reduction plan.

(4) The dependent care administrative account is created in the state treasury. The committee may periodically bill agencies for employer savings experienced as the result of dependent care program participation by employees. All receipts from the following shall be deposited in the account: (a) Charges to agencies for all or a portion of the estimated savings due to reductions in employer contributions under the social security act; (b) charges for other similar savings; (c) unclaimed moneys in the salary reduction account at the end of the plan year after all timely submitted claims for that plan year have been processed; and (d) fees charged to participants. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for any expense related to the administration of the salary reduction plan.

(5) Every action taken by the committee in administering RCW 41.04.600 through 41.04.645 shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon it. The committee shall be presumed to have exercised reasonable care, diligence, and prudence and to have acted impartially as to all persons interested unless the contrary be proved by clear and convincing affirmative evidence. [1993 c 34 § 1; 1987 c 475 § 4.]

Effective date—1993 c 34: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 34 § 3.]

Severability—1987 c 475: See note following RCW 41.04.600.

41.04.620 Dependent care—Salary reduction plan—Participation by eligible persons—Enrollment, termination, or modification. (1)

Elected officials and all permanent officers and employees of the state are eligible to participate in the salary reduction plan and reduce their salary by agreement with the committee. The committee may adopt rules to permit participation in the plan by temporary employees of the state.

(2) Persons eligible under subsection (1) of this section may enter into salary reduction agreements with the state.

(3)(a) In the initial year of the salary reduction plan, an eligible person may become a participant after the adoption of the plan and before its effective date by agreeing to have a portion of his or her gross salary reduced and deposited into a dependent care account to be used for reimbursement of expenses covered by the plan.

(b) After the initial year of the salary reduction plan, an eligible person may become a participant for a full plan year, with annual benefit selection for each new plan year made before the beginning of the plan year, as determined by the committee, or upon becoming eligible.

(c) Once an eligible person elects to participate and determines the amount his or her salary shall be reduced and the benefit for which the funds are to be used during the plan year, the agreement shall be irrevocable and may not be amended during the plan year except as provided in (d) of this subsection. Prior to making an election to participate in the salary reduction plan, the eligible person shall be informed in writing of all the benefits and reductions that will occur as a result of such election.

(d) The committee shall provide in the salary reduction plan that a participant may enroll, terminate, or change his or her election after the plan year has begun if there is a significant change in a participant's status, as provided by 26 U.S.C. Sec. 125 and the regulations adopted under that section.

(4) The committee shall establish as part of the salary reduction plan the procedures for and effect of withdrawal from the plan by reason of retirement, death, leave of absence, or termination of employment. To the extent possible under federal law, the committee shall protect participants from forfeiture of rights under the plan.

(5) Any salary reduced under the salary reduction plan shall continue to be included as regular compensation for the purpose of computing the state retirement and pension benefits earned by the employee. [1987 c 475 § 5.]

Severability—1987 c 475: See note following RCW 41.04.600.

41.04.625 Dependent care—Salary reduction account. The salary reduction account is established in the state treasury. All fees paid to reimburse participants or service providers pursuant to the provisions of RCW 41.04.600 through 41.04.645 shall be paid from the salary reduction account. [1987 c 475 § 6.]

Severability—1987 c 475: See note following RCW 41.04.600.

41.04.630 Dependent care—Salary reduction plan—Records and reports—Fiduciary duty. (1) The committee shall keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of a salary reduction plan created under RCW 41.04.615.

(2) The committee shall file an annual report of the financial condition, transactions, and affairs of the salary reduction plan under the committee's jurisdiction. A copy of the annual report shall be filed with the speaker of the house of representatives, the president of the senate, the governor, and the state auditor.

(3) Members of the committee shall be deemed to stand in a fiduciary relationship to the employees participating in

the salary reduction plan and shall discharge their duties in good faith and with that diligence, care, and skill which ordinary prudent persons would exercise under similar circumstances in like positions. [1987 c 475 § 7.]

Severability—1987 c 475: See note following RCW 41.04.600.

41.04.635 Dependent care—Salary reduction plan—Termination or amendment of plan. (1) The state may terminate the salary reduction plan at the end of the plan year or upon notification of federal action affecting the status of the plan.

(2) The committee may amend the salary reduction plan at any time if the amendment does not affect the rights of the participants to receive eligible reimbursement from the participants' dependent care accounts. [1987 c 475 § 8.]

Severability—1987 c 475: See note following RCW 41.04.600.

41.04.640 Dependent care—Salary reduction plan—Adoption of rules. The committee shall adopt rules to implement RCW 41.04.610 through 41.04.635. [1987 c 475 § 9.]

Severability—1987 c 475: See note following RCW 41.04.600.

41.04.645 Dependent care—Salary reduction plan—Construction of statutes. RCW 41.04.600 through 41.04.640 shall be construed to effectuate the purposes of 26 U.S.C. Sec. 125. [1987 c 475 § 10.]

Severability—1987 c 475: See note following RCW 41.04.600.

41.04.650 Leave sharing program—Intent. The legislature finds that: (1) State employees historically have joined together to help their fellow employees who suffer from, or have relatives or household members suffering from, an extraordinary or severe illness, injury, impairment, or physical or mental condition which prevents the individual from working and causes great economic and emotional distress to the employee and his or her family; and (2) these circumstances may be exacerbated because the affected employees use all their accrued sick leave and annual leave and are forced to take leave without pay or terminate their employment. Therefore, the legislature intends to provide for the establishment of a leave sharing program. [1989 c 93 § 1.]

Severability—1989 c 93: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 93 § 8.]

41.04.655 Leave sharing program—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.04.650 through 41.04.670, 28A.400.380, and section 7, chapter 93, Laws of 1989.

(1) "Employee" means any employee of the state, including employees of school districts and educational service districts, who are entitled to accrue sick leave or annual leave and for whom accurate leave records are maintained.

(2) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the

legislature, institutions of higher education, school districts, and educational service districts.

(3) "Program" means the leave sharing program established in RCW 41.04.660. [1990 c 33 § 569; 1989 c 93 § 2.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1989 c 93: See note following RCW 41.04.650.

41.04.660 Leave sharing program—Created. The Washington state leave sharing program is hereby created. The purpose of the program is to permit state employees, at no significantly increased cost to the state of providing annual leave, sick leave, or personal holidays, to come to the aid of a fellow state employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment. [1996 c 176 § 2; 1990 c 23 § 1; 1989 c 93 § 3.]

Severability—1989 c 93: See note following RCW 41.04.650.

41.04.665 Leave sharing program—When employee may receive leave—When employee may transfer accrued leave—Transfer of leave between employees of different agencies. (1) An agency head may permit an employee to receive leave under this section if:

(a) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature and which has caused, or is likely to cause, the employee to:

- (i) Go on leave without pay status; or
- (ii) Terminate state employment;

(b) The employee's absence and the use of shared leave are justified;

(c) The employee has depleted or will shortly deplete his or her annual leave and sick leave reserves;

(d) The employee has abided by agency rules regarding sick leave use; and

(e) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than two hundred sixty-one days of leave.

(3) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (3)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of four hundred eighty hours of sick leave after the transfer. In no event may such an employee request a transfer of more than six days of sick leave during any twelve-month period.

(c) An employee may transfer all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, under the provisions of this section relating to the transfer of leave.

(4) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than sixty days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer of more than six days of sick leave during any twelve month period, or request a transfer that would result in his or her sick leave account going below sixty days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

(5) Transfers of leave made by an agency head under subsections (3) and (4) of this section shall not exceed the requested amount.

(6) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency. However, leave transferred to or from employees of school districts or educational service districts is limited to transfers to or from employees within the same employing district.

(7) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of

financial management shall determine the appropriate transfer or adjustment.

(8) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(9) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred. To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

(10) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used. [1996 c 176 § 1; 1990 c 23 § 2; 1989 c 93 § 4.]

Severability—1989 c 93: See note following RCW 41.04.650.

41.04.670 Leave sharing program—Adoption of rules. The Washington personnel resources board and other personnel authorities shall each adopt rules applicable to employees under their respective jurisdictions: (1) Establishing appropriate parameters for the program which are consistent with the provisions of RCW 41.04.650 through 41.04.665; (2) providing for equivalent treatment of employees between their respective jurisdictions and allowing transfers of leave in accordance with RCW 41.04.665(5); (3) establishing procedures to ensure that the program does not significantly increase the cost of providing leave; and (4) providing for the administration of the program and providing for maintenance and collection of sufficient information on the program to allow a thorough legislative review. [1993 c 281 § 18; 1990 c 23 § 3; 1989 c 93 § 5.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Temporary policies—1989 c 93: "School districts, the department of personnel, the higher education personnel board, and other personnel authorities may adopt temporary emergency policies and procedures to implement the program on April 20, 1989, so that donated leave may be used in lieu of leave without pay taken after April 20, 1989." [1989 c 93 § 7.]

Severability—1989 c 93: See note following RCW 41.04.650.

41.04.700 Employee assistance program—Intent. The legislature finds that:

(1) Assisting employees in resolving personal problems that impair their performance will result in a more productive work force, better morale, reduced stress, reduced use of medical benefits, reduced absenteeism, lower turnover rates, and fewer accidents;

(2) A substantial number of employee problems can be identified and the employees referred to treatment by an employee assistance program;

(3) The state, as an employer, desires to foster a working environment that promotes safety and productivity as well as the health and well-being of its employees.

Therefore, it is the purpose of RCW 41.04.710 through 41.04.730 to assist state employees by establishing a state employee assistance program. [1990 c 60 § 301.]

Severability—Subheadings not law—1990 c 60: See notes following RCW 41.06.070.

41.04.710 Employee assistance program—Created.

The employee assistance program is hereby created to provide support and services to state employees who have personal problems that impair their performance in the work place. The goal of the program is to help promote a safe, productive, and healthy state work force by assisting state employees and their supervisors to identify and deal with such personal problems. However, nothing in this chapter relieves employees from the responsibility of performing their jobs in an acceptable manner. [1990 c 60 § 302.]

Severability—Subheadings not law—1990 c 60: See notes following RCW 41.06.070.

41.04.720 Employee assistance program—*Director of human resources—Duties. The *director of human resources shall:

(1) Administer the state employee assistance program to assist employees who have personal problems that adversely affect their job performance or have the potential of doing so;

(2) Develop policies, procedures, and activities for the program;

(3) Encourage and promote the voluntary use of the employee assistance program by increasing employee awareness and disseminating educational materials;

(4) Provide technical assistance and training to agencies on how to use the employee assistance program;

(5) Assist and encourage supervisors to identify and refer employees with problems that impair their performance by incorporating proper use of the program in management training, management performance criteria, ongoing communication with agencies, and other appropriate means;

(6) Offer substance abuse prevention and awareness activities to be provided through the employee assistance program and the state employee wellness program;

(7) Monitor and evaluate the effectiveness of the program, including the collection, analysis, and publication of relevant statistical information; and

(8) Consult with state agencies, institutions of higher education, and employee organizations in carrying out the purposes of RCW 41.04.700 through 41.04.730. [1990 c 60 § 303.]

***Reviser's note:** The reference to the "director of human services" is erroneous. In the final version of House Bill No. 2567, all other references were changed to the "director of personnel."

Severability—Subheadings not law—1990 c 60: See notes following RCW 41.06.070.

41.04.730 Employee assistance program—Information confidential—Exceptions. Individual employees' participation in the employee assistance program and all individually identifiable information gathered in the process of conducting the program shall be held in strict confidence; except that agency management may be provided with the following information about employees referred by that agency management due to poor job performance:

(1) Whether or not the referred job employee made an appointment;

(2) The date and time the employee arrived and departed;

(3) Whether the employee agreed to follow the advice of counselors; and

(4) Whether further appointments were scheduled.

Participation or nonparticipation by any employee in the employee assistance program shall not be a factor in any decision affecting an employee's job security, promotional opportunities, corrective or disciplinary action, or other employment rights. [1990 c 60 § 304.]

Severability—Subheadings not law—1990 c 60: See notes following RCW 41.06.070.

41.04.800 Chapter not applicable to officers and employees of state convention and trade center. The provisions of this chapter shall not be applicable to the officers and employees of the nonprofit corporation formed under chapter 67.40 RCW. [1984 c 210 § 5.]

Savings—Severability—1984 c 210: See notes following RCW 67.40.020.

Chapter 41.05

STATE HEALTH CARE AUTHORITY

(Formerly: State employees' insurance and health care)

Sections

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41.05.360 Benefits contribution plan—Construction.

41.05.900 Short title.

41.05.901 Implementation—Effective dates—1988 c 107.

Hospitalization and health care for county, municipal and other political subdivision employees: RCW 41.04.180.

Monitoring enrollee level in basic health plan and medicaid caseload of children—Funding levels adjustment: RCW 43.41.260.

Prepaid chiropractic, pilot projects: RCW 18.25.200.

Requirement to seek federal waivers and state law changes to medicaid assistance program: RCW 43.20A.860.

41.05.006 Purpose. (1) The legislature recognizes that (a) the state is a major purchaser of health care services, (b) the increasing costs of such health care services are posing and will continue to pose a great financial burden on the state, (c) it is the state's policy, consistent with the best interests of the state, to provide comprehensive health care as an employer, to state employees and officials and their dependents and to those who are dependent on the state for necessary medical care, and (d) it is imperative that the state begin to develop effective and efficient health care delivery systems and strategies for procuring health care services in order for the state to continue to purchase the most comprehensive health care possible.

(2) It is therefore the purpose of this chapter to establish the Washington state health care authority whose purpose shall be to (a) develop health care benefit programs, funded to the fullest extent possible by the employer, that provide comprehensive health care for eligible state employees, officials, and their dependents, and (b) study all state-purchased health care, alternative health care delivery systems, and strategies for the procurement of health care services and make recommendations aimed at minimizing the financial burden which health care poses on the state, its employees, and its charges, while at the same time allowing the state to provide the most comprehensive health care possible. [1988 c 107 § 2.]

41.05.011 Definitions. Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Administrator" means the administrator of the authority.

(2) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(3) "Authority" means the Washington state health care authority.

(4) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(5) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage

provided and the amount of employee contributions from among a range of choices offered by the authority.

(6) "Employee" includes all full-time and career seasonal employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; and includes any or all part-time and temporary employees under the terms and conditions established under this chapter by the authority; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature or of the legislative authority of any county, city, or town who are elected to office after February 20, 1970. "Employee" also includes: (a) Employees of a county, municipality, or other political subdivision of the state if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205; (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; and (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350.

(7) "Board" means the public employees' benefits board established under RCW 41.05.055.

(8) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district or educational service district on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32 or 41.40 RCW;

(c) Persons who separate from employment with a school district or educational service district due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32 or 41.40 RCW.

(9) "Benefits contribution plan" means a premium only contribution plan, a medical flexible spending arrangement, or a cafeteria plan whereby state and public employees may agree to a contribution to benefit costs which will allow the employee to participate in benefits offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(10) "Salary" means a state employee's monthly salary or wages.

(11) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the benefits contribution plan.

(12) "Plan year" means the time period established by the authority.

(13) "Separated employees" means persons who separate from employment with an employer as defined in RCW 41.32.010(11) on or after July 1, 1996, and who are at least

age fifty-five and have at least ten years of service under the teachers' retirement system plan III as defined in RCW 41.32.010(40). [1996 c 39 § 21; 1995 1st sp.s. c 6 § 2; 1994 c 153 § 2. Prior: 1993 c 492 § 214; 1993 c 386 § 5; 1990 c 222 § 2; 1988 c 107 § 3.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Intent—1994 c 153: "It is the intent of the legislature to increase access to health insurance for retired and disabled state and school district employees and to increase equity between state and school employees and between state and school retirees." [1994 c 153 § 1.]

Effective dates—1994 c 153: "This act shall take effect January 1, 1995, except section 15 of this act, which takes effect October 1, 1995." [1994 c 153 § 16.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.05.021 State health care authority—Administrator—Cost control and delivery strategies—Managed competition. (1) The Washington state health care authority is created within the executive branch. The authority shall have an administrator appointed by the governor, with the consent of the senate. The administrator shall serve at the pleasure of the governor. The administrator may employ up to seven staff members, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The administrator may delegate any power or duty vested in him or her by this chapter, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW. The primary duties of the authority shall be to: Administer state employees' insurance benefits and retired or disabled school employees' insurance benefits; administer the basic health plan pursuant to chapter 70.47 RCW; study state-purchased health care programs in order to maximize cost containment in these programs while ensuring access to quality health care; and implement state initiatives, joint purchasing strategies, and techniques for efficient administration that have potential application to all state-purchased health services. The authority's duties include, but are not limited to, the following:

(a) To administer health care benefit programs for employees and retired or disabled school employees as specifically authorized in RCW 41.05.065 and in accordance with the methods described in RCW 41.05.075, 41.05.140, and other provisions of this chapter;

(b) To analyze state-purchased health care programs and to explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

(i) Creation of economic incentives for the persons for whom the state purchases health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

(ii) Utilization of provider arrangements that encourage cost containment, including but not limited to prepaid

delivery systems, utilization review, and prospective payment methods, and that ensure access to quality care, including assuring reasonable access to local providers, especially for employees residing in rural areas;

(iii) Coordination of state agency efforts to purchase drugs effectively as provided in RCW 70.14.050;

(iv) Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis; and

(v) Development of data systems to obtain utilization data from state-purchased health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs, utilizing the information obtained pursuant to RCW 41.05.031;

(c) To analyze areas of public and private health care interaction;

(d) To provide information and technical and administrative assistance to the board;

(e) To review and approve or deny applications from counties, municipalities, and other political subdivisions of the state to provide state-sponsored insurance or self-insurance programs to their employees in accordance with the provisions of RCW 41.04.205, setting the premium contribution for approved groups as outlined in RCW 41.05.050;

(f) To appoint a health care policy technical advisory committee as required by RCW 41.05.150;

(g) To establish billing procedures and collect funds from school districts and educational service districts under *RCW 28A.400.400 in a way that minimizes the administrative burden on districts; and

(h) To promulgate and adopt rules consistent with this chapter as described in RCW 41.05.160.

(2) On and after January 1, 1996, the public employees' benefits board may implement strategies to promote managed competition among employee health benefit plans. Strategies may include but are not limited to:

(a) Standardizing the benefit package;

(b) Soliciting competitive bids for the benefit package;

(c) Limiting the state's contribution to a percent of the lowest priced qualified plan within a geographical area;

(d) Monitoring the impact of the approach under this subsection with regards to: Efficiencies in health service delivery, cost shifts to subscribers, access to and choice of managed care plans state-wide, and quality of health services. The health care authority shall also advise on the value of administering a benchmark employer-managed plan to promote competition among managed care plans. The health care authority shall report its findings and recommendations to the legislature by January 1, 1997.

(3) The health care authority shall, no later than July 1, 1996, submit to the appropriate committees of the legislature, proposed methods whereby, through the use of a voucher-type process, state employees may enroll with any health carrier to receive employee benefits. Such methods shall include the employee option of participating in a health care savings account, as set forth in Title 48 RCW.

(4) The Washington health care policy board shall study the necessity and desirability of the health care authority continuing as a self-insuring entity and make recommendations to the appropriate committees of the legislature by December 1, 1996. [1995 1st sp.s. c 6 § 7; 1994 c 309 § 1.

Prior: 1993 c 492 § 215; 1993 c 386 § 6; 1990 c 222 § 3; 1988 c 107 § 4.]

*Reviser's note: RCW 28A.400.400 was repealed by 1994 c 153 § 15, effective October 1, 1995.

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 § § 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.05.022 State agent for purchasing health services—Single community-rated risk pool. (1) The health care authority is hereby designated as the single state agent for purchasing health services.

(2) On and after January 1, 1995, at least the following state-purchased health services programs shall be merged into a single, community-rated risk pool: Health benefits for groups of employees of school districts and educational service districts that voluntarily purchase health benefits as provided in RCW 41.05.011; health benefits for state employees; health benefits for eligible retired or disabled school employees not eligible for parts A and B of medicare; and health benefits for eligible state retirees not eligible for parts A and B of medicare.

(3) At a minimum, and regardless of other legislative enactments, the state health services purchasing agent shall:

(a) Require that a public agency that provides subsidies for a substantial portion of services now covered under the basic health plan use uniform eligibility processes, insofar as may be possible, and ensure that multiple eligibility determinations are not required;

(b) Require that a health care provider or a health care facility that receives funds from a public program provide care to state residents receiving a state subsidy who may wish to receive care from them, and that an insuring entity that receives funds from a public program accept enrollment from state residents receiving a state subsidy who may wish to enroll with them;

(c) Strive to integrate purchasing for all publicly sponsored health services in order to maximize the cost control potential and promote the most efficient methods of financing and coordinating services;

(d) Consult regularly with the governor, the legislature, and state agency directors whose operations are affected by the implementation of this section; and

(e) Ensure the control of benefit costs under managed competition by adopting rules to prevent employers from entering into an agreement with employees or employee organizations when the agreement would result in increased utilization in public employees' benefits board plans or reduce the expected savings of managed competition. [1995 1st sp.s. c 6 § 3; 1994 c 153 § 3; 1993 c 492 § 227.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Intent—Effective dates—1994 c 153: See notes following RCW 41.05.011.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.026 Contracts—Proprietary data, trade secrets, actuarial formulas, statistics, cost and utilization data—Exemption from public inspection—Executive sessions. (1) When soliciting proposals for the purpose of awarding contracts for goods or services, the administrator shall, upon written request by the bidder, exempt from public inspection and copying such proprietary data, trade secrets, or other information contained in the bidder's proposal that relate to the bidder's unique methods of conducting business or of determining prices or premium rates to be charged for services under terms of the proposal.

(2) Actuarial formulas, statistics, cost and utilization data, or other proprietary information submitted upon request of the administrator or board by a contracting insurer, health care service contractor, health maintenance organization, or vendor may be withheld at any time from public inspection when necessary to preserve trade secrets or prevent unfair competition.

(3) The board may hold an executive session during any regular or special meeting to discuss information submitted in accordance with subsection (1) or (2) of this section. [1991 c 79 § 1; 1990 c 222 § 6.]

41.05.031 Agencies to establish health care information systems. The following state agencies are directed to cooperate with the authority to establish appropriate health care information systems in their programs: The department of social and health services, the department of health, the department of labor and industries, the basic health plan, the department of veterans affairs, the department of corrections, and the superintendent of public instruction.

The authority, in conjunction with these agencies, shall determine:

- (1) Definitions of health care services;
- (2) Health care data elements common to all agencies;
- (3) Health care data elements unique to each agency; and
- (4) A mechanism for program and budget review of health care data. [1990 c 222 § 4; 1988 c 107 § 5.]

41.05.050 Contributions for employees and dependents. (1) Every department, division, or separate agency of state government, and such county, municipal, school district, educational service district, or other political subdivisions as are covered by this chapter, shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the authority. Contributions, paid by the county, the municipality, school district, educational service district, or other political subdivision for their employees, shall include an amount determined by the authority to pay such administrative expenses of the authority as are necessary to administer the plans for employees of those groups. Until October 1, 1995, contributions to be paid by school districts or educational service districts shall be adjusted by the authority to reflect the remittance provided under RCW 28A.400.400.

(2) The contributions of any department, division, or separate agency of the state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall be set by the authority, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(3) The authority shall transmit a recommendation for the amount of the employer contribution to the governor and the director of financial management for inclusion in the proposed budgets submitted to the legislature. [1995 1st sp.s. c 6 § 22; 1994 c 309 § 2; 1994 c 153 § 4. Prior: 1993 c 492 § 216; 1993 c 386 § 7; 1988 c 107 § 18; 1987 c 122 § 4; 1984 c 107 § 1; 1983 c 15 § 20; 1983 c 2 § 9; prior: 1982 1st ex.s. c 34 § 2; 1981 c 344 § 6; 1979 c 151 § 55; 1977 ex.s. c 136 § 4; 1975-'76 2nd ex.s. c 106 § 4; 1975 1st ex.s. c 38 § 2; 1973 1st ex.s. c 147 § 3; 1970 ex.s. c 39 § 5.]

Reviser's note: This section was amended by 1995 1st sp.s. c 6 § 22 without cognizance of its amendment by 1994 c 153 § 4. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Intent—Effective dates—1994 c 153: See notes following RCW 41.05.011.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective date—1993 c 386 §§ 3, 7, and 11: See note following RCW 41.04.205.

Intent—1993 c 386: See note following RCW 28A.400.391.

Severability—1983 c 15: See RCW 47.64.910.

Severability—1983 c 2: See note following RCW 18.71.030.

Severability—1981 c 344: See note following RCW 47.60.326.

Effective date—Conditions prerequisite to implementing sections—1977 ex.s. c 136: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1977: PROVIDED, That if the state operating budget appropriations act does not contain the funds necessary for the implementation of this 1977 amendatory act in an appropriated amount sufficient to fully fund the employer's contribution to the state employee insurance benefits program which is established by the board in accordance with RCW 41.05.050 (2) and (3) as now or hereafter amended, sections 1, 5, and 6 of this 1977 amendatory act shall be null and void." [1977 ex.s. c 136 § 8.] For codification of 1977 ex.s. c 136, see Codification Tables, Volume 0.

Effective date—Effect of veto—1973 1st ex.s. c 147: "This bill shall not take effect until the funds necessary for its implementation have been specifically appropriated by the legislature and such appropriation itself has become law. It is the intention of the legislature that if the governor shall veto this section or any item thereof, none of the provisions of this bill shall take effect." [1973 1st ex.s. c 147 § 10.]

Savings—1973 1st ex.s. c 147: "Nothing contained in this 1973 amendatory act shall be deemed to amend, alter or affect the provisions of Chapter 23, Laws of 1972, Extraordinary Session, and RCW 28B.10.840 through 28B.10.844 as now or hereafter amended." [1973 1st ex.s. c 147 § 13.]

Severability—1973 1st ex.s. c 147: "If any provision of this 1973 amendatory act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 147 § 9.]

Severability—1970 ex.s. c 39: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of

the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 39 § 14.]

41.05.055 Public employees' benefits board—Members. (1) The public employees' benefits board is created within the authority. The function of the board is to design and approve insurance benefit plans for state employees and school district employees.

(2) The board shall be composed of nine members appointed by the governor as follows:

(a) Two representatives of state employees, one of whom shall represent an employee union certified as exclusive representative of at least one bargaining unit of classified employees, and one of whom is retired, is covered by a program under the jurisdiction of the board, and represents an organized group of retired public employees;

(b) Two representatives of school district employees, one of whom shall represent an association of school employees and one of whom is retired, and represents an organized group of retired school employees;

(c) Four members with experience in health benefit management and cost containment; and

(d) The administrator.

(3) The member who represents an association of school employees and one member appointed pursuant to subsection (2)(c) of this section shall be nonvoting members until such time that there are no less than twelve thousand school district employee subscribers enrolled with the authority for health care coverage.

(4) The governor shall appoint the initial members of the board to staggered terms not to exceed four years. Members appointed thereafter shall serve two-year terms. Members of the board shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060. The board shall prescribe rules for the conduct of its business. The administrator shall serve as chair of the board. Meetings of the board shall be at the call of the chair. [1995 1st sp.s. c 6 § 4; 1994 c 36 § 1; 1993 c 492 § 217; 1989 c 324 § 1; 1988 c 107 § 7.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Effective date—1994 c 36: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 21, 1994]." [1994 c 36 § 2.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.065 Public employees' benefits board—Duties.

(1) The board shall study all matters connected with the provision of health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any of, or a combination of, the enumerated types of insurance for employees and their dependents on the best basis possible with relation both to the welfare of the employees and to the state. However, liability insurance shall not be made available to dependents.

(2) The board shall develop employee benefit plans that include comprehensive health care benefits for all employ-

ees. In developing these plans, the board shall consider the following elements:

(a) Methods of maximizing cost containment while ensuring access to quality health care;

(b) Development of provider arrangements that encourage cost containment and ensure access to quality care, including but not limited to prepaid delivery systems and prospective payment methods;

(c) Wellness incentives that focus on proven strategies, such as smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education;

(d) Utilization review procedures including, but not limited to a cost-efficient method for prior authorization of services, hospital inpatient length of stay review, requirements for use of outpatient surgeries and second opinions for surgeries, review of invoices or claims submitted by service providers, and performance audit of providers;

(e) Effective coordination of benefits;

(f) Minimum standards for insuring entities; and

(g) Minimum scope and content of public employee benefit plans to be offered to enrollees participating in the employee health benefit plans. To maintain the comprehensive nature of employee health care benefits, employee eligibility criteria related to the number of hours worked and the benefits provided to employees shall be substantially equivalent to the state employees' health benefits plan and eligibility criteria in effect on January 1, 1993. Nothing in this subsection (2)(g) shall prohibit changes or increases in employee point-of-service payments or employee premium payments for benefits.

(3) The board shall design benefits and determine the terms and conditions of employee participation and coverage, including establishment of eligibility criteria.

(4) The board may authorize premium contributions for an employee and the employee's dependents in a manner that encourages the use of cost-efficient managed health care systems.

(5) Employees shall choose participation in one of the health care benefit plans developed by the board and may be permitted to waive coverage under terms and conditions established by the board.

(6) The board shall review plans proposed by insuring entities that desire to offer property insurance and/or accident and casualty insurance to state employees through payroll deduction. The board may approve any such plan for payroll deduction by insuring entities holding a valid certificate of authority in the state of Washington and which the board determines to be in the best interests of employees and the state. The board shall promulgate rules setting forth criteria by which it shall evaluate the plans.

(7) Before January 1, 1998, the public employees' benefits board shall make available one or more fully insured long-term care insurance plans that comply with the requirements of chapter 48.84 RCW. Such programs shall be made available to eligible employees, retired employees, and retired school employees as well as eligible dependents which, for the purpose of this section, includes the parents of the employee or retiree and the parents of the spouse of the employee or retiree. Employees of local governments and employees of political subdivisions not otherwise

enrolled in the public employees' benefits board sponsored medical programs may enroll under terms and conditions established by the administrator, if it does not jeopardize the financial viability of the public employees' benefits board's long-term care offering.

(a) Participation of eligible employees or retired employees and retired school employees in any long-term care insurance plan made available by the public employees' benefits board is voluntary and shall not be subject to binding arbitration under chapter 41.56 RCW. Participation is subject to reasonable underwriting guidelines and eligibility rules established by the public employees' benefits board and the health care authority.

(b) The employee, retired employee, and retired school employee are solely responsible for the payment of the premium rates developed by the health care authority. The health care authority is authorized to charge a reasonable administrative fee in addition to the premium charged by the long-term care insurer, which shall include the health care authority's cost of administration, marketing, and consumer education materials prepared by the health care authority and the office of the insurance commissioner.

(c) To the extent administratively possible, the state shall establish an automatic payroll or pension deduction system for the payment of the long-term care insurance premiums.

(d) The public employees' benefits board and the health care authority shall establish a technical advisory committee to provide advice in the development of the benefit design and establishment of underwriting guidelines and eligibility rules. The committee shall also advise the board and authority on effective and cost-effective ways to market and distribute the long-term care product. The technical advisory committee shall be comprised, at a minimum, of representatives of the office of the insurance commissioner, providers of long-term care services, licensed insurance agents with expertise in long-term care insurance, employees, retired employees, retired school employees, and other interested parties determined to be appropriate by the board.

(e) The health care authority shall offer employees, retired employees, and retired school employees the option of purchasing long-term care insurance through licensed agents or brokers appointed by the long-term care insurer. The authority, in consultation with the public employees' benefits board, shall establish marketing procedures and may consider all premium components as a part of the contract negotiations with the long-term care insurer.

(f) In developing the long-term care insurance benefit designs, the public employees' benefits board shall include an alternative plan of care benefit, including adult day services, as approved by the office of the insurance commissioner.

(g) The health care authority, with the cooperation of the office of the insurance commissioner, shall develop a consumer education program for the eligible employees, retired employees, and retired school employees designed to provide education on the potential need for long-term care, methods of financing long-term care, and the availability of long-term care insurance products including the products offered by the board.

(h) By December 1998, the health care authority, in consultation with the public employees' benefits board, shall

submit a report to the appropriate committees of the legislature, including an analysis of the marketing and distribution of the long-term care insurance provided under this section. [1996 c 140 § 1; 1995 1st sp.s. c 6 § 5; 1994 c 153 § 5. Prior: 1993 c 492 § 218; 1993 c 386 § 9; 1988 c 107 § 8.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Intent—Effective dates—1994 c 153: See notes following RCW 41.05.011.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.05.075 Employee benefit plans—Contracts with insuring entities. (1) The administrator shall provide benefit plans designed by the board through a contract or contracts with insuring entities, through self-funding, self-insurance, or other methods of providing insurance coverage authorized by RCW 41.05.140.

(2) The administrator shall establish a contract bidding process that:

(a) Encourages competition among insuring entities;

(b) Maintains an equitable relationship between premiums charged for similar benefits and between risk pools including premiums charged for retired state and school district employees under the separate risk pools established by RCW 41.05.022 and 41.05.080 such that insuring entities may not avoid risk when establishing the premium rates for retirees eligible for medicare;

(c) Is timely to the state budgetary process; and

(d) Sets conditions for awarding contracts to any insuring entity.

(3) The administrator shall establish a requirement for review of utilization and financial data from participating insuring entities on a quarterly basis.

(4) The administrator shall centralize the enrollment files for all employee and retired or disabled school employee health plans offered under chapter 41.05 RCW and develop enrollment demographics on a plan-specific basis.

(5) All claims data shall be the property of the state. The administrator may require of any insuring entity that submits a bid to contract for coverage all information deemed necessary including subscriber or member demographic and claims data necessary for risk assessment and adjustment calculations in order to fulfill the administrator's duties as set forth in this chapter.

(6) All contracts with insuring entities for the provision of health care benefits shall provide that the beneficiaries of such benefit plans may use on an equal participation basis the services of practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, and 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners. However, nothing in this subsection may preclude the administrator from establishing appropriate utilization controls approved pursuant to RCW 41.05.065(2) (a), (b), and (d).

(7) Beginning in January 1990, and each January thereafter until January 1996, the administrator shall publish

and distribute to each school district a description of health care benefit plans available through the authority and the estimated cost if school district employees were enrolled. [1994 sp.s. c 9 § 724; 1994 c 309 § 3; 1994 c 153 § 6; 1993 c 386 § 10; 1988 c 107 § 9.]

Reviser's note: This section was amended by 1994 c 153 § 6, 1994 c 309 § 3, and by 1994 sp.s. c 9 § 724, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Intent—Effective dates—1994 c 153: See notes following RCW 41.05.011.

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.05.080 Participation by retired or disabled employees. (1) Under the qualifications, terms, conditions, and benefits set by the board:

(a) Retired or disabled state employees, retired or disabled school employees, or employees of county, municipal, or other political subdivisions covered by this chapter who are retired may continue their participation in insurance plans and contracts after retirement or disablement;

(b) Separated employees may continue their participation in insurance plans and contracts if participation is selected immediately upon separation from employment.

(2) Rates charged retired or disabled employees, separated employees, spouses, or dependent children who are not eligible for parts A and B of medicare shall be based on the experience of the community rated risk pool established under RCW 41.05.022.

(3) Rates charged to retired or disabled employees, separated employees, spouses, or children who are eligible for parts A and B of medicare shall be calculated from a separate experience risk pool comprised only of individuals eligible for parts A and B of medicare; however, the premiums charged to medicare-eligible retirees and disabled employees shall be reduced by the amount of the subsidy provided under RCW 41.05.085.

(4) Retired or disabled and separated employees shall be responsible for payment of premium rates developed by the authority which shall include the cost to the authority of providing insurance coverage including any amounts necessary for reserves and administration in accordance with this chapter. These self pay rates will be established based on a separate rate for the employee, the spouse, and the children.

(5) The term "retired state employees" for the purpose of this section shall include but not be limited to members of the legislature whether voluntarily or involuntarily leaving state office. [1996 c 39 § 22; 1994 c 153 § 7; 1993 c 386 § 11; 1977 ex.s. c 136 § 6; 1975-'76 2nd ex.s. c 106 § 6; 1973 1st ex.s. c 147 § 7; 1970 ex.s. c 39 § 8.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Effective dates—1994 c 153: See notes following RCW 41.05.011.

Effective date—1993 c 386 §§ 3, 7, and 11: See note following RCW 41.04.205.

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—Conditions prerequisite to implementing sections—1977 ex.s. c 136: See note following RCW 41.05.050.

Effective date—Effect of veto—Savings—Severability—1973 1st ex.s. c 147: See notes following RCW 41.05.050.

Severability—1970 ex.s. c 39: See note following RCW 41.05.050.

41.05.085 Retired or disabled school employee health insurance subsidy. Beginning with the appropriations act for the 1995-1997 biennium, the legislature shall establish as part of both the state employees' and the school and educational service district employees' insurance benefit allocation the portion of the allocation to be used to provide a subsidy to reduce the health care insurance premiums charged to retired or disabled school district and educational service district employees, or retired state employees, who are eligible for parts A and B of medicare. The amount of any premium reduction shall be established by the board, but shall not result in a premium reduction of more than fifty percent. The board may also determine the amount of any subsidy to be available to spouses and dependents. [1994 c 153 § 8.]

Intent—Effective dates—1994 c 153: See notes following RCW 41.05.011.

41.05.090 Continuation of coverage of employee, spouse, or covered dependent ineligible under state plan—Exceptions. (1) When an employee, spouse, or covered dependent becomes ineligible under the state plan and wishes to continue coverage on an individual basis with the same provider under the state plan, such employee, spouse, or covered dependent shall be entitled to immediately transfer and shall not be required to undergo any waiting period before obtaining individual coverage.

(2) Entitlement to a conversion contract under the terms of this section shall not apply to any employee, spouse, or covered dependent who is:

(a) Eligible for federal medicare coverage; or

(b) Covered under another group plan, policy, contract, or agreement providing benefits for hospital or medical care.

(3) Entitlement to conversion under the terms of this section shall not apply to any employee terminated for misconduct, except that conversion shall be offered to the spouse and covered dependents of the terminated employee. [1990 c 222 § 5; 1979 c 125 § 3.]

41.05.100 Chapter not applicable to certain employees of Cooperative Extension Service. The provisions of this chapter shall not be applicable to any employee of the Washington State University Cooperative Extension Service who holds a federal civil service appointment and is thereby eligible for insurance coverage under the regulations of the United States Department of Agriculture and the United States Civil Service Commission, and which employee elects participation in the federal programs in lieu of the programs established pursuant to this chapter. Such election may be made only once. [1979 ex.s. c 9 § 1.]

41.05.110 Chapter not applicable to officers and employees of state convention and trade center. The provisions of this chapter shall not be applicable to the officers and employees of the nonprofit corporation formed under chapter 67.40 RCW. [1984 c 210 § 3.]

Savings—Severability—1984 c 210: See notes following RCW 67.40.020.

41.05.120 Public employees' and retirees' insurance account. (1) The public employees' and retirees' insurance account is hereby established in the custody of the state treasurer, to be used by the administrator for the deposit of contributions, the remittance paid by school districts and educational service districts under *RCW 28A.400.400, reserves, dividends, and refunds, and for payment of premiums for employee and retiree insurance benefit contracts and subsidy amounts provided under RCW 41.05.085. Moneys from the account shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the administrator.

(2) The state treasurer and the state investment board may invest moneys in the public employees' and retirees' insurance account. All such investments shall be in accordance with RCW 43.84.080 or 43.84.150, whichever is applicable. The administrator shall determine whether the state treasurer or the state investment board or both shall invest moneys in the public employees' insurance account. [1994 c 153 § 9; 1993 c 492 § 219; 1991 sp.s. c 13 § 100; 1988 c 107 § 10.]

***Reviser's note:** RCW 28A.400.400 was repealed by 1994 c 153 § 15, effective October 1, 1995.

Intent—Effective dates—1994 c 153: See notes following RCW 41.05.011.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

41.05.130 State health care authority administrative account. The state health care authority administrative account is hereby created in the state treasury. Moneys in the account, including unanticipated revenues under RCW 43.79.270, may be spent only after appropriation by statute, and may be used only for operating expenses of the authority. [1988 c 107 § 11.]

41.05.140 Payment of claims—Self-insurance—Insurance reserve funds created. (1) The authority may self-fund, self-insure, or enter into other methods of providing insurance coverage for insurance programs under its jurisdiction except property and casualty insurance. The authority shall contract for payment of claims or other administrative services for programs under its jurisdiction. If a program does not require the prepayment of reserves, the authority shall establish such reserves within a reasonable period of time for the payment of claims as are normally required for that type of insurance under an insured program.

(2) Reserves established by the authority for employee and retiree benefit programs shall be held in a separate trust fund by the state treasurer and shall be known as the public employees' and retirees' insurance reserve fund. The state investment board shall act as the investor for the funds and, except as provided in RCW 43.33A.160, one hundred percent of all earnings from these investments shall accrue directly to the public employees' and retirees' insurance reserve fund.

(3) Any savings realized as a result of a program created for employees and retirees under this section shall not be used to increase benefits unless such use is authorized by statute.

(4) Any program created under this section shall be subject to the examination requirements of chapter 48.03 RCW as if the program were a domestic insurer. In conducting an examination, the commissioner shall determine the adequacy of the reserves established for the program.

(5) The authority shall keep full and adequate accounts and records of the assets, obligations, transactions, and affairs of any program created under this section.

(6) The authority shall file a quarterly statement of the financial condition, transactions, and affairs of any program created under this section in a form and manner prescribed by the insurance commissioner. The statement shall contain information as required by the commissioner for the type of insurance being offered under the program. A copy of the annual statement shall be filed with the speaker of the house of representatives and the president of the senate. [1994 c 153 § 10. Prior: 1993 c 492 § 220; 1993 c 386 § 12; 1988 c 107 § 12.]

Intent—Effective dates—1994 c 153: See notes following RCW 41.05.011.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent—1993 c 386: See note following RCW 28A.400.391.

Effective date—1993 c 386 § § 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

41.05.150 Health care policy technical advisory committee. (1) The administrator shall appoint a health care policy technical advisory committee. Its function is to advise the authority on effective approaches to cost control, quality assurance, and access to health care.

(2) The committee shall be composed of persons who have a demonstrated interest and expertise in one or more of the following areas: Health care purchasing; health care delivery; health administration; health care research and analysis; and ethics of health care. Board members shall include representatives of the following entities: Private health care purchasers; health care providers; insurance carriers; health care service contractors; health maintenance organizations; state agencies that purchase health care; the insurance commissioner; and health care consumers.

(3) The initial members of the committee shall be appointed for intervals of one to three years. Thereafter, all committee members shall serve a term of three years. Committee members shall receive no compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. [1988 c 107 § 14.]

41.05.160 Rules. The administrator may promulgate and adopt rules consistent with this chapter to carry out the purposes of this chapter. All rules shall be adopted in accordance with chapter 34.05 RCW. [1988 c 107 § 15.]

41.05.170 Neurodevelopmental therapies—Employer-sponsored group contracts. (1) Each health

plan offered to public employees and their covered dependents under this chapter which is not subject to the provisions of Title 48 RCW and is established or renewed on or after twelve months after July 23, 1989, shall include coverage for neurodevelopmental therapies for covered individuals age six and under.

(2) Benefits provided under this section shall cover the services of those authorized to deliver occupational therapy, speech therapy, and physical therapy. Benefits shall be payable only where the services have been delivered pursuant to the referral and periodic review of a holder of a license issued pursuant to chapter 18.71 or 18.57 RCW or where covered services have been rendered by such licensee. Nothing in this section shall preclude a self-funded plan authorized under this chapter from negotiating rates with qualified providers.

(3) Benefits provided under this section shall be for medically necessary services as determined by the self-funded plan authorized under this chapter. Benefits shall be payable for services for the maintenance of a covered individual in cases where significant deterioration in the patient's condition would result without the service. Benefits shall be payable to restore and improve function.

(4) It is the intent of this section that the state, as an employer providing comprehensive health coverage including the benefits required by this section, retains the authority to design and employ utilization and cost controls. Therefore, benefits delivered under this section may be subject to contractual provisions regarding deductible amounts and/or copayments established by the self-funded plan authorized under this chapter. Benefits provided under this section may be subject to standard waiting periods for preexisting conditions, and may be subject to the submission of written treatment plans.

(5) In recognition of the intent expressed in subsection (4) of this section, benefits provided under this section may be subject to contractual provisions establishing annual and/or lifetime benefit limits. Such limits may define the total dollar benefits available, or may limit the number of services delivered as established by the self-funded plan authorized under this chapter. [1989 c 345 § 4.]

41.05.180 Mammograms—Insurance coverage. Each health plan offered to public employees and their covered dependents under this chapter that is not subject to the provisions of Title 48 RCW and is established or renewed after January 1, 1990, and that provides benefits for hospital or medical care shall provide benefits for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the nursing care quality assurance commission pursuant to chapter 18.79 RCW or physician assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard health plan provisions applicable to other benefits such as deductible or copayment provisions. This section does not limit the authority of the state health care authority to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplemental policies or

supplemental contracts covering a specified disease or other limited benefits. [1994 sp.s. c 9 § 725; 1989 c 338 § 5.]

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

41.05.190 Medicare supplemental insurance plan. The administrator, in consultation with the public employees' benefits board, shall design a self-insured medicare supplemental insurance plan for retired and disabled employees eligible for medicare. For the purpose of determining the appropriate scope of the self-funded medicare supplemental plan, the administrator shall consider the differences in the scope of health services available under the uniform benefits package and the medicare program. The proposed plan shall be submitted to appropriate committees of the legislature by December 1, 1993. [1993 c 492 § 221.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.195 Medicare supplemental insurance policies. Notwithstanding any other provisions of this title or rules or procedures adopted by the authority, the authority shall make available to retired or disabled employees who are eligible for medicare at least two medicare supplemental insurance policies that conform to the requirements of chapter 48.66 RCW. One policy shall include coverage for prescription drugs. The policies shall be chosen in consultation with the public employees' benefits board. These policies shall be made available to retired or disabled employees, or employees of county, municipal, or other political subdivisions eligible for coverage available under the authority. All offerings shall be made available not later than January 1, 1994. [1993 c 492 § 222.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.197 Medicare supplemental insurance policies—January 1995 federal waiver threshold. If a waiver of the medicare statute, Title XVIII of the federal social security act, sufficient to meet the requirements of chapter 492, Laws of 1993 is not granted on or before January 1, 1995, the medicare supplemental insurance policies authorized under RCW 41.05.195 shall be made available to any resident of the state eligible for medicare benefits. Except for those retired state or school district employees eligible to purchase medicare supplemental benefits through the authority, persons purchasing a medicare supplemental insurance policy under this section shall be required to pay the full cost of any such policy. [1993 c 492 § 223.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.220 Community and migrant health centers—Maternity health care centers—People of color—Underserved populations. (1) State general funds appropriated to the department of health for the purposes of funding

community health centers to provide primary health and dental care services, migrant health services, and maternity health care services shall be transferred to the state health care authority. Any related administrative funds expended by the department of health for this purpose shall also be transferred to the health care authority. The health care authority shall exclusively expend these funds through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services. The administrator of the health care authority shall establish requirements necessary to assure community health centers provide quality health care services that are appropriate and effective and are delivered in a cost-efficient manner. The administrator shall further assure that community health centers have appropriate referral arrangements for acute care and medical specialty services not provided by the community health centers.

(2) To further the intent of chapter 492, Laws of 1993, the health care authority, in consultation with the department of health, shall evaluate the organization and operation of the federal and state-funded community health centers and other not-for-profit health care organizations and propose recommendations to the health services commission and the health policy committees of the legislature by November 30, 1994, that identify changes to permit community health centers and other not-for-profit health care organizations to form certified health plans or other innovative health care delivery arrangements that help ensure access to primary health care services consistent with the purposes of chapter 492, Laws of 1993.

(3) The authority, in consultation with the department of health, shall work with community and migrant health clinics and other providers of care to underserved populations, to ensure that the number of people of color and underserved people receiving access to managed care is expanded in proportion to need, based upon demographic data. [1993 c 492 § 232.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.230 Multicultural health care technical assistance program. (1) Consistent with funds appropriated specifically for this purpose, the authority shall provide matching grants to support community-based multicultural health care technical assistance programs. The purpose of the programs shall be to promote technical assistance through community and migrant health clinics and other appropriate health care providers who serve underserved populations and persons of color.

The technical assistance provided shall include, but is not limited to: (a) Collaborative research and data analysis on health care outcomes that disproportionately affect persons of color; (b) design and development of model health education and promotion strategies aimed at modifying unhealthy health behaviors or enhancing the use of the health care delivery system by persons of color; (c) provision of technical information and assistance on program planning and financial management; (d) administration, public policy development, and analysis in health care issues affecting people of color; and (e) enhancement and promotion of health care career opportunities for persons of color.

(2) Consistent with appropriated funds, the programs shall be available on a state-wide basis. [1993 c 492 § 272.]

Finding—1993 c 492: See note following RCW 28B.125.010.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

41.05.240 American Indian health care delivery plan. [1993 c 492 § 468.] Recodified as RCW 43.70.590 pursuant to 1995 c 43 § 5; and also repealed by 1995 1st sp.s. c 6 § 9.

Reviser's note: RCW 41.05.240 was recodified as RCW 43.70.590 pursuant to 1995 c 43 § 5 and amended by 1995 c 43 § 4, without cognizance of its repeal by 1995 1st sp.s. c 6 § 9. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

41.05.280 Department of corrections—Inmate health care. The department of corrections shall consult with the state health care authority to identify how the department of corrections shall develop a working plan to correspond to the health care reform measures that require all departments to place all state purchased health services in a community-rated, single risk pool under the direct administrative authority of the state purchasing agent by July 1, 1997. The department of corrections shall report the findings to the chairs of the house of representatives health care committee and committee on corrections and the chairs of the senate committee on health and human services and the law and justice committee by December 12, 1993. [1993 c 504 § 3.]

Findings—1993 c 504: "The legislature finds that Washington state government purchases approximately one-fourth of all the health care state-wide. In addition to this huge expenditure, the state also faces health care inflation rates, far exceeding the growth rate of the economy as a whole and the general inflationary rate. Together these factors are straining state resources beyond our capability to pay.

The legislature finds that the department of corrections is responsible for providing health care to a large and growing number of offenders. It is also facing rapidly escalating medical, dental, and mental health care expenditures. As a result of this, the department must review its entire inmate health care system and take steps to reduce health care expenditures.

The legislature further finds that efforts to achieve state-wide health care reform should also include the department of correction's health care facilities. In this light, the department must develop an appropriate plan that will correspond to the changing health care environment." [1993 c 504 § 1.]

Effective date—1993 c 504: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 18, 1993]." [1993 c 504 § 4.]

41.05.300 Benefits contribution plan—Authorized. (1) The state of Washington may enter into benefits contribution plans with employees of the state pursuant to the internal revenue code, 26 U.S.C. Sec. 125, for the purpose of making it possible for employees of the state to select on a "before-tax basis" certain taxable and nontaxable benefits pursuant to 26 U.S.C. Sec. 125. The purpose of the benefits contribution plan established in this chapter is to attract and retain individuals in governmental service by permitting them to enter into agreements with the state to provide for benefits pursuant to 26 U.S.C. Sec. 125 and other applicable sections of the internal revenue code.

(2) Nothing in the benefits contribution plan constitutes an employment agreement between the participant and the state, and nothing contained in the participant's benefits contribution agreement, the plan, this section, or RCW 41.05.310 through 41.05.360 gives a participant any right to be retained in state employment. [1995 1st sp.s. c 6 § 11.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

41.05.310 Benefits contribution plan—Policies and procedures—Plan document. The authority shall have responsibility for the formulation and adoption of a plan, policies, and procedures designed to guide, direct, and administer the benefits contribution plan. For the plan year beginning January 1, 1996, the administrator may establish a premium only contribution plan. Expansion of the benefits contribution plan to a medical flexible spending arrangement or cafeteria plan during subsequent plan years shall be subject to approval by the director of the office of financial management.

(1) A plan document describing the benefits contribution plan shall be adopted and administered by the authority. The authority shall represent the state in all matters concerning the administration of the plan. The state, through the authority, may engage the services of a professional consultant or administrator on a contractual basis to serve as an agent to assist the authority or perform the administrative functions necessary in carrying out the purposes of RCW 41.05.300 through 41.05.350.

(2) The authority shall formulate and establish policies and procedures for the administration of the benefits contribution plan that are consistent with existing state law, the internal revenue code, and the regulations adopted by the internal revenue service as they may apply to the benefits offered to participants under the plan.

(3) Every action taken by the authority in administering RCW 41.05.300 through 41.05.350 shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon it. The authority shall be presumed to have exercised reasonable care, diligence, and prudence and to have acted impartially as to all persons interested unless the contrary be proved by clear and convincing affirmative evidence. [1995 1st sp.s. c 6 § 12.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

41.05.320 Benefits contribution plan—Eligibility—Participation, withdrawal. (1) Elected officials and all permanent employees of the state are eligible to participate in the benefits contribution plan and contribute amount(s) by agreement with the authority. The authority may adopt rules to permit participation in the plan by temporary employees of the state.

(2) Persons eligible under subsection (1) of this section may enter into benefits contribution agreements with the state.

(3)(a) In the initial year of the medical flexible spending arrangement or cafeteria plan, if authorized, an eligible person may become a participant after the adoption of the plan and before its effective date by agreeing to have a portion of his or her gross salary contributed and deposited

into a health care and other benefits account to be used for reimbursement of expenses covered by the plan.

(b) After the initial year of the medical flexible spending arrangement or cafeteria plan, if authorized, an eligible person may become a participant for a full plan year, with annual benefit selection for each new plan year made before the beginning of the plan year, as determined by the authority, or upon becoming eligible.

(c) Once an eligible person elects to participate and the amount of gross salary that he or she shall contribute and the benefit for which the funds are to be used during the plan year is determined, the agreement shall be irrevocable and may not be amended during the plan year except as provided in (d) of this subsection. Prior to making an election to participate in the benefit[s] contribution plan, the eligible person shall be informed in writing of all the benefits and contributions that will occur as a result of such election.

(d) The authority shall provide in the benefits contribution plan that a participant may enroll, terminate, or change his or her election after the plan year has begun if there is a significant change in a participant's status, as provided by 26 U.S.C. Sec. 125 and the regulations adopted under that section and defined by the authority.

(4) The authority shall establish as part of the benefits contribution plan the procedures for and effect of withdrawal from the plan by reason of retirement, death, leave of absence, or termination of employment. To the extent possible under federal law, the authority shall protect participants from forfeiture of rights under the plan.

(5) Any contribution under the benefits contribution plan shall continue to be included as reportable compensation for the purpose of computing the state retirement and pension benefits earned by the employee pursuant to chapters 41.26, 41.32, 41.40, and 43.43 RCW. [1995 1st sp.s. c 6 § 13.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

41.05.330 Benefits contribution plan—Accounts and records. The authority shall keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of a benefits contribution plan created under RCW 41.05.300. [1995 1st sp.s. c 6 § 14.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

41.05.340 Benefits contribution plan—Termination—Amendment. (1) The state may terminate the benefits contribution plan at the end of the plan year or upon notification of federal action affecting the status of the plan.

(2) The authority may amend the benefits contribution plan at any time if the amendment does not affect the rights of the participants to receive eligible reimbursement from the participants' benefits contribution accounts. [1995 1st sp.s. c 6 § 15.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

41.05.350 Benefits contribution plan—Rules. The authority shall adopt rules necessary to implement RCW 41.05.300 through 41.05.340. [1995 1st sp.s. c 6 § 16.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

41.05.360 Benefits contribution plan—Construction. RCW 41.05.300 through 41.05.350 shall be construed to effectuate the purposes of 26 U.S.C. Sec. 125 and other applicable sections of the internal revenue code as required. [1995 1st sp.s. c 6 § 17.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

41.05.900 Short title. This chapter shall be known as the Washington state health care reform act of 1988. [1988 c 107 § 1.]

41.05.901 Implementation—Effective dates—1988 c 107. (1) The state health care authority shall be established and shall take such steps as are necessary to ensure that this act is fully implemented on October 1, 1988.

There is hereby appropriated for the biennium ending June 30, 1989, the sum of one million three hundred thousand dollars, or as much thereof as is necessary, to the office of the governor from the state employees' insurance administrative account, for the purposes of implementing this subsection.

(2) Subsection (1) of this section, RCW 48.14.027 and 82.04.4331, and sections 13 and 31, chapter 107, Laws of 1988 are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect March 16, 1988.

(3) The remainder of this act shall take effect on October 1, 1988. [1988 c 107 § 36.]

Chapter 41.06

STATE CIVIL SERVICE LAW

Sections

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Personnel appeals board: Chapter 41.64 RCW.

Qualifications for persons assessing real property—Examination: RCW 36.21.015.

41.06.010 Declaration of purpose. The general purpose of this chapter is to establish for the state a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, recruitment, retention, classification and pay plan, removal, discipline, training and career development, and welfare of its civil employees, and other incidents of state employment. All appointments and promotions to positions, and retention therein, in the state service, shall be made on the basis of policies hereinafter specified. [1980 c 118 § 1; 1961 c 1 § 1 (Initiative Measure No. 207, approved November 8, 1960).]

Severability—1980 c 118: "If any provision of this 1980 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1980 c 118 § 10.]

41.06.020 Definitions. Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section.

(1) "Agency" means an office, department, board, commission, or other separate unit or division, however designated, of the state government and all personnel thereof; it includes any unit of state government established by law, the executive officer or members of which are either elected or appointed, upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature.

(2) "Board" means the Washington personnel resources board established under the provisions of RCW 41.06.110, except that this definition does not apply to the words "board" or "boards" when used in RCW 41.06.070.

(3) "Classified service" means all positions in the state service subject to the provisions of this chapter.

(4) "Competitive service" means all positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

(5) "Comparable worth" means the provision of similar salaries for positions that require or impose similar responsibilities, judgments, knowledge, skills, and working conditions.

(6) "Noncompetitive service" means all positions in the classified service for which a competitive examination is not required.

(7) "Department" means an agency of government that has as its governing officer a person, or combination of persons such as a commission, board, or council, by law empowered to operate the agency responsible either to (a) no other public officer or (b) the governor.

(8) "Career development" means the progressive development of employee capabilities to facilitate productivity, job satisfaction, and upward mobility through work assignments as well as education and training that are both state-sponsored and are achieved by individual employee efforts, all of which shall be consistent with the needs and obligations of the state and its agencies.

(9) "Training" means activities designed to develop job-related knowledge and skills of employees.

(10) "Director" means the director of personnel appointed under the provisions of RCW 41.06.130.

(11) "Affirmative action" means a procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system.

(12) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(13) "Related boards" means the state board for community and technical colleges; and such other boards, councils, and commissions related to higher education as may be established. [1993 c 281 § 19. Prior: 1985 c 461 § 1; 1985 c 365 § 3; 1983 1st ex.s. c 75 § 4; 1982 1st ex.s. c 53 § 1; 1980 c 118 § 2; 1970 ex.s. c 12 § 1; prior: 1969 ex.s. c 36 § 21; 1969 c 45 § 6; 1967 ex.s. c 8 § 48; 1961 c 1 § 2 (Initiative Measure No. 207, approved November 8, 1960).]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1985 c 461: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 461 § 17.]

Severability—1982 1st ex.s. c 53: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 53 § 32.]

Severability—1980 c 118: See note following RCW 41.06.010.

41.06.022 "Manager"—Definition. For purposes of this chapter, "manager" means any employee who:

(1) Formulates state-wide policy or directs the work of an agency or agency subdivision;

(2) Is responsible to administer one or more state-wide policies or programs of an agency or agency subdivision;

(3) Manages, administers, and controls a local branch office of an agency or agency subdivision, including the physical, financial, or personnel resources;

(4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; or

(5) Functionally is above the first level of supervision and exercises authority that is not merely routine or clerical

in nature and requires the consistent use of independent judgment. [1993 c 281 § 8.]

Effective date—1993 c 281: "Sections 1 through 66 and 68 through 71 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 281 § 74.]

41.06.030 Department of personnel established. A department of personnel, governed by the Washington personnel resources board and administered by a director of personnel, is hereby established as a separate agency within the state government. [1993 c 281 § 20; 1961 c 1 § 3 (Initiative Measure No. 207, approved November 8, 1960).]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.040 Scope of chapter. The provisions of this chapter apply to:

(1) Each board, commission or other multimember body, including, but not limited to, those consisting in whole or in part of elective officers;

(2) Each agency, and each employee and position therein, not expressly excluded or exempted under the provisions of RCW 41.06.070. [1969 ex.s. c 36 § 22; 1961 c 1 § 4 (Initiative Measure No. 207, approved November 8, 1960).]

41.06.070 Exemptions—Right of reversion to civil service status—Exception—Expiration of subsection. (1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of

the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington state apple advertising commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of the state wheat commission formed under chapter 15.63 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Up to a total of five senior staff positions of the western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit. This subsection (1)(z) shall expire on June 30, 1997;

(aa) Staff employed by the department of community, trade, and economic development to administer energy policy functions and manage energy site evaluation council activities under RCW 43.21F.045(2)(m);

(bb) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice-presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) Student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board, employed by institutions of higher education and related boards;

(c) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(d) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the Washington personnel resources board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the Washington personnel resources board stating the reasons for requesting such exemptions. The Washington personnel resources board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the Washington personnel resources board shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not in-

cluding employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The Washington personnel resources board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted under subsections (1)(w) and (x) and (2) of this section, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v), (y), (z), and (2) of this section, shall be determined by the Washington personnel resources board. However, beginning with changes proposed for the 1997-99 fiscal biennium, changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section. [1996 c 319 § 3; 1996 c 288 § 33; 1996 c 186 § 109; 1995 c 163 § 1; 1994 c 264 § 13. Prior: 1993 sp.s. c 2 § 15; 1993 c 379 § 306; 1993 c 281 § 21; 1990 c 60 § 101; 1989 c 96 § 8; 1987 c 389 § 2; 1985 c 221 § 1; 1984 c 210 § 2; 1983 c 15 § 21; 1982 1st ex.s. c 53 § 2; 1981 c 225 § 2; 1980 c 87 § 14; 1973 1st ex.s. c 133 § 1; 1972 ex.s. c 11 § 1; prior: 1971 ex.s. c 209 § 1; 1971 ex.s. c 59 § 1; 1971 c 81 § 100; 1969 ex.s. c 36 § 23; 1967 ex.s. c 8 § 47; 1961 c 179 § 1; 1961 c 1 § 7 (Initiative Measure No. 207, approved November 8, 1960).]

Reviser's note: This section was amended by 1996 c 186 § 109, 1996 c 288 § 33, and by 1996 c 319 § 3, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Effective date—1995 c 163: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 1, 1995]." [1995 c 163 § 2.]

Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability—1993 sp.s. c 2: See RCW 43.300.901.

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1990 c 60: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 60 § 403.]

Subheadings not law—1990 c 60: "Subheadings as used in this act do not constitute any part of the law." [1990 c 60 § 401.]

Findings—1989 c 96: See note following RCW 27.26.010.

Severability—1989 c 96: See RCW 27.26.900.

Severability—1987 c 389: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 389 § 8.]

Effective date—1987 c 389: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1987." [1987 c 389 § 9.]

Savings—Severability—1984 c 210: See notes following RCW 67.40.020.

Severability—1983 c 15: See RCW 47.64.910.

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—1967 ex.s. c 8: See RCW 28B.50.910.

County road administration board: RCW 36.78.060.

State agencies and departments—Certain personnel exempted from chapter basic health plan: RCW 70.47.040.

board of health: RCW 43.20.030.

center for volunteerism and citizen service: RCW 43.150.040.

Columbia River Gorge commission: RCW 43.97.015.

commission on judicial conduct: RCW 2.64.050.

council for the prevention of child abuse and neglect: RCW 43.121.040.

department of

agriculture: RCW 41.06.084.

corrections: RCW 41.06.071.

ecology: RCW 41.06.073, 43.21A.100.

general administration, supervisor of motor transport: RCW 43.19.585.

health: RCW 43.70.020.

information services: RCW 41.06.094.

retirement systems: RCW 41.50.070.

services for the blind: RCW 74.18.050.

social and health services: RCW 41.06.076, 43.20A.090.

transportation: RCW 41.06.079, 47.01.081.

veterans affairs: RCW 41.06.077.

economic and revenue forecast supervisor and staff: RCW 41.06.087.

gambling commission: RCW 9.46.080.

law revision commission: RCW 41.06.083.

office of

administrative hearings: RCW 34.12.030.

financial management: RCW 41.06.075, 43.41.080.

minority and women's business enterprises: RCW 39.19.030.

personnel appeals board: RCW 41.64.050.

state actuary: RCW 44.44.030.

state convention and trade center: RCW 67.40.020.

state internship program: RCW 41.06.088.

state investment board: RCW 43.33A.100.

state lottery commission: RCW 67.70.050.

state school directors' association: RCW 41.06.086.

state treasurer: RCW 43.08.120.

state veterinarian: RCW 41.06.084.

superintendent of public instruction: RCW 28A.300.020.

Washington conservation corps: RCW 43.220.070.

Washington health care policy board and employees: RCW 43.73.010 and 43.73.020.

Washington service corps: RCW 50.65.110.

Washington state patrol, drug control assistance unit: RCW 43.43.640.

world fair commission: RCW 41.06.085.

youth development and conservation corps: RCW 43.51.550.

41.06.071 Department of corrections—Certain personnel exempted from chapter. In addition to the exemptions provided under RCW 41.06.070, the provisions of this chapter shall not apply in the department of corrections to the secretary, the secretary's personal secretary, the deputy secretary, all division directors and assistant directors, all facility superintendents and associate superintendents for facilities with a resident capacity of fifty or more and all management and sales staff of correctional industries. [1989 c 185 § 1; 1983 c 175 § 1; 1981 c 136 § 28.]

Effective date—1981 c 136: See RCW 72.09.900.

41.06.072 Department of community, trade, and economic development—Certain personnel exempted from chapter. In addition to the exemptions set forth in this chapter, this chapter shall not apply within the department of community, trade, and economic development to the director, one confidential secretary, the deputy directors, all assistant directors, the state historic preservation officer, and up to two professional staff members within the emergency management program. [1995 c 399 § 59; 1986 c 266 § 8.]

Severability—1986 c 266: See note following RCW 38.52.005.

41.06.073 Department of ecology—Certain personnel exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of ecology to the director, his confidential secretary, his deputy director, and not to exceed six assistant directors. [1970 ex.s. c 62 § 11.]

Savings—Severability—Effective date—1970 ex.s. c 62: See notes following RCW 43.21A.010.

41.06.074 Department of health—Certain personnel exempted from chapter. In addition to the exemptions under RCW 41.06.070, the provisions of this chapter shall not apply in the department of health to any deputy secretary, assistant secretary, or person who administers the necessary divisions, offices, bureaus, and programs and five additional positions involved in policy or program direction. [1989 1st ex.s. c 9 § 813.]

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

41.06.075 Office of financial management—Certain personnel exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the office of financial management to the director, his confidential secretary, not to exceed two deputy directors and not to exceed seven assistant directors. [1979 c 151 § 56; 1969 ex.s. c 239 § 7.]

Office of financial management: Chapter 43.41 RCW.

41.06.076 Department of social and health services—Certain personnel exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of social and health services to the secretary; the secretary's executive assistant, if any; not to exceed six assistant secretaries, thirteen division directors, six regional directors; one confidential secretary for each of the above-named officers; not to exceed six bureau chiefs; and all superinten-

dents of institutions of which the average daily population equals or exceeds one hundred residents: PROVIDED, That each such confidential secretary must meet the minimum qualifications for the class of secretary II as determined by the Washington personnel resources board. [1993 c 281 § 22; 1980 c 73 § 1; 1970 ex.s. c 18 § 8.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

41.06.077 Department of veterans affairs—Certain personnel exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of veterans affairs to the director, the deputy director, and to no more than two assistants. [1975-'76 2nd ex.s. c 115 § 7.]

Severability—1975-'76 2nd ex.s. c 115: See RCW 43.60A.908.

41.06.079 Department of transportation—Certain personnel exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of transportation to the secretary, a deputy secretary, an administrative assistant to the secretary, if any, one assistant secretary for each division designated pursuant to RCW 47.01.081, one confidential secretary for each of the above-named officers, up to six transportation district administrators and one confidential secretary for each district administrator, up to six additional new administrators or confidential secretaries designated by the secretary of the department of transportation and approved by the Washington personnel resources board pursuant to the provisions of *RCW 41.06.070(1)(z), the legislative liaison for the department, the state construction engineer, the state aid engineer, the personnel manager, the state project development engineer, the state maintenance and operations engineer, one confidential secretary for each of the last-named five positions, and a confidential secretary for the public affairs administrator. The individuals appointed under this section shall be exempt from the provisions of the state civil service law, and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for individuals exempt from the operation of the state civil service law. [1993 c 281 § 23; 1985 c 178 § 1; 1977 ex.s. c 151 § 13.]

***Reviser's note:** RCW 41.06.070 was amended by 1995 c 163 § 1, changing subsection (1)(z) to subsection (1)(y).

Effective date—1993 c 281: See note following RCW 41.06.022.

Exempt positions filled pending permanent appointment—1977 ex.s. c 151: "If on *the effective date of this 1977 amendatory act, any exempt position designated hereinabove has not been filled by appointment, the person serving in the comparable exempt position, if any, in an agency whose functions are by **section 3 of this 1977 amendatory act transferred to the department of transportation shall fill such exempt position until a permanent appointment thereto has been made." [1977 ex.s. c 151 § 14.]

Reviser's note: *(1) "the effective date of this 1977 amendatory act" was September 21, 1977.

** (2) "section 3 of this 1977 amendatory act" is codified as RCW 47.01.031.

Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

41.06.080 Department of personnel's services available on request to certain governmental entities—Reimbursement. Notwithstanding the provisions of this chapter, the department of personnel may make its services available on request, on a reimbursable basis, to:

(1) Either the legislative or the judicial branch of the state government;

(2) Any county, city, town, or other municipal subdivision of the state;

(3) The institutions of higher learning;

(4) Any agency, class, or position set forth in RCW 41.06.070. [1970 ex.s. c 12 § 2. Prior: 1969 ex.s. c 152 § 2; 1969 c 45 § 5; 1961 c 1 § 8 (Initiative Measure No. 207, approved November 8, 1960).]

41.06.082 Office of minority and women's business enterprises—Certain personnel exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, this chapter shall not apply in the office of minority and women's business enterprises to the director, the director's confidential secretary, and the deputy director. [1983 c 120 § 14.]

Effective date—Applicability—Severability—Conflict with federal requirements—1983 c 120: See RCW 39.19.910, 39.19.920.

41.06.083 Law revision commission—Personnel exempted from chapter. The provisions of this chapter do not apply to any position in or employee of the Washington law revision commission. [1982 c 183 § 10.]

41.06.084 Department of agriculture—Certain personnel exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of agriculture to the director, the director's confidential secretary, the deputy director, not more than eight assistant directors, the state veterinarian, and the milk pooling administrator employed under RCW 15.35.100. [1992 c 58 § 3; 1990 c 37 § 2; 1983 c 248 § 11.]

41.06.085 World fair commission—Certain personnel exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply to the executive director and one confidential secretary of the world fair commission created in *this 1983 act. [1983 c 177 § 6.]

***Reviser's note:** "This 1983 act" consists of the enactment of chapter 43.96D RCW and RCW 41.06.085.

41.06.086 Washington state school directors' association—Certain personnel exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply to officers and employees of the Washington state school directors' association. [1983 c 187 § 5.]

Termination—Sunset review—Expiration date—Effective date—1983 c 187: See RCW 28A.345.900, 28A.345.902.

41.06.087 Economic and revenue forecast supervisor and staff exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, this chapter does

not apply to the economic and revenue forecast supervisor and staff employed under RCW 82.33.010. [1990 c 229 § 3; 1984 c 138 § 2.]

Effective date—1990 c 229: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1990." [1990 c 229 § 12.]

41.06.088 State internship program—Positions exempt from chapter. This chapter does not apply to positions under the state internship program established under RCW 43.06.410. [1985 c 442 § 8.]

Construction—Severability—1985 c 442: See notes following RCW 43.06.410.

41.06.093 Washington state patrol—Certain personnel exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the Washington state patrol to confidential secretaries of agency bureau chiefs, or their functional equivalent, and a confidential secretary for the chief of staff: PROVIDED, That each confidential secretary must meet the minimum qualifications for the class of secretary II as determined by the Washington personnel resources board. [1993 c 281 § 24; 1990 c 14 § 1.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.094 Department of information services—Certain personnel exempted from chapter. In addition to the exemptions under RCW 41.06.070, the provisions of this chapter shall not apply in the department of information services to up to twelve positions in the planning component involved in policy development and/or senior professionals. [1987 c 504 § 7.]

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

41.06.110 Washington personnel resources board—Created—Term—Qualifications, conditions—Compensation, travel expenses—Officers, quorum, records. (1) There is hereby created a Washington personnel resources board composed of three members appointed by the governor, subject to confirmation by the senate. The members of the personnel board serving June 30, 1993, shall be the members of the Washington personnel resources board, and they shall complete their terms as under the personnel board. Each odd-numbered year thereafter the governor shall appoint a member for a six-year term. Each member shall continue to hold office after the expiration of the member's term until a successor has been appointed. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed;

(2) Each member of the board shall be compensated in accordance with RCW 43.03.250. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the

board shall also be reimbursed for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

(3) At its first meeting following the appointment of all of its members, and annually thereafter, the board shall elect a chair and vice-chair from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board. The director shall serve as secretary.

(4) The board may appoint and compensate hearing officers to hear and conduct appeals until December 31, 1982. Such compensation shall be paid on a contractual basis for each hearing, in accordance with the provisions of chapter 43.88 RCW and rules adopted pursuant thereto, as they relate to personal service contracts. [1993 c 281 § 25; 1984 c 287 § 69; 1982 c 10 § 8. Prior: 1981 c 338 § 20; 1981 c 311 § 16; 1977 c 6 § 2; prior: 1975-'76 2nd ex.s. c 43 § 1; 1975-'76 2nd ex.s. c 34 § 86; 1961 c 1 § 11 (Initiative Measure No. 207, approved November 8, 1960).]

Effective date—1993 c 281: See note following RCW 41.06.022.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Severability—1982 c 10: See note following RCW 6.13.080.

Severability—1981 c 311: See RCW 41.64.910.

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

Adoption of rules for leave sharing program: RCW 41.04.670.

Appointment and compensation of institutional chaplains: RCW 72.01.210.

Personnel appeals board: Chapter 41.64 RCW.

41.06.120 Meetings of board—Hearings authorized, notice—Majority to approve release of findings—Administration of oaths. (1) In the necessary conduct of its work, the board shall meet monthly unless there is no pending business requiring board action and may hold hearings, such hearings to be called by (a) the chairman of the board, or (b) a majority of the members of the board. An official notice of the calling of the hearing shall be filed with the secretary, and all members shall be notified of the hearing within a reasonable period of time prior to its convening.

(2) No release of material or statement of findings shall be made except with the approval of a majority of the board;

(3) In the conduct of hearings or investigations, a member of the board or the director of personnel, or the hearing officer, may administer oaths. [1981 c 311 § 17; 1975-'76 2nd ex.s. c 43 § 2; 1961 c 1 § 12 (Initiative Measure No. 207, approved November 8, 1960).]

Severability—1981 c 311: See RCW 41.64.910.

41.06.130 Director of personnel—Appointment—Rules—Powers and duties—Delegation of authority. The office of director of personnel is hereby established.

(1) The director of personnel shall be appointed by the governor. The governor shall consult with, but shall not be obligated by recommendations of the board. The director's appointment shall be subject to confirmation by the senate.

(2) The director of personnel shall serve at the pleasure of the governor.

(3) The director of personnel shall direct and supervise all the department of personnel's administrative and technical activities in accordance with the provisions of this chapter and the rules adopted under it. The director shall prepare for consideration by the board proposed rules required by this chapter. The director's salary shall be fixed by the governor.

(4) The director of personnel may delegate to any agency the authority to perform administrative and technical personnel activities if the agency requests such authority and the director of personnel is satisfied that the agency has the personnel management capabilities to effectively perform the delegated activities. The director of personnel shall prescribe standards and guidelines for the performance of delegated activities. If the director of personnel determines that an agency is not performing delegated activities within the prescribed standards and guidelines, the director shall withdraw the authority from the agency to perform such activities. [1993 c 281 § 26; 1982 1st ex.s. c 53 § 3; 1961 c 1 § 13 (Initiative Measure No. 207, approved November 8, 1960).]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

41.06.140 Employee participation in policy and rule making, administration, etc.—Publication of board rules. It shall be the duty of the board to make rules and regulations providing for employee participation in the development and administration of personnel policies. To assure this right, personnel policies, rules, classification and pay plans, and amendments thereto, shall be acted on only after the board has given twenty days notice to, and considered proposals from, employee representatives and agencies affected. Complete and current compilations of all rules and regulations of the board in printed, mimeographed or multigraphed form shall be available to the public in the office of the director of personnel free of charge. [1961 c 1 § 14 (Initiative Measure No. 207, approved November 8, 1960).]

41.06.150 Rules of board—Mandatory subjects—Veterans' preference—Affirmative action. The board shall adopt rules, consistent with the purposes and provisions of this chapter, as now or hereafter amended, and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(1) The reduction, dismissal, suspension, or demotion of an employee;

(2) Certification of names for vacancies, including departmental promotions, with the number of names equal to six more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists: PROVIDED, That when other applicants have scores equal to the lowest score among the names certified, their names shall also be certified;

(3) Examinations for all positions in the competitive and noncompetitive service;

(4) Appointments;

(5) Training and career development;

(6) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job

requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;

(7) Transfers;

(8) Sick leaves and vacations;

(9) Hours of work;

(10) Layoffs when necessary and subsequent reemployment, both according to seniority;

(11) Determination of appropriate bargaining units within any agency: PROVIDED, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees;

(12) Certification and decertification of exclusive bargaining representatives: PROVIDED, That after certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such a condition of employment constitutes cause for dismissal: PROVIDED FURTHER, That no more often than once in each twelve-month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine whether a majority wish to rescind such condition of employment: PROVIDED FURTHER, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights: AND PROVIDED FURTHER, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his or her individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member;

(13) Agreements between agencies and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the appointing authority of the appropriate bargaining unit of such agency may lawfully exercise discretion;

(14) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: PROVIDED, That nothing contained herein permits or grants to any employee

the right to strike or refuse to perform his or her official duties;

(15) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position.

(a) The board shall not adopt job classification revisions or class studies unless implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel or services, and the proposed revision or study has been approved by the director of financial management in accordance with chapter 43.88 RCW.

(b) Beginning July 1, 1995, through June 30, 1997, in addition to the requirements of (a) of this subsection:

(i) The board may approve the implementation of salary increases resulting from adjustments to the classification plan during the 1995-97 fiscal biennium only if:

(A) The implementation will not result in additional net costs and the proposed implementation has been approved by the director of financial management in accordance with chapter 43.88 RCW;

(B) The implementation will take effect on July 1, 1996, and the total net cost of all such actions approved by the board for implementation during the 1995-97 fiscal biennium does not exceed the amounts specified by the legislature specifically for this purpose; or

(C) The implementation is a result of emergent conditions. Emergent conditions are defined as emergency situations requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare, which do not exceed \$250,000 of the moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp. sess.

(ii) The board shall approve only those salary increases resulting from adjustments to the classification plan if they are due to documented recruitment and retention difficulties, salary compression or inversion, increased duties and responsibilities, or inequities. For these purposes, inequities are defined as similar work assigned to different job classes with a salary disparity greater than 7.5 percent.

(iii) Adjustments made to the higher education hospital special pay plan are exempt from (b)(i) through (ii) of this subsection.

(c) Reclassifications, class studies, and salary adjustments to be implemented during the 1997-99 and subsequent fiscal biennia are governed by (a) of this subsection and RCW 41.06.152;

(16) Allocation and reallocation of positions within the classification plan;

(17) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units but the rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and that, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located, such adoption and revision subject to approval by the director of financial management in accordance with the provisions of chapter 43.88 RCW;

(18) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;

(19) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the board, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service: PROVIDED FURTHER, That for the purposes of this section "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month;

(20) Permitting agency heads to delegate the authority to appoint, reduce, dismiss, suspend, or demote employees within their agencies if such agency heads do not have specific statutory authority to so delegate: PROVIDED, That the board may not authorize such delegation to any position lower than the head of a major subdivision of the agency;

(21) Assuring persons who are or have been employed in classified positions before July 1, 1993, will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter;

(22) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The board shall consult with the human rights commission in the development of rules pertaining to affirmative action. The department of personnel shall transmit a report annually to the human rights commission which states the progress each state agency has made in meeting affirmative action goals and timetables. [1996 c 319 § 2; 1995 2nd sp.s. c 18 § 911. Prior: 1993 sp.s. c 24 § 913; 1993 c 281 § 27; 1990 c 60 § 103; prior: 1985 c 461 § 2; 1985 c 365 § 5; 1983 1st ex.s. c 75 § 5; 1982 1st ex.s. c 53 § 4; prior: 1982 c 79 § 1; 1981 c 311 § 18; 1980 c 118 § 3; 1979 c 151 § 57; 1977 ex.s. c 152 § 1; 1973 1st ex.s. c 75 § 1; 1973 c 154 § 1; 1971 ex.s. c 19 § 2; 1967 ex.s. c 108 § 13; 1961 c 1 § 15 (Initiative Measure No. 207, approved November 8, 1960).]

Severability—Effective date—1995 2nd sp.s. c 18: See notes following RCW 19.118.110.

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—Subheadings not law—1990 c 60: See notes following RCW 41.06.070.

Severability—1985 c 461: See note following RCW 41.06.020.

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—1981 c 311: See RCW 41.64.910.

Severability—1980 c 118: See note following RCW 41.06.010.

Severability—1977 ex.s. c 152: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 152 § 14.]

Effective date—1973 1st ex.s. c 75: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect midnight June 6, 1973." [1973 1st ex.s. c 75 § 3.]

Leaves for public employees

military: RCW 38.40.060.

vacation: RCW 43.01.040.

Public employees' collective bargaining: Chapter 41.56 RCW.

41.06.152 Job classification revisions, class studies, salary adjustments—Limitations. (1) The board shall adopt only those job classification revisions, class studies, and salary adjustments under RCW 41.06.150(15) that:

(a) Are due to documented recruitment and retention difficulties, salary compression or inversion, increased duties and responsibilities, or inequities. For these purposes, inequities are defined as similar work assigned to different job classes with a salary disparity greater than 7.5 percent; and

(b) Are such that the office of financial management has reviewed the agency's fiscal impact statement and has concurred that the agency can absorb the biennialized cost of the reclassification, class study, or salary adjustment within the agency's current authorized level of funding for the current fiscal biennium and subsequent fiscal biennia.

(2) In addition to reclassifications, class studies, and salary adjustments under subsection (1)(b) of this section, the board may approve other reclassifications, class studies, and salary adjustments that meet the requirements of subsection (1)(a) of this section and have been approved under the procedures established under this subsection.

Before the department of personnel's biennial budget request is due to the office of financial management, the board shall prioritize requests for reclassifications, class studies, and salary adjustments for the next fiscal biennium. The board shall prioritize according to such criteria as are developed by the board consistent with RCW 41.06.150(15)(a).

The board shall submit the prioritized list to the governor's office and the fiscal committees of the house of representatives and senate at the same time the department of personnel's biennial budget request is submitted. The office of financial management shall review the biennial cost of each proposed salary adjustment on the board's prioritized list.

In the biennial appropriations acts, the legislature may establish a level of funding, from the state general fund and other accounts, to be applied by the board to the prioritized

list. Upon enactment of the appropriations act, the board may approve reclassifications, class studies, and salary adjustments only to the extent that the total cost does not exceed the level of funding established in the appropriations acts and the board's actions are consistent with the priorities established in the list. The legislature may also specify or otherwise limit in the appropriations act the implementation dates for actions approved by the board under this section.

(3) This section does not apply to the higher education hospital special pay plan or to any adjustments to the classification plan under RCW 41.06.150(15) that are due to emergent conditions. Emergent conditions are defined as emergency conditions requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare. [1996 c 319 § 1.]

41.06.155 Salaries—Implementation of changes to achieve comparable worth. Salary changes necessary to achieve comparable worth shall be implemented during the 1983-85 biennium under a schedule developed by the department. Increases in salaries and compensation solely for the purpose of achieving comparable worth shall be made at least annually. Comparable worth for the jobs of all employees under this chapter shall be fully achieved not later than June 30, 1993. [1993 c 281 § 28; 1983 1st ex.s. c 75 § 6.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.160 Classification and salary schedules to consider rates in other public and private employment—Wage and fringe benefits surveys—Recommendations to the legislature, standing committees on appropriations of the legislature, and the director of financial management—Data required. In preparing classification and salary schedules as set forth in RCW 41.06.150 as now or hereafter amended the department of personnel shall give full consideration to prevailing rates in other public employment and in private employment in this state. For this purpose the department shall undertake comprehensive salary and fringe benefit surveys, with such surveys to be conducted in the year prior to the convening of every other one hundred five day regular session of the state legislature. In the year prior to the convening of each one hundred five day regular session during which a comprehensive salary and fringe benefit survey is not conducted, the department shall plan and conduct a trend salary and fringe benefit survey. This survey shall measure average salary and fringe benefit movement for broad occupational groups which has occurred since the last comprehensive salary and fringe benefit survey was conducted. The results of each comprehensive and trend salary and fringe benefit survey shall be completed and forwarded by September 30 with a recommended state salary schedule to the governor and director of financial management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to the standing committees for appropriations of the senate and house of representatives.

In the case of comprehensive salary and fringe benefit surveys, the department shall furnish the following supplementary data in support of its recommended salary schedule:

(1) A total dollar figure which reflects the recommended increase or decrease in state salaries as a direct result of the specific salary and fringe benefit survey that has been conducted and which is categorized to indicate what portion of the increase or decrease is represented by salary survey data and what portion is represented by fringe benefit survey data;

(2) An additional total dollar figure which reflects the impact of recommended increases or decreases to state salaries based on other factors rather than directly on prevailing rate data obtained through the survey process and which is categorized to indicate the sources of the requests for deviation from prevailing rates and the reasons for the changes;

(3) A list of class codes and titles indicating recommended monthly salary ranges for all state classes under the control of the department of personnel with those salary ranges which do not substantially conform to the prevailing rates developed from the salary and fringe benefit survey distinctly marked and an explanation of the reason for the deviation included;

(4) A supplemental salary schedule which indicates the additional salary to be paid state employees for hazardous duties or other considerations requiring extra compensation under specific circumstances. Additional compensation for these circumstances shall not be included in the basic salary schedule but shall be maintained as a separate pay schedule for purposes of full disclosure and visibility; and

(5) A supplemental salary schedule which indicates those cases where the board determines that prevailing rates do not provide similar salaries for positions that require or impose similar responsibilities, judgment, knowledge, skills, and working conditions. This supplementary salary schedule shall contain proposed salary adjustments necessary to eliminate any such dissimilarities in compensation. Additional compensation needed to eliminate such salary dissimilarities shall not be included in the basic salary schedule but shall be maintained as a separate salary schedule for purposes of full disclosure and visibility.

It is the intention of the legislature that requests for funds to support recommendations for salary deviations from the prevailing rate survey data shall be kept to a minimum, and that the requests be fully documented when forwarded by the department of personnel.

Salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates which that employer pays to its employees shall not be subject to public disclosure under chapter 42.17 RCW.

The first comprehensive salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1986. The first trend salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1988. [1993 c 281 § 29; 1985 c 94 § 2; 1980 c 11 § 1; 1979 c 151 § 58; 1977 ex.s. c 152 § 2; 1961 c 1 § 16 (Initiative Measure No. 207, approved November 8, 1960).]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

41.06.163 Comprehensive salary and fringe benefit survey plan required—Contents. (1) In the conduct of salary and fringe benefit surveys under RCW 41.06.160 as now or hereafter amended, it is the intention of the legislature that the surveys be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of financial management, employee organizations, and the standing committees for appropriations of the senate and house of representatives six months before the beginning of each periodic survey required before regular legislative sessions. This comprehensive plan shall include but not be limited to the following:

(a) A complete explanation of the technical, statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey;

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in this state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government;

(c) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(2) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data.

(3) Interim or special surveys conducted under RCW 41.06.160 as now or hereafter amended shall conform when possible to the statistical techniques and principles developed for regular periodic surveys under this section.

(4) The term "fringe benefits" as used in this section and in conjunction with salary surveys shall include but not be limited to compensation for:

(a) Leave time, including vacation, holiday, civil, and personal leave;

(b) Employer retirement contributions;

(c) Health and insurance payments, including life, accident, and health insurance, workers' compensation, and sick leave; and

(d) Stock options, bonuses, and purchase discounts where appropriate. [1993 c 281 § 30; 1987 c 185 § 9; 1986 c 158 § 6; 1979 c 151 § 59; 1977 ex.s. c 152 § 3.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

41.06.165 Salary surveys—Criteria. Salary surveys shall be conducted according to the following criteria in addition to any other provisions under this chapter:

(1) Adjustments of state salaries to prevailing rates in Washington state private industries and other governmental units shall be determined by comparisons of weighted averages of salaries, including weighted averages of salaries from out-of-state sources when necessary to obtain statistically valid salary surveys; and

(2) Determination of state salary changes from prevailing rate data collected in salary surveys shall be based on occupational group averages containing related job classes where appropriate rather than on comparisons of survey data to individual state job classes. [1977 ex.s. c 152 § 4.]

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

41.06.167 Compensation surveys required for officers and officer candidates of the Washington state patrol—Comprehensive compensation survey plan and recommendations of chief required. The department of personnel shall undertake comprehensive compensation surveys for officers and entry-level officer candidates of the Washington state patrol, with such surveys to be conducted in the year prior to the convening of every other one hundred five day regular session of the state legislature. In the year prior to the convening of each one hundred five day regular session during which a comprehensive compensation survey is not conducted, the department shall conduct a trend compensation survey. This survey shall measure average compensation movement which has occurred since the last comprehensive compensation survey was conducted. The results of each comprehensive and trend survey shall be completed and forwarded by September 30th, after review and preparation of recommendations by the chief of the Washington state patrol, to the governor and director of financial management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to the legislative transportation committee and the standing committees for appropriations of the senate and house of representatives. The office of financial management shall analyze the survey results and conduct investigations which may be necessary to arbitrate differences between interested parties regarding the accuracy of collected survey data and the use of such data for salary adjustment.

Surveys conducted by the department of personnel for the Washington state patrol shall be undertaken in a manner consistent with statistically accurate sampling techniques, including comparisons of medians, base ranges, and weighted averages of salaries. The surveys shall compare competitive labor markets of law enforcement officers. This service performed by the department of personnel shall be on a reimbursable basis in accordance with the provisions of RCW 41.06.080.

A comprehensive compensation survey plan and the recommendations of the chief of the Washington state patrol shall be submitted jointly by the department of personnel and the Washington state patrol to the director of financial management, the legislative transportation committee, the committee on ways and means of the senate, and the

committee on appropriations of the house of representatives six months before the beginning of each periodic survey. [1991 c 196 § 1; 1986 c 158 § 7; 1985 c 94 § 3; 1980 c 11 § 2; 1979 c 151 § 60; 1977 ex.s. c 152 § 5.]

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

41.06.169 Employee performance evaluations—Standardized procedures and forms required to be developed. After consultation with state agency heads, employee organizations, and other interested parties, the state personnel director shall develop standardized employee performance evaluation procedures and forms which shall be used by state agencies for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual agencies may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. Performance evaluation procedures shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling state agency and job objectives. [1985 c 461 § 3; 1982 1st ex.s. c 53 § 5; 1977 ex.s. c 152 § 6.]

Severability—1985 c 461: See note following RCW 41.06.020.

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

41.06.170 Suspension, dismissal, demotion of employee—Appeal to personnel appeals board. (1) The board or director, in the adoption of rules governing suspensions for cause, shall not authorize an appointing authority to suspend an employee for more than fifteen calendar days as a single penalty or more than thirty calendar days in any one calendar year as an accumulation of several penalties. The board or director shall require that the appointing authority give written notice to the employee not later than one day after the suspension takes effect, stating the reasons for and the duration thereof.

(2) Any employee who is reduced, dismissed, suspended, or demoted, after completing his or her probationary period of service as provided by the rules of the board, or any employee who is adversely affected by a violation of the state civil service law, chapter 41.06 RCW, or rules adopted under it, shall have the right to appeal to the personnel appeals board created by RCW 41.64.010 not later than thirty days after the effective date of such action. The employee shall be furnished with specified charges in writing when a reduction, dismissal, suspension, or demotion action is taken. Such appeal shall be in writing.

(3) Any employee whose position has been exempted after July 1, 1993, shall have the right to appeal to the personnel appeals board created by RCW 41.64.010 not later than thirty days after the effective date of such action.

(4) An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to the personnel appeals board created by RCW 41.64.010. Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken. [1993 c 281 § 31; 1981 c 311 § 19; 1975-'76 2nd ex.s. c 43 § 3; 1961 c 1 § 17 (Initiative Measure No. 207, approved November 8, 1960).]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1981 c 311: See RCW 41.64.910.

Decision of Washington personnel resources board under RCW 41.06.170(4) not subject to judicial review: RCW 41.64.100.

41.06.176 Employee performance evaluations—

Written notification of deficiencies. Each employee whose work is judged unsatisfactory shall be notified in writing of the areas in which the work is considered deficient. Unless the deficiency is extreme, the employee shall be given an opportunity to demonstrate improvement. [1985 c 461 § 4.]

Severability—1985 c 461: See note following RCW 41.06.020.

41.06.186 Employee performance evaluations—

Termination of employment—Rules. The Washington personnel resources board shall adopt rules designed to terminate the state employment of any employee whose performance is so inadequate as to warrant termination. [1993 c 281 § 32; 1985 c 461 § 5.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1985 c 461: See note following RCW 41.06.020.

41.06.196 Employee performance evaluations—

Termination of supervisors tolerating deficient employees. The Washington personnel resources board shall adopt rules designed to remove from supervisory positions those supervisors who in violation of the rules adopted under RCW 41.06.186 have tolerated the continued employment of employees under their supervision whose performance has warranted termination from state employment. [1993 c 281 § 33; 1985 c 461 § 6.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1985 c 461: See note following RCW 41.06.020.

Duty of state officers to identify employees whose performance warrants termination from state employment: RCW 43.01.125.

41.06.220 Reemployment list—Reinstatement after appeal, guaranteed rights and benefits.

(1) An employee who is terminated from state service may request the board to place his name on an appropriate reemployment list and the board shall grant this request where the circumstances are found to warrant reemployment.

(2) Any employee, when fully reinstated after appeal, shall be guaranteed all employee rights and benefits, including back pay, sick leave, vacation accrual, retirement and OASDI credits. [1961 c 1 § 22 (Initiative Measure No. 207, approved November 8, 1960).]

41.06.250 Political activities.

(1) Solicitation for or payment to any partisan, political organization or for any partisan, political purpose of any compulsory assessment or involuntary contribution is prohibited: PROVIDED, HOWEVER, That officers of employee associations shall not be prohibited from soliciting dues or contributions from members of their associations. No person shall solicit on state property or property of a political subdivision of this state any contribution to be used for partisan, political purposes.

(2) Employees of the state or any political subdivision thereof shall have the right to vote and to express their opinions on all political subjects and candidates and to hold

any political party office or participate in the management of a partisan, political campaign. Nothing in this section shall prohibit an employee of the state or any political subdivision thereof from participating fully in campaigns relating to constitutional amendments, referendums, initiatives, and issues of a similar character, and for nonpartisan offices.

(3) A classified civil service employee shall not hold a part time public office in a political subdivision of the state when the holding of such office is incompatible with, or substantially interferes with, the discharge of official duties in state employment.

(4) For persons employed in state agencies or agencies of any political subdivision of the state the operation of which is financed in total or primarily by federal grant-in-aid funds political activity will be regulated by the rules and regulations of the United States civil service commission.

(5) The provisions of this section shall supersede all statutes, charter provisions, ordinances, resolutions, regulations, and requirements promulgated by the state or any subdivision thereof, including any provision of any county charter, insofar as they may be in conflict with the provisions of this section. [1974 ex.s. c 136 § 1; 1961 c 1 § 25 (Initiative Measure No. 207, approved November 8, 1960).]

41.06.260 Conflict with federal requirements—

Effect—Rules to conform chapter. If any part of this chapter shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict and with respect to the agencies directly affected, and such findings or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The board shall make such rules and regulations as may be necessary to meet federal requirements which are a condition precedent to the receipt of federal funds by the state. [1961 c 1 § 26 (Initiative Measure No. 207, approved November 8, 1960).]

41.06.270 Salary withheld unless employment is in accord with chapter—Certification of payrolls, procedures.

A disbursing officer shall not pay any employee holding a position covered by this chapter unless the employment is in accordance with this chapter or the rules, regulations and orders issued hereunder. The board and the director of financial management shall jointly establish procedures for the certification of payrolls. [1979 c 151 § 61; 1961 c 1 § 27 (Initiative Measure No. 207, approved November 8, 1960).]

41.06.280 Department of personnel service fund—Created—Charges to agencies, payment—Use, disbursement.

There is hereby created a fund within the state treasury, designated as the "department of personnel service fund," to be used by the board as a revolving fund for the payment of salaries, wages, and operations required for the administration of the provisions of this chapter, applicable provisions of chapter 41.04 RCW, and chapter 41.60 RCW. An amount not to exceed one and one-half percent of the approved allotments of salaries and wages for all positions in the classified service in each of the agencies subject to

this chapter, except the institutions of higher education, shall be charged to the operations appropriations of each agency and credited to the department of personnel service fund as the allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, the amount shall be charged against the allotments pro rata, at a rate to be fixed by the director from time to time which, together with income derived from services rendered under RCW 41.06.080, will provide the department with funds to meet its anticipated expenditures during the allotment period, including the training requirements in RCW 41.06.500 and 41.06.530.

The director of personnel shall fix the terms and charges for services rendered by the department of personnel pursuant to RCW 41.06.080, which amounts shall be credited to the department of personnel service fund and charged against the proper fund or appropriation of the recipient of such services on a quarterly basis. Payment for services so rendered under RCW 41.06.080 shall be made on a quarterly basis to the state treasurer and deposited by him in the department of personnel service fund.

Moneys from the department of personnel service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the board. [1993 c 379 § 309; 1993 c 281 § 34; 1987 c 248 § 4; 1984 c 7 § 45; 1982 c 167 § 13; 1963 c 215 § 1; 1961 c 1 § 28 (Initiative Measure No. 207, approved November 8, 1960).]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Effective date—1993 c 281: See note following RCW 41.06.022.

Legislative findings—Purpose—1987 c 248: See note following RCW 41.04.362.

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1982 c 167: See note following RCW 41.60.015.

41.06.285 Higher education personnel service fund.

(1) There is hereby created a fund within the state treasury, designated as the "higher education personnel service fund," to be used by the board as a revolving fund for the payment of salaries, wages, and operations required for the administration of institutions of higher education and related boards, the budget for which shall be subject to review and approval and appropriation by the legislature. Subject to the requirements of subsection (2) of this section, an amount not to exceed one-half of one percent of the salaries and wages for all positions in the classified service shall be contributed from the operations appropriations of each institution and the state board for community and technical colleges and credited to the higher education personnel service fund as such allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, such amount shall be charged against the allotments pro rata, at a rate to be fixed by the director of financial management from time to time, which will provide the board with funds to meet its anticipated expenditures during the allotment period.

(2) If employees of institutions of higher education cease to be classified under this chapter pursuant to an agreement authorized by RCW 41.56.201, each institution of higher education and the state board for community and technical colleges shall continue, for six months after the effective date of the agreement, to make contributions to the higher education personnel service fund based on employee salaries and wages that includes the employees under the

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agreement. At the expiration of the six-month period, the director of financial management shall make across-the-board reductions in allotments of the higher education personnel service fund for the remainder of the biennium so that the charge to the institutions of higher education and state board for community and technical colleges based on the salaries and wages of the remaining employees of institutions of higher education and related boards classified under this chapter does not increase during the biennium, unless an increase is authorized by the legislature. The director of financial management shall report the amount and impact of any across-the-board reductions made under this section to the appropriations committee of the house of representatives and the ways and means committee of the senate, or appropriate successor committees, within thirty days of making the reductions.

(3) Moneys from the higher education personnel service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the board. [1993 c 379 § 308.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

41.06.290 Personnel subject to chapter 47.64 RCW not affected. Nothing in this chapter shall be interpreted as changing the provisions of or affecting the conditions of employment for personnel covered by chapter 47.64 RCW. [1961 c 1 § 29 (Initiative Measure No. 207, approved November 8, 1960).]

41.06.340 Unfair labor practices provisions applicable to chapter. Each and every provision of RCW 41.56.140 through 41.56.190 shall be applicable to this chapter as it relates to state civil service employees and the Washington personnel resources board, or its designee, whose final decision shall be appealable to the Washington personnel resources board, which is granted all powers and authority granted to the department of labor and industries by RCW 41.56.140 through 41.56.190. [1993 c 281 § 35; 1969 ex.s. c 215 § 13.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.350 Acceptance of federal funds authorized. The Washington personnel resources board is authorized to receive federal funds now available or hereafter made available for the assistance and improvement of public personnel administration, which may be expended in addition to the department of personnel service fund established by RCW 41.06.280. [1993 c 281 § 36; 1969 ex.s. c 152 § 1.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.380 Purchasing services by contract not prohibited—Limitations. Nothing contained in this chapter shall prohibit any department, as defined in RCW 41.06.020, from purchasing services by contract with individuals or business entities if such services were regularly purchased by valid contract by such department prior to April 23, 1979: PROVIDED, That no such contract may be executed or renewed if it would have the effect of terminating classified employees or classified employee positions existing at the time of the execution or renewal of the contract. [1979 ex.s. c 46 § 2.]

41.06.382 Purchasing services by contract not prohibited—Limitations. Nothing contained in this chapter shall prohibit any institution of higher education, as defined in RCW 28B.10.016, or related board from purchasing services by contract with individuals or business entities if such services were regularly purchased by valid contract at such institution prior to April 23, 1979: PROVIDED, That no such contract may be executed or renewed if it would have the effect of terminating classified employees or classified employee positions existing at the time of the execution or renewal of the contract. [1979 ex.s. c 46 § 1. Formerly RCW 28B.16.240.]

41.06.400 Training and career development programs—Powers and duties of director. (1) In addition to other powers and duties specified in this chapter, the board shall, by rule, prescribe the purpose and minimum standards for training and career development programs and, in so doing, regularly consult with and consider the needs of individual agencies and employees.

(2) In addition to other powers and duties specified in this chapter, the director shall:

(a) Provide for the evaluation of training and career development programs and plans of agencies based on minimum standards established by the board. The director shall report the results of such evaluations to the agency which is the subject of the evaluation;

(b) Provide training and career development programs which may be conducted more efficiently and economically on an interagency basis;

(c) Promote interagency sharing of resources for training and career development;

(d) Monitor and review the impact of training and career development programs to ensure that the responsibilities of the state to provide equal employment opportunities are diligently carried out. The director shall report to the board the impact of training and career development programs on the fulfillment of such responsibilities.

(3) At an agency's request, the director may provide training and career development programs for an agency's internal use which may be conducted more efficiently and economically by the department of personnel. [1980 c 118 § 4.]

Severability—1980 c 118: See note following RCW 41.06.010.

41.06.410 Training and career development programs—Agency plan—Report—Budget. Each agency subject to the provisions of this chapter shall:

(1) Prepare an employee training and career development plan which shall at least meet minimum standards established by the board. A copy of such plan shall be submitted to the director for purposes of administering the provisions of RCW 41.06.400(2);

(2) Provide for training and career development for its employees in accordance with the agency plan;

(3) Report on its training and career development program operations and costs to the director in accordance with reporting procedures adopted by the board;

(4) Budget for training and career development in accordance with procedures of the office of financial management. [1980 c 118 § 5.]

Severability—1980 c 118: See note following RCW 41.06.010.

41.06.420 Entry-level management training course—Requirements—Suspension—Waiver—Designation of supervisory or management positions. (1) The board, by rule, shall prescribe the conditions under which an employee appointed to a supervisory or management position after June 12, 1980, shall be required to successfully complete an entry-level management training course as approved by the director. Such training shall not be required of any employee who has completed a management training course prior to the employee's appointment which is, in the judgment of the director, at least equivalent to the entry-level course required by this section.

(2) The board, by rule, shall establish procedures for the suspension of the entry-level training requirement in cases where the ability of an agency to perform its responsibilities is adversely affected, or for the waiver of this requirement in cases where a person has demonstrated experience as a substitute for training.

(3) Agencies subject to the provisions of this chapter, in accordance with rules prescribed by the board, shall designate individual positions, or groups of positions, as being "supervisory" or "management" positions. Such designations shall be subject to review by the director as part of the director's evaluation of training and career development programs prescribed by RCW 41.06.400(2). [1980 c 118 § 6.]

Severability—1980 c 118: See note following RCW 41.06.010.

41.06.450 Destruction or retention of information relating to employee misconduct. (1) By January 1, 1983, the Washington personnel resources board shall adopt rules applicable to each agency to ensure that information relating to employee misconduct or alleged misconduct is destroyed or maintained as follows:

(a) All such information determined to be false and all such information in situations where the employee has been fully exonerated of wrongdoing, shall be promptly destroyed;

(b) All such information having no reasonable bearing on the employee's job performance or on the efficient and effective management of the agency, shall be promptly destroyed;

(c) All other information shall be retained only so long as it has a reasonable bearing on the employee's job performance or on the efficient and effective management of the agency.

(2) Notwithstanding subsection (1) of this section, an agency may retain information relating to employee misconduct or alleged misconduct if:

(a) The employee requests that the information be retained; or

(b) The information is related to pending legal action or legal action may be reasonably expected to result.

(3) In adopting rules under this section, the Washington personnel resources board shall consult with the public disclosure commission to ensure that the public policy of the state, as expressed in chapter 42.17 RCW, is adequately protected. [1993 c 281 § 37; 1982 c 208 § 10.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Legislative finding—Purpose—RCW 41.06.450: "The legislature finds that, under some circumstances, maintaining information relating to state employee misconduct or alleged misconduct is unfair to employees and serves no useful function to the state. The purpose of RCW 41.06.450 is to direct the personnel board to adopt rules governing maintenance of employee records so that the records are maintained in a manner which is fair to employees, which ensures proper management of state governmental affairs, and which adequately protects the public interest." [1982 c 208 § 9.]

Severability—1982 c 208: See RCW 42.40.900.

Application of public disclosure law to information relating to employee misconduct: RCW 42.17.295.

Employee inspection of personnel file: RCW 49.12.240 through 49.12.260.

41.06.455 Destruction of employee records authorized if consistent with other laws. RCW 41.06.450 does not prohibit an agency from destroying identifying information in records relating to employee misconduct or alleged misconduct if the agency deems the action is consistent with the policy expressed in RCW 41.06.450 and in chapter 42.17 RCW. [1982 c 208 § 11.]

Severability—1982 c 208: See RCW 42.40.900.

41.06.460 Application of RCW 41.06.450 and 41.06.455 to classified and exempt employees. Notwithstanding RCW 41.06.040, 41.06.450 and 41.06.455 apply to all classified and exempt employees of the state, including employees of the institutions of higher education. [1982 c 208 § 12.]

Severability—1982 c 208: See RCW 42.40.900.

41.06.475 State employment in the supervision, care, or treatment of children or developmentally disabled persons—Rules on background investigation. The Washington personnel resources board shall adopt rules, in cooperation with the secretary of social and health services, for the background investigation of persons being considered for state employment in positions directly responsible for the supervision, care, or treatment of children or developmentally disabled persons. [1993 c 281 § 38; 1986 c 269 § 2.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Children and vulnerable adults: RCW 43.43.830 through 43.43.842.

Children, mentally ill, or developmentally disabled persons: RCW 43.20A.710.

State employment in the supervision, care, or treatment of children or developmentally disabled persons—Investigation of conviction records or pending charges: RCW 43.20A.710.

State hospitals: RCW 72.23.035.

41.06.490 State employee return-to-work program.

(1) In addition to the rules adopted under RCW 41.06.150, the board shall adopt rules establishing a state employee return-to-work program. The program shall, at a minimum:

(a) Direct each agency to adopt a return-to-work policy. The program shall allow each agency program to take into consideration the special nature of employment in the agency;

(b) Provide for eligibility in the return-to-work program, for a minimum of two years from the date the temporary disability commenced, for any permanent employee who is receiving compensation under RCW 51.32.090 and who is, by reason of his or her temporary disability, unable to return

to his or her previous work, but who is physically capable of carrying out work of a lighter or modified nature;

(c) Allow opportunity for return-to-work state-wide when appropriate job classifications are not available in the agency that is the appointing authority at the time of injury;

(d) Require each agency to name an agency representative responsible for coordinating the return-to-work program of the agency;

(e) Provide that applicants receiving appointments for classified service receive an explanation of the return-to-work policy;

(f) Require training of supervisors on implementation of the return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee; and

(g) Coordinate participation of applicable employee assistance programs, as appropriate.

(2) The agency full-time equivalents necessary to implement the return-to-work program established under this section shall be used only for the purposes of the return-to-work program and the net increase in full-time equivalents shall be temporary. [1990 c 204 § 3.]

Findings—Purpose—1990 c 204: See note following RCW 51.44.170.

41.06.500 Managers—Rules—Goals. (1) Except as provided in RCW 41.06.070, notwithstanding any other provisions of this chapter, the director is authorized to adopt, after consultation with state agencies and employee organizations, rules for managers as defined in RCW 41.06.022. These rules shall not apply to managers employed by institutions of higher education or related boards or whose positions are exempt. The rules shall govern recruitment, appointment, classification and allocation of positions, examination, training and career development, hours of work, probation, certification, compensation, transfer, affirmative action, promotion, layoff, reemployment, performance appraisals, discipline, and any and all other personnel practices for managers. These rules shall be separate from rules adopted by the board for other employees, and to the extent that the rules adopted apply only to managers shall take precedence over rules adopted by the board, and are not subject to review by the board.

(2) In establishing rules for managers, the director shall adhere to the following goals:

(a) Development of a simplified classification system that facilitates movement of managers between agencies and promotes upward mobility;

(b) Creation of a compensation system consistent with the policy set forth in RCW 41.06.150(17). The system shall provide flexibility in setting and changing salaries, and shall require review and approval by the director in the case of any salary changes greater than five percent proposed for any group of employees;

(c) Establishment of a performance appraisal system that emphasizes individual accountability for program results and efficient management of resources; effective planning, organization, and communication skills; valuing and managing workplace diversity; development of leadership and interpersonal abilities; and employee development;

(d) Strengthening management training and career development programs that build critical management

knowledge, skills, and abilities; focusing on managing and valuing workplace diversity; empowering employees by enabling them to share in workplace decision making and to be innovative, willing to take risks, and able to accept and deal with change; promoting a workplace where the overall focus is on the recipient of the government services and how these services can be improved; and enhancing mobility and career advancement opportunities;

(e) Permitting flexible recruitment and hiring procedures that enable agencies to compete effectively with other employers, both public and private, for managers with appropriate skills and training; allowing consideration of all qualified candidates for positions as managers; and achieving affirmative action goals and diversity in the workplace;

(f) Providing that managers may only be reduced, dismissed, suspended, or demoted for cause; and

(g) Facilitating decentralized and regional administration. [1996 c 319 § 4; 1993 c 281 § 9.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.510 Institutions of higher education—Designation of personnel officer. Each institution of higher education and each related board shall designate an officer who shall perform duties as personnel officer. The personnel officer at each institution or related board shall direct, supervise, and manage administrative and technical personnel activities for the classified service at the institution or related board consistent with policies established by the institution or related board and in accordance with the provisions of this chapter and the rules adopted under this chapter. Institutions may undertake jointly with one or more other institutions to appoint a person qualified to perform the duties of personnel officer, provide staff and financial support and may engage consultants to assist in the performance of specific projects. The services of the department of personnel may also be used by the institutions or related boards pursuant to RCW 41.06.080.

The state board for community and technical colleges shall have general supervision and control over activities undertaken by the various community colleges pursuant to this section. [1993 c 281 § 10.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.520 Administration, management of institutions of higher education—Rules—Audit and review by board. Rules adopted by the board shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the board, of the following:

(1) Appointment, promotion, and transfer of employees;

(2) Dismissal, suspension, or demotion of an employee;

(3) Examinations for all positions in the competitive and noncompetitive service;

(4) Probationary periods of six to twelve months and rejection of probationary employees;

(5) Sick leaves and vacations;

(6) Hours of work;

(7) Layoffs when necessary and subsequent reemployment;

(8) Allocation and reallocation of positions within the classification plans;

(9) Training programs; and

(10) Maintenance of personnel records. [1993 c 281 § 11.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.530 Personnel resource and management policy—Implementation. (1) The legislature recognizes that:

(a) The labor market and the state government work force are diverse in terms of gender, race, ethnicity, age, and the presence of disabilities.

(b) The state's personnel resource and management practices must be responsive to the diverse nature of its work force composition.

(c) Managers in all agencies play a key role in the implementation of all critical personnel policies.

It is therefore the policy of the state to create an organizational culture in state government that respects and values individual differences and encourages the productive potential of every employee.

(2) To implement this policy, the department shall:

(a) In consultation with agencies, employee organizations, employees, institutions of higher education, and related boards, review civil service rules and related policies to ensure that they support the state's policy of valuing and managing diversity in the workplace;

(b) In consultation with agencies, employee organizations, and employees, institutions of higher education, and related boards, develop model policies, procedures, and technical information to be made available to such entities for the support of workplace diversity programs, including, but not limited to:

(i) Voluntary mentorship programs;

(ii) Alternative testing practices for persons of disability where deemed appropriate;

(iii) Career counseling;

(iv) Training opportunities, including management and employee awareness and skills training, English as a second language, and individual tutoring;

(v) Recruitment strategies;

(vi) Management performance appraisal techniques that focus on valuing and managing diversity in the workplace; and

(vii) Alternative work arrangements;

(c) In consultation with agencies, employee organizations, and employees, institutions of higher education, and related boards, develop training programs for all managers to enhance their ability to implement diversity policies and to provide a thorough grounding in all aspects of the state civil service law and merit system rules, and how the proper implementation and application thereof can facilitate and further the mission of the agency.

(3) The department shall coordinate implementation of this section with the office of financial management and institutions of higher education and related boards to reduce duplication of effort. [1993 c 281 § 12.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.540 Joint employee-management committees. Meaningful and effective involvement of employees and their representatives is essential to the efficient and effective

delivery of state government services. To accomplish this, agencies shall use joint employee-management committees to collaborate on the desired goals of streamlined organizational structures, continuous improvement in all systems and processes, empowerment of line level employees to solve workplace and system delivery problems, managers functioning as coaches and facilitators, and employee training and development as an investment in the future. If employees are represented by an exclusive bargaining representative, the representative shall select the employee committee members and also be on the committee. In addition, the committees shall be used for improvement of the quality of work life for state employees resulting in more productive and efficient service delivery to the general public and customers of state government. Nothing in this section supplants any collective bargaining process or provision. [1993 c 281 § 13.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.06.900 Short title. This chapter shall be referred to as the state civil service law. [1961 c 1 § 34 (Initiative Measure No. 207, approved November 8, 1960).]

41.06.910 Severability—1961 c 1. If any provision of this act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end any section, sentence, or word is declared to be severable. [1961 c 1 § 35 (Initiative Measure No. 207, approved November 8, 1960).]

41.06.911 Severability—1975-'76 2nd ex.s. c 43. If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 43 § 5.]

Chapter 41.07

CENTRAL PERSONNEL-PAYROLL SYSTEM

Sections

41.07.010	Definitions.
41.07.020	Administration, maintenance and operation of system—Intent.
41.07.030	Costs.
41.07.900	Transfer of personnel, records, equipment, etc.
41.07.901	Effective date—1975 1st ex.s. c 239.

41.07.010 Definitions. (1) As used in this chapter "state agency" means all offices, departments, agencies, institutions, boards, and commissions of state government including those headed by an elected official and including institutions of higher education.

(2) As used in this chapter "central personnel-payroll system" means an automated data processing system capable of keeping records and processing necessary transactions in the process of employing persons, changing their employment status, and paying employees of any or all state agencies. Such system shall include production of reports and documents required or authorized by state or federal agencies. [1975 1st ex.s. c 239 § 1.]

41.07.020 Administration, maintenance and operation of system—Intent. The department of personnel is authorized to administer, maintain, and operate the central personnel-payroll system and to provide its services for any state agency designated jointly by the director of the department of personnel and the director of financial management.

The system shall be operated through state data processing centers. State agencies shall convert personnel and payroll processing to the central personnel-payroll system as soon as administratively and technically feasible as determined by the office of financial management and the department of personnel. It is the intent of the legislature to provide, through the central personnel-payroll system, for uniform reporting to the office of financial management and to the legislature regarding salaries and related costs, and to reduce present costs of manual procedures in personnel and payroll record keeping and reporting. [1979 c 151 § 62; 1975 1st ex.s. c 239 § 2.]

41.07.030 Costs. The costs of administering, maintaining, and operating the central personnel-payroll system shall be distributed to the using state agencies. In order to insure proper and equitable distribution of costs the department of personnel shall utilize cost accounting procedures to identify all costs incurred in the administration, maintenance, and operation of the central personnel-payroll system. In order to facilitate proper and equitable distribution of costs to the using state agencies the department of personnel is authorized to utilize the data processing revolving fund created by RCW 43.105.080 and the department of personnel service fund created by RCW 41.06.280. [1975 1st ex.s. c 239 § 3.]

41.07.900 Transfer of personnel, records, equipment, etc. On October 1, 1975, or at such earlier time as may be mutually agreed upon by the director of general administration and the director of personnel, the staff of the data processing service center engaged in payroll data control and payroll data entry along with such records, files, data, materials, equipment, supplies, and other assets as are directly associated with their function shall be transferred to the department of personnel. [1975 1st ex.s. c 239 § 4.]

41.07.901 Effective date—1975 1st ex.s. c 239. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975. [1975 1st ex.s. c 239 § 6.]

Chapter 41.08

CIVIL SERVICE FOR CITY FIREMEN

Sections

41.08.010	Application of chapter.
41.08.020	Excluded cities—Repeal of local law—Effect.
41.08.030	Civil service commission created—Appointment—Terms—Removal—Quorum.
41.08.040	Organization of commission—Secretary—Powers and duties of commission.
41.08.050	Persons included—Competitive examinations—Transfers, discharges, and reinstatements.
41.08.060	Existing firemen blanketed under civil service.

- 41.08.070 Qualifications of applicants.
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- 41.08.190 Cooperation of city officers and employees enjoined.
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- 41.08.210 Penalty—Jurisdiction.
- 41.08.220 Definitions.
- 41.08.900 Severability—1935 c 31.
- 41.08.910 Repeal.

Civil service for employees of fire protection districts: RCW 52.30.040.

41.08.010 Application of chapter. The provisions of this chapter shall have no application to cities and towns which at the present time have provided for civil service in the fire department or which shall subsequently provide for civil service in the fire department by local charter or other regulations which said local charter or regulations substantially accomplish the purpose of this chapter. [1935 c 31 § 1; RRS § 9558-1.]

41.08.020 Excluded cities—Repeal of local law—Effect. If any of the cities or towns referred to in RCW 41.08.010 shall at any time repeal the charter provisions or other local acts of said cities or towns providing for civil service for firemen as referred to in RCW 41.08.010, in that event this chapter shall apply to all of such cities and towns which have at any time abolished civil service for members of the fire department. [1935 c 31 § 2; RRS § 9558-2.]

41.08.030 Civil service commission created—Appointment—Terms—Removal—Quorum. There is hereby created in every city, town or municipality except those referred to in RCW 41.08.010, having a full paid fire department a civil service commission which shall be composed of three persons.

The members of such commission shall be appointed by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are vested by law with power and authority to select, appoint, or employ the chief of a fire department in any such city, prior to the enactment of this chapter. The members of such commission shall serve without compensation. No person shall be appointed a member of such commission who is not a citizen of the United States, a resident of such city for at least three years immediately preceding such appointment, and an elector of the county wherein he resides. The term of office

of such commissioners shall be for six years, except that the first three members of such commission shall be appointed for different terms, as follows: One to serve for a period of two years, one to serve for a period of four years, and one to serve for a period of six years. Any member of such commission may be removed from office for incompetency, incompatibility or dereliction of duty, or malfeasance in office, or other good cause: PROVIDED, HOWEVER, That no member of the commission shall be removed until charges have been preferred, in writing, due notice and a full hearing had. The members of such commission shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this chapter. Two members of such commission shall constitute a quorum and the votes of any two members of such commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission under or by virtue of the provisions of this chapter. Confirmation of said appointment or appointments of commissioners by any legislative body shall not be required. At the time of any appointment not more than two commissioners shall be adherents of the same political party. [1935 c 31 § 3; RRS § 9558-3.]

41.08.040 Organization of commission—Secretary—Powers and duties of commission. Immediately after appointment the commission shall organize by electing one of its members chair and hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of their duties.

They shall appoint a secretary and chief examiner, who shall keep the records of the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe.

The secretary and chief examiner shall be appointed as a result of competitive examination which examination may be either original and open to all properly qualified citizens of the city, town or municipality, or promotional and limited to persons already in the service of the fire department or of the fire department and other departments of said city, town or municipality, as the commission may decide. The secretary and chief examiner may be subject to suspension, reduction or discharge in the same manner and subject to the same limitations as are provided in the case of members of the fire department. It shall be the duty of the civil service commission:

(1) To make suitable rules and regulations not inconsistent with the provisions of this chapter. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this chapter, or which may be found to be in the interest of good personnel administration. Such rules and regulations may be changed from time to time. The rules and regulations and any amendments thereof shall be printed, mimeographed or

multigraphed for free public distribution. Such rules and regulations may be changed from time to time.

(2) All tests shall be practical, and shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or of manual skill.

(3) The rules and regulations adopted by the commission shall provide for a credit in accordance with RCW 41.04.010 in favor of all applicants for appointment under civil service, who, in time of war, or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States, including the army, navy, and marine corps and the American Red Cross. These credits apply to entrance examinations only.

(4) The commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions and employments affected by this chapter, and ascertain whether this chapter and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission as aforesaid, but the commission must make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission or designated commissioner, or chief examiner, shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents and accounts appertaining to the investigation and also to cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a superior court judge in his or her judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this chapter, and punishable as such.

(5) All hearings and investigations before the commission, or designated commissioner, or chief examiner, shall be governed by this chapter and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be bound by the technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission: PROVIDED, HOWEVER, That no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members.

(6) To hear and determine appeals or complaints respecting the administrative work of the personnel depart-

ment; appeals upon the allocation of positions; the rejection of an examination, and such other matters as may be referred to the commission.

(7) Establish and maintain in card or other suitable form a roster of officers and employees.

(8) Provide for, formulate and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions, and to provide that persons laid off because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed.

(9) When a vacant position is to be filled, to certify to the appointing authority, on written request, the name of the person highest on the eligible list for the class. If there are no such lists, to authorize provisional or temporary appointment list of such class. Such temporary or provisional appointment shall not continue for a period longer than four months; nor shall any person receive more than one provisional appointment or serve more than four months as a provisional appointee in any one fiscal year.

(10) Keep such records as may be necessary for the proper administration of this chapter. [1993 c 47 § 4; 1973 1st ex.s. c 154 § 60; 1935 c 31 § 5; RRS § 9558-5.]

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

Preferred rights in employment, examinations, appointments, etc., limited to actual members of armed forces: RCW 73.04.090.

Veterans' preference in examinations: RCW 41.04.010.

41.08.050 Persons included—Competitive examinations—Transfers, discharges, and reinstatements. The classified civil service and provisions of this chapter shall include all full paid employees of the fire department of each city, town or municipality coming within its purview, except that individuals appointed as fire chief after July 1, 1987, may be excluded by the legislative body of the city, town, or municipality. All appointments to and promotions in said department shall be made solely on merit, efficiency and fitness, which shall be ascertained by open competitive examination and impartial investigation. No person shall be reinstated in, or transferred, suspended or discharged from any such place, position or employment contrary to the provisions of this chapter. [1987 c 339 § 1; 1935 c 31 § 4; RRS § 9558-4.]

Severability—Effective date—1987 c 339: See notes following RCW 35.21.333.

41.08.060 Existing firemen blanketed under civil service. For the benefit of the public service and to prevent delay, injury, or interruption therein by reason of the enactment of this chapter, all persons holding a position in the fire department of any such city, including the chief thereof, when this chapter takes effect, who shall have served in such position for a period of at least six months last past continuously, are hereby declared eligible for permanent appointment under civil service to the offices, places, positions or employments which they shall then hold, respectively, without examination or other act on their part, and not on probation; and every such person is hereby automatically adopted and inducted permanently into civil

service, into such office, place, position or employment which such person then holds as completely and effectually to all intents and purposes as if such person had been permanently appointed thereto under civil service after examination and investigation. [1935 c 31 § 6; RRS § 9558-6.]

41.08.070 Qualifications of applicants. An applicant for a position of any kind under civil service, must be a citizen of the United States of America who can read and write the English language.

An applicant for a position of any kind under civil service must be of an age suitable for the position applied for, in ordinary good health, of good moral character and of temperate and industrious habits; these facts to be ascertained in such manner as the commission may deem advisable. [1972 ex.s. c 37 § 2; 1963 c 95 § 1; 1935 c 31 § 7; RRS § 9558-7.]

Purpose—1972 ex.s. c 37: "It is the purpose of this 1972 amendatory act to increase the availability of qualified applicants for employment in positions of public safety in municipal government; namely, firemen and policemen; and to eliminate present inequities that result from the application of residency requirements under existing statutes pertaining to such employment." [1972 ex.s. c 37 § 1.]

41.08.075 Residency as condition of employment—Discrimination because of lack of residency—Prohibited.

No city, town, or municipality shall require any person applying for or holding an office, place, position, or employment under the provisions of this chapter or under any local charter or other regulations described in RCW 41.08.010 to reside within the limits of such municipal corporation as a condition of employment, or to discriminate in any manner against any such person because of his residence outside of the limits of such city, town, or municipality. [1972 ex.s. c 37 § 4.]

Purpose—1972 ex.s. c 37: See note following RCW 41.08.070.

41.08.080 Tenure of employment—Grounds for discharge, reduction, or deprivation of privileges. The tenure of every one holding an office, place, position or employment under the provisions of this chapter shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

(1) Incompetency, inefficiency or inattention to or dereliction of duty;

(2) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other wilful failure on the part of the employee to properly conduct himself; or any wilful violation of the provisions of this chapter or the rules and regulations to be adopted hereunder;

(3) Mental or physical unfitness for the position which the employee holds;

(4) Dishonest, disgraceful, immoral or prejudicial conduct;

(5) Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid or preparation to such extent that the use thereof interferes with the efficiency

or mental or physical fitness of the employee, or which precludes the employee from properly performing the functions and duties of any position under civil service;

(6) Conviction of a felony, or a misdemeanor, involving moral turpitude;

(7) Any other act or failure to act which in the judgment of the civil service commissioners is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service. [1935 c 31 § 8; RRS § 9558-8.]

41.08.090 Procedure for removal, suspension, demotion or discharge—Investigation—Hearing—Appeal.

No person in the classified civil service who shall have been permanently appointed or inducted into civil service under provisions of this chapter, shall be removed, suspended, demoted or discharged except for cause, and only upon the written accusation of the appointing power, or any citizen or taxpayer, a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission. Any person so removed, suspended, demoted or discharged may within ten days from the time of his removal, suspension, demotion or discharge, file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. The investigation shall be confined to the determination of the question of whether such removal, suspension, demotion or discharge was or was not made for political or religious reasons and was or was not made in good faith [f]or cause. After such investigation the commission may affirm the removal, or if it shall find that the removal, suspension, or demotion was made for political or religious reasons, or was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted or discharged, which reinstatement shall, if the commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. The commission upon such investigation, in lieu of affirming the removal, suspension, demotion or discharge may modify the order of removal, suspension, demotion or discharge by directing a suspension, without pay, for a given period, and subsequent restoration to duty, or demotion in classification, grade, or pay; the findings of the commission shall be certified, in writing to the appointing power, and shall be forthwith enforced by such officer.

All investigations made by the commission pursuant to the provisions of this section shall be by public hearing, after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his defense. If such judgment or order be concurred in by the commission or a majority thereof, the accused may appeal therefrom to the court of original and unlimited jurisdiction in civil suits of the county wherein he resides. Such appeal shall be taken by serving the commission, within thirty days after the entry of such judgment or order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to such judgment or order, be filed by the

commission with such court. The commission shall, within ten days after the filing of such notice, make, certify and file such transcript with such court. The court of original and unlimited jurisdiction in civil suits shall thereupon proceed to hear and determine such appeal in a summary manner: PROVIDED, HOWEVER, That such hearing shall be confined to the determination of whether the judgment or order of removal, discharge, demotion or suspension made by the commission, was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds. [1935 c 31 § 9; RRS § 9558-9.]

41.08.100 Filling of vacancies—Probationary period.

Whenever a position in the classified service becomes vacant, the appointing power, if it desires to fill the vacancy, shall make requisition upon the commission for the name and address of a person eligible for appointment thereto. The commission shall certify the name of the person highest on the eligible list for the class to which the vacant position has been allocated, who is willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the name of the person standing highest on said list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint such person to such vacant position.

Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the commission shall forthwith certify the name of the person eligible for appointment to the appointing power, and said appointing power shall forthwith appoint the person so certified to said position. No person so certified shall be laid off, suspended, or given leave of absence from duty, transferred or reduced in pay or grade, except for reasons which will promote the good of the service, specified in writing, and after an opportunity to be heard by the commission and then only with its consent and approval.

To enable the appointing power to exercise a choice in the filling of positions, no appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of three to six months' probationary service, as may be provided in the rules of the civil service commission during which the appointing power may terminate the employment of the person certified to him, or it, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems him unfit or unsatisfactory for service in the department. Whereupon the appointing power shall designate the person certified as standing next highest on any such list and such person shall likewise enter upon said duties until some person is found who is deemed fit for appointment, employment or promotion for the probationary period provided therefor, whereupon the appointment, employment or promotion shall be deemed to be complete. [1935 c 31 § 11; RRS § 9558-11.]

41.08.110 Power to create offices, make appointments and fix salaries not infringed. All offices, places, positions and employments coming within the purview of

this chapter, shall be created by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, chief, common council, commission or otherwise, is or are vested by law with power and authority to select, appoint, or employ any person coming within the purview of this chapter, and nothing herein contained shall infringe upon the power and authority of any such person or group of persons, or appointing power, to fix the salaries and compensation of all employees employed hereunder. [1935 c 31 § 12; RRS § 9558-12.]

41.08.120 Approval of payrolls. No treasurer, auditor, comptroller or other officer or employee of any city, town or municipality in which this chapter is effective, shall approve the payment of or be in any manner concerned in paying, auditing or approving any salary, wage or other compensation for services, to any person subject to the jurisdiction and scope of this chapter, unless a payroll, estimate or account for such salary, wage or other compensation, containing the names of the persons to be paid, the amount to be paid to each such person, the services on account of which same is paid, and any other information which, in the judgment of the civil service commission, should be furnished on said payroll, bears the certificate of the civil service commission or of its secretary or other duly authorized agent, that the persons named in such payroll, estimate or account have been appointed or employed in compliance with the terms of this chapter and with the rules of the commission, and that the said payroll, estimate or account is, so far as known to the said commission, a true and accurate statement. The commission shall refuse to certify the pay of any public officer or employee whom it finds to be illegally or improperly appointed, and may further refuse to certify the pay of any public officer or employee who shall wilfully or through culpable negligence violate or fail to comply with this chapter or with the rules of the commission. [1935 c 31 § 13; RRS § 9558-13.]

41.08.130 Leaves of absence—Notice—Filling vacancy. Leave of absence, without pay, may be granted by any appointing power to any person under civil service: PROVIDED, That such appointing power shall give notice of such leave to the commission. All temporary employment caused by leaves of absence shall be made from the eligible list of the classified civil service. [1935 c 31 § 14; RRS § 9558-14.]

41.08.140 Enforcement by civil action—Legal counsel. It shall be the duty of the commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this chapter and of the rules of the commission. The commission shall be represented in such suits by the chief legal officer of the city, but said commission may in any case be represented by special counsel appointed by it. [1935 c 31 § 15; RRS § 9558-15.]

41.08.150 Deceptive practices, false marks, etc., prohibited. No commissioner or any other person, shall, by himself or in cooperation with one or more persons, defeat, deceive, or obstruct any person in respect of his right of examination or registration according to the rules and

regulations of this chapter, or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this chapter, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified or persuade any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration or application or request to be examined or registered. [1935 c 31 § 16; RRS § 9558-16.]

41.08.160 Political contributions and services—Not required—Solicitation and coercion prohibited. No person holding any office, place, position or employment subject to civil service, is under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever, and no person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote or in any manner change the official rank, employment or compensation of any person under civil service, or promise or threaten so to do, for giving or withholding, or neglecting to make any contribution of money, or services, or any other valuable thing, for any political purpose. [1935 c 31 § 17; RRS § 9558-17.]

Political activities of public employees: RCW 41.06.250.

41.08.170 Local legislation required—Penalty. The various cities affected by the provisions of this chapter, shall, immediately upon the taking effect thereof, enact appropriate legislation for carrying this chapter into effect, and the failure upon the part of the duly constituted authorities of any such city so to do shall be considered a violation of this chapter and be punishable as such. [1935 c 31 § 18; RRS § 9558-18.]

41.08.180 Office and supplies to be furnished—Penalty for not providing. The duly constituted authorities of each and every city coming within the purview of this chapter, shall provide the commission with suitable and convenient rooms and accommodations and cause the same to be furnished, heated and lighted and supplied with all office supplies and equipment necessary to carry on the business of the commission and with such clerical assistance as may be necessary, all of which is to be commensurate with the number of persons in each such city coming within the purview of this chapter; and the failure upon the part of the duly constituted authorities to do so, shall be considered a violation of this chapter and shall be punishable as such. [1935 c 31 § 19; RRS § 9558-19.]

41.08.183 Time limit for creation of commission—Penalty. In ninety days after the taking effect of this chapter, it shall be the duty of the duly constituted authorities in each such city, subject to the provisions of this chapter, to appoint and create a civil service commission as provided for in RCW 41.08.010, and the failure upon the

part of said duly constituted authorities, or any of them, so to do, shall be deemed a violation of this chapter, and shall be punishable as such. [1935 c 31 § 20; RRS § 9558-20.]

41.08.185 Duty of commission to organize and function—Penalty for violation. It shall be the duty of each commission appointed subject to the provisions of this chapter, to immediately organize and see to it that the provisions thereof are carried into effect, and to this end to make suitable rules and regulations not inconsistent with the purpose of this chapter, for the purpose of carrying the provisions thereof into effect; and the failure upon the part of said commission, or any individual member thereof to do so, shall be deemed a violation of this chapter, and shall be punishable as such. [1935 c 31 § 21; RRS § 9558-21.]

41.08.190 Cooperation of city officers and employees enjoined. It shall be the duty of all officers and employees of any such city to aid in all proper ways of carrying out the provisions of this chapter, and such rules and regulations as may, from time to time, be prescribed by the commission thereunder and to afford the commission, its members and employees, all reasonable facilities and assistance to inspect all books, papers, documents and accounts applying or in any way appertaining to any and all offices, places, positions and employments, subject to civil service, and also to produce said books, papers, documents and accounts, and attend and testify, whenever required so to do by the commission or any commissioner. [1935 c 31 § 10; RRS § 9558-10.]

41.08.200 Appropriation for expenses. For the purpose of carrying out the provisions of this chapter, such city, town or municipality is hereby authorized to appropriate from the general fund not to exceed four-tenths of one percent of the total payroll of those included under the jurisdiction and scope of the chapter: PROVIDED, HOWEVER, That if the city council or other proper legislative body shall make an appropriation for the support of said commission equal to or more than the said continuing appropriation in any year, this section shall not be operative for said year but otherwise shall be in full force and effect. [1935 c 31 § 22; RRS § 9558-22.]

41.08.210 Penalty—Jurisdiction. Any person who shall wilfully violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars and by imprisonment in the county jail for not longer than thirty days, or by both such fine and imprisonment. The court of original and unlimited jurisdiction in civil suits shall have jurisdiction of all such offenses defined by this chapter. [1935 c 31 § 23; RRS § 9558-23.]

41.08.220 Definitions. As used in this chapter, the following mentioned terms shall have the following described meanings:

The term "commission" means the civil service commission herein created, and the term "commissioner" means any one of the three commissioners of that commission.

The term "appointing power" includes every person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are, vested by law with power and authority to select, appoint, or employ any person to hold any office, place, position or employment subject to civil service.

The term "appointment" includes all means of selection, appointing or employing any person to hold any office, place, position or employment subject to civil service.

The term "city" includes all cities, towns and municipalities having a full paid fire department.

The term "full paid fire department" means that the officers and firemen employed in such are paid regularly by the city and devote their whole time to fire fighting. [1935 c 31 § 24; RRS § 9558-24.]

41.08.900 Severability—1935 c 31. If any section, subsection, subdivision, sentence, clause or phrase of this chapter, shall for any reason be held to be unconstitutional such decision shall not affect the validity of the remaining portions of this chapter. [1935 c 31 § 25; RRS § 9558-25.]

41.08.910 Repeal. All acts and parts of acts in conflict with the provisions of this chapter are hereby repealed insofar as they conflict with the provisions of this chapter. [1935 c 31 § 26; RRS § 9558-26.]

Chapter 41.12

CIVIL SERVICE FOR CITY POLICE

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41.12.010 Application of chapter. The provisions of this chapter shall have no application to cities and towns which at the present time have provided for civil service in the police department or which shall subsequently provide for civil service in the police department by local charter or other regulations which said local charter or regulations substantially accomplish the purpose of this chapter, nor to cities having a police force of not more than two persons including the chief of police. [1937 c 13 § 1; RRS § 9558a-1.]

41.12.020 Excluded cities—Repeal of local law—Effect. If any of the cities or towns referred to in RCW 41.12.010 shall at any time repeal the charter provisions or other local acts of said cities or towns providing for civil service for policemen as referred to in RCW 41.12.010, in that event this chapter shall apply to all of such cities and towns which have at any time abolished civil service for members of the police department. [1937 c 13 § 2; RRS § 9558a-2.]

41.12.030 Civil service commission—Appointment—Terms—Removal—Quorum. There is hereby created in every city, town or municipality except those referred to in RCW 41.12.010, having fully paid policemen a civil service commission which shall be composed of three persons.

The members of such commission shall be appointed by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are vested by law with the power and authority to select, appoint, or employ the chief of a police department in any such city, prior to the enactment of this chapter. The members of such commission shall serve without compensation. No person shall be appointed a member of such commission who is not a citizen of the United States, a resident of such city for at least three years immediately preceding such appointment, and an elector of the county wherein he resides. The term of office of such commissioners shall be for six years, except that the first three members of such commission shall be appointed for different terms, as follows: One to serve for a period of two years, one to serve for a period of four years, and one to serve for a period of six years. Any member of such commission may be removed from office for incompetency, incompatibility or dereliction of duty, or malfeasance in office, or other good cause: PROVIDED, HOWEVER, That no member of the commission shall be removed until charges have been preferred, in writing, due notice and a full hearing had. The members of such commission shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this chapter. Two members of such commission shall constitute a quorum and the votes of any two members of such commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission under or by virtue of the provisions of this chapter. Confirmation of said appointment or appointments of commissioners by any legislative body shall not be required. At the time of any appointment not more than two

commissioners shall be adherents of the same political party. [1937 c 13 § 3; RRS § 9558a-3.]

41.12.040 Organization of commission—Secretary—Powers and duties of commission. Immediately after appointment the commission shall organize by electing one of its members chair and hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of their duties.

They shall appoint a secretary and chief examiner, who shall keep the records for the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe.

The secretary and chief examiner shall be appointed as a result of competitive examination which examination may be either original and open to all properly qualified citizens of the city, town, or municipality, or promotional and limited to persons already in the service of the police department or of the police department and other departments of the city, town, or municipality, as the commission may decide. The secretary and chief examiner may be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the police department. It shall be the duty of the civil service commission:

(1) To make suitable rules and regulations not inconsistent with the provisions of this chapter. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions, and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this chapter, or which may be found to be in the interest of good personnel administration. Such rules and regulations may be changed from time to time. The rules and regulations and any amendments thereof shall be printed, mimeographed, or multigraphed for free public distribution. Such rules and regulations may be changed from time to time;

(2) All tests shall be practical, and shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or of manual skill;

(3) The rules and regulations adopted by the commission shall provide for a credit in accordance with RCW 41.04.010 in favor of all applicants for appointment under civil service, who, in time of war, or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States, including the army, navy, and marine corps and the American Red Cross. These credits apply to entrance examinations only;

(4) The commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions, and employments affected by this chapter, and ascertain whether this chapter

and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission, but the commission must make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission or designated commissioner, or chief examiner, shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents, and accounts appertaining to the investigation, and also to cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a superior court judge in his or her judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this chapter, and punishable as such;

(5) Hearings and Investigations: How conducted. All hearings and investigations before the commission, or designated commissioner, or chief examiner, shall be governed by this chapter and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be bound by the technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission: PROVIDED, HOWEVER, That no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members;

(6) To hear and determine appeals or complaints respecting the administrative work of the personnel department; appeals upon the allocation of positions; the rejection of an examination, and such other matters as may be referred to the commission;

(7) Establish and maintain in card or other suitable form a roster of officers and employees;

(8) Provide for, formulate and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions, and to provide that persons laid off because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed;

(9) When a vacant position is to be filled, to certify to the appointing authority, on written request, the name of the person highest on the eligible list for the class. If there are no such lists, to authorize provisional or temporary appointment list of such class. Such temporary or provisional appointment shall not continue for a period longer than four months; nor shall any person receive more than one provi-

sional appointment or serve more than four months as provisional appointee in any one fiscal year;

(10) Keep such records as may be necessary for the proper administration of this chapter. [1993 c 47 § 5; 1937 c 13 § 5; RRS § 9558a-5.]

Preferred rights in employment, examinations, appointments, etc., limited to actual members of armed forces: RCW 73.04.090.

Veterans' preference in examinations: RCW 41.04.010.

41.12.050 Persons included—Competitive examinations—Transfers, discharges, and reinstatements. The classified civil service and provisions of this chapter shall include all full paid employees of the police department of each city, town or municipality coming within its purview, except that individuals appointed as police chief after July 1, 1987, to a department with six or more commissioned officers, including the police chief, may be excluded by the legislative body of the city, town or municipality. All appointments to and promotions in the department shall be made solely on merit, efficiency and fitness except as provided in RCW 35.13.360 through 35.13.400, which shall be ascertained by open competitive examination and impartial investigation. No person shall be reinstated in or transferred, suspended or discharged from any such place, position or employment contrary to the provisions of this chapter. [1993 c 189 § 1; 1987 c 339 § 2; 1937 c 13 § 4; RRS § 9558a-4.]

Severability—Effective date—1987 c 339: See notes following RCW 35.21.333.

Chief of police or marshal—Eligibility requirements: RCW 35.21.333.

41.12.060 Existing police blanketed under civil service. For the benefit of the public service and to prevent delay, injury, or interruption therein by reason of the enactment of this chapter, all persons holding a position in the police department of any such city, including the chief thereof, when this chapter takes effect, who shall have served in such position for a period of at least six months last past continuously, are hereby declared eligible for permanent appointment under civil service to the offices, places, positions or employments which they shall then hold, respectively, without examination or other act on their part, and not on probation; and every such person is hereby automatically adopted and inducted permanently into civil service, into such office, place, position or employment which such person then holds as completely and effectually to all intents and purposes as if such person had been permanently appointed thereto under civil service after examination and investigation. [1937 c 13 § 6; RRS § 9558a-6.]

41.12.070 Qualifications of applicants. An applicant for a position of any kind under civil service, must be a citizen of the United States of America who can read and write the English language.

An applicant for a position of any kind under civil service must be of an age suitable for the position applied for, in ordinary good health, of good moral character and of temperate and industrious habits; these facts to be ascertained in such manner as the commission may deem advis-

able. [1972 ex.s. c 37 § 3; 1963 c 95 § 2; 1937 c 13 § 7; RRS § 9558a-7.]

Purpose—1972 ex.s. c 37: See note following RCW 41.08.070.

41.12.075 Residency as condition of employment—Discrimination because of lack of residency—Prohibited. No city, town, or municipality shall require any person applying for or holding an office, place, position, or employment under the provisions of this chapter or under any local charter or other regulations described in RCW 41.12.010 to reside within the limits of such municipal corporation as a condition of employment or to discriminate in any manner against any such person because of his residence outside of the limits of such city, town, or municipality. [1972 ex.s. c 37 § 5.]

Purpose—1972 ex.s. c 37: See note following RCW 41.08.070.

41.12.080 Tenure of employment—Grounds for discharge, reduction, or deprivation of privileges. The tenure of everyone holding an office, place, position or employment under the provisions of this chapter shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

(1) Incompetency, inefficiency or inattention to or dereliction of duty;

(2) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other wilful failure on the part of the employee to properly conduct himself; or any wilful violation of the provisions of this chapter or the rules and regulation to be adopted hereunder;

(3) Mental or physical unfitness for the position which the employee holds;

(4) Dishonest, disgraceful, immoral or prejudicial conduct;

(5) Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position under civil service;

(6) Conviction of a felony, or a misdemeanor, involving moral turpitude;

(7) Any other act or failure to act which in the judgment of the civil service commissioners is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service. [1937 c 13 § 8; RRS § 9558a-8.]

41.12.090 Procedure for removal, suspension, demotion or discharge—Investigation—Hearing—Appeal. No person in the classified civil service who shall have been permanently appointed or inducted into civil service under provisions of this chapter, shall be removed, suspended, demoted or discharged except for cause, and only upon written accusation of the appointing power, or any citizen or taxpayer; a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission. Any person so removed, suspended,

demoted or discharged may within ten days from the time of his removal, suspension, demotion or discharge, file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. The investigation shall be confined to the determination of the question of whether such removal, suspension, demotion or discharge was or was not made for political or religious reasons and was or was not made in good faith [f]or cause. After such investigation the commission may affirm the removal, or if it shall find that the removal, suspension, or demotion was made for political or religious reasons, or was not made in good faith for cause, shall order the immediate reinstatement of [or] reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted or discharged, which reinstatement shall, if the commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. The commission upon such investigation, [in] lieu of affirming the removal, suspension, demotion or discharge may modify the order of removal, suspension, demotion or discharge by directing a suspension, without pay, for a given period, and subsequent restoration to duty, or demotion in classification, grade, or pay; the findings of the commission shall be certified, in writing to the appointing power, and shall be forthwith enforced by such officer.

All investigations made by the commission pursuant to the provisions of this section shall be had by public hearing, after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his defense. If such judgment or order be concurred in by the commission or a majority thereof, the accused may appeal therefrom to the court of original and unlimited jurisdiction in civil suits of the county wherein he resides. Such appeal shall be taken by serving the commission, within thirty days after the entry of such judgment or order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to such judgment or order, be filed by the commission with such court. The commission shall, within ten days after the filing of such notice, make, certify and file such transcript with such court. The court of original and unlimited jurisdiction in civil suits shall thereupon proceed to hear and determine such appeal in a summary manner: PROVIDED, HOWEVER, That such hearing shall be confined to the determination of whether the judgment or order of removal, discharge, demotion or suspension made by the commission, was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds. [1937 c 13 § 9; RRS § 9558a-9.]

41.12.100 Filling of vacancies—Probationary period. Whenever a position in the classified service becomes vacant, the appointing power, if it desires to fill the vacancy, shall make requisition upon the commission for the name and address of a person eligible for appointment thereto. The commission shall certify the name of the person highest

on the eligible list for the class to which the vacant position has been allocated, who is willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the name of the person standing highest on said list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint such person to such vacant position.

Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the commission shall forthwith certify the name of the person eligible for appointment to the appointing power, and said appointing power shall forthwith appoint the person so certified to said position. No person so certified shall be laid off, suspended, or given leave of absence from duty, transferred or reduced in pay or grade, except for reasons which will promote the good of the service, specified in writing, and after an opportunity to be heard by the commission and then only with its consent and approval.

To enable the appointing power to exercise a choice in the filling of positions, no appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of three to six months' probationary service, as may be provided in the rules of the civil service commission during which the appointing power may terminate the employment of the person certified to him, or it, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems him unfit or unsatisfactory for service in the department, whereupon the appointing power shall designate the person certified as standing next highest on any such list and such person shall likewise enter upon said duties until some person is found who is deemed fit for appointment, employment or promotion for the probationary period provided therefor, whereupon the appointment, employment or promotion shall be deemed to be complete. [1937 c 13 § 11; RRS § 9558a-11.]

41.12.110 Power to create offices, make appointments and fix salaries not infringed. All offices, places, positions and employments coming within the purview of this chapter, shall be created by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, chief, common council, commission or otherwise, it is vested by law with power and authority to select, appoint, or employ any person coming within the purview of this chapter, and nothing herein contained shall infringe upon the power and authority of any such person or group of persons, or appointing power, to fix the salaries and compensation of all employees employed hereunder. [1937 c 13 § 12; RRS § 9558a-12.]

41.12.120 Approval of payrolls. No treasurer, auditor, comptroller or other officer, or employee of any city, town or municipality in which this chapter is effective, shall approve the payment of or be in any manner concerned in paying, auditing or approving any salary, wage, or other compensation for services, to any person subject to the jurisdiction and scope of this chapter, unless a payroll, estimate or account for such salary, wage or other compen-

sation, containing the names of the persons to be paid, the amount to be paid to each such person, the services on account of which same is paid, and any other information which, in the judgment of the civil service commission, should be furnished on said payroll, bears the certificate of the civil service commission or of its secretary or other duly authorized agent, that the persons named in such payroll, estimate or account have been appointed or employed in compliance with the terms of this chapter and with the rules of the commission, and that the said payroll, estimate or account is, so far as known to the said commission, a true and accurate statement. The commission shall refuse to certify the pay of any public officer or employee whom it finds to be illegally or improperly appointed, and may further refuse to certify the pay of any public officer or employee who shall wilfully or through culpable negligence violate or fail to comply with this chapter or with the rules of the commission. [1937 c 13 § 13; RRS § 9558a-13.]

41.12.130 Leaves of absence—Notice—Filling vacancy. Leave of absence, without pay, may be granted by any appointing power to any person under civil service: PROVIDED, That such appointing power shall give notice of such leave to the commission. All temporary employment caused by leaves of absence shall be made from the eligible list of the classified civil service. [1937 c 13 § 14; RRS § 9558a-14.]

41.12.140 Enforcement by civil action—Legal counsel. It shall be the duty of the commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this chapter and of the rules of the commission. The commission shall be represented in such suits by the chief legal officer of the city, but said commission may in any case be represented by special counsel appointed by it. [1937 c 13 § 15; RRS § 9558a-15.]

41.12.150 Deceptive practices, false marks, etc., prohibited. No commissioner or any other person, shall, by himself or in cooperation with one or more persons, defeat, deceive, or obstruct any person in respect of his right of examination or registration according to the rules and regulations of this chapter, or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this chapter, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified or persuade any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration of application or request to be examined or registered. [1937 c 13 § 16; RRS § 9558a-16.]

41.12.160 Political contributions and services. No person holding any office, place, position or employment subject to civil service, is under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever, and no person shall be removed,

reduced in grade or salary, or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote, or in any manner change the official rank, employment or compensation of any person under civil service, or promise or threaten so to do, for giving or withholding, or neglecting to make any contribution of money, or services, or any other valuable thing, for any political purpose. [1937 c 13 § 17; RRS § 9558a-17.]

Political activities of public employees: RCW 41.06.250.

41.12.170 Local legislation required—Penalty. The various cities affected by the provisions of this chapter, shall immediately upon the taking effect thereof, enact appropriate legislation for carrying this chapter into effect, and the failure upon the part of the duly constituted authorities of any such city so to do shall be considered a violation of this chapter and be punishable as such. [1937 c 13 § 18; RRS § 9558a-18.]

41.12.180 Office and supplies to be furnished—Penalty for not providing. The duly constituted authorities of each and every city coming within the purview of this chapter, shall provide the commission with suitable and convenient rooms and accommodations and cause the same to be furnished, heated and lighted and supplied with all office supplies and equipment necessary to carry on the business of the commission and with such clerical assistance as may be necessary, all of which is to be commensurate with the number of persons in each such city coming within the purview of this chapter; and the failure upon the part of the duly constituted authorities to do so, shall be considered a violation of this chapter and shall be punishable as such. [1937 c 13 § 19; RRS § 9558a-19.]

41.12.183 Time limit for creation of commission—Penalty. In ninety days after the taking effect of this chapter, it shall be the duty of the duly constituted authorities in each such city, subject to the provisions of this chapter, to appoint and create a civil service commission as provided for in RCW 41.12.010, and the failure upon the part of said duly constituted authorities, or any of them, so to do, shall be deemed a violation of this chapter, and shall be punishable as such. [1937 c 13 § 20; RRS § 9558a-20.]

41.12.185 Duty of commission to organize and function—Penalty for violation. It shall be the duty of each commission appointed subject to the provisions of this chapter, to immediately organize and see to it that the provisions thereof are carried into effect, and to this end to make suitable rules and regulations not inconsistent with the purpose of this chapter, for the purpose of carrying the provisions thereof into effect; and the failure upon the part of said commission, or any individual member thereof to do so, shall be deemed a violation of this chapter, and shall be punishable as such. [1937 c 13 § 21; RRS § 9558a-21.]

41.12.190 Cooperation of city officers and employees enjoined. It shall be the duty of all officers and employees of any such city to aid in all proper ways of

carrying out the provisions of this chapter, and such rules and regulations as may, from time to time, be prescribed by the commission thereunder and to afford the commission, its members and employees, all reasonable facilities and assistance to inspect all books, papers, documents and accounts applying or in any way appertaining to any and all offices, places, positions and employments, subject to civil service, and also to produce said books, papers, documents and accounts, and attend and testify, whenever required so to do by the commission or any commissioner. [1937 c 13 § 10; RRS § 9558a-10.]

41.12.200 Appropriation for expenses. For the purpose of carrying out the provisions of this chapter, such city, town or municipality is hereby authorized to appropriate from the general fund not to exceed four-tenths of one percent of the total payroll of those included under the jurisdiction and scope of the chapter: PROVIDED, HOWEVER, That if the city council or other proper legislative body shall make an appropriation for the support of said commission equal to or more than the said continuing appropriation in any year, this section shall not be operative for said year but otherwise shall be in full force and effect. [1937 c 13 § 22; RRS § 9558a-22.]

41.12.210 Penalty—Jurisdiction. Any person who shall wilfully violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars and by imprisonment in the county jail for not longer than thirty days, or by both such fine and imprisonment. The court of original and unlimited jurisdiction in civil suits shall have jurisdiction of all such offenses defined by this chapter. [1937 c 13 § 23; RRS § 9558a-23.]

41.12.220 Definitions. As used in this chapter, the following mentioned terms shall have the following described meanings:

The term "commission" means the civil service commission herein created, and the term "commissioner" means any one of the three commissioners of that commission.

The term "appointing power" includes every person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are, invested by law with power and authority to select, appoint, or employ any person to hold any office, place, position or employment subject to civil service.

The term "appointment" includes all means of selection, appointing or employing any person to hold any office, place, position or employment subject to civil service.

The term "city" includes all cities, towns and municipalities having a full paid police department.

The term "full paid police department" means that the officers and policemen employed in such are paid regularly by the city and devote their whole time to police duty: PROVIDED, "full paid police department" whenever used in this chapter shall also mean "full paid policemen". [1937 c 13 § 24; RRS § 9558a-24.]

41.12.900 Severability—1937 c 13. If any section, subsection, subdivision, sentence, clause or phrase of this chapter, shall for any reason be held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. [1937 c 13 § 25; RRS § 9558a-25.]

41.12.910 Repeal. All acts and parts of acts in conflict with the provisions of this chapter are hereby repealed insofar as they conflict with the provisions of this chapter. [1937 c 13 § 26; RRS § 9558a-26.]

Chapter 41.14

CIVIL SERVICE FOR SHERIFF'S OFFICE

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- 41.14.270 City contracts to obtain sheriff's office law enforcement services—Lay offs—Notice—Time limitation for transfers.
- 41.14.280 City contracts to obtain sheriff's office law enforcement services—Rules and regulations.
- 41.14.290 Appointment of classified employee to exempt position—Return to regular position.
- 41.14.900 Severability—1959 c 1.

41.14.010 Declaration of purpose. The general purpose of this chapter is to establish a merit system of employment for county deputy sheriffs and other employees of the office of county sheriff, thereby raising the standards and efficiency of such offices and law enforcement in

general. [1987 c 251 § 1; 1985 c 429 § 3; 1959 c 1 § 1 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.020 Terms defined. Definition of terms:

(1) "Commission" means the civil service commission, or combined county civil service commission, herein created, and "commissioner" means any one of the three members of any such commission;

(2) "Appointing power" means the county sheriff who is invested by law with power and authority to select, appoint, or employ any deputy, deputies or other necessary employees subject to civil service;

(3) "Appointment" includes all means of selecting, appointing, or employing any person to any office, place, position, or employment subject to civil service;

(4) "County" means any county of the state, or any counties combined pursuant to RCW 41.14.040 for the purpose of carrying out the provisions of this chapter;

(5) "Deputy sheriff or other members of the office of county sheriff" means all persons regularly employed in the office of county sheriff either on a part time or full time basis. [1959 c 1 § 2 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.030 Civil service commission—Appointment, terms, qualifications, compensation, etc. There is created in each county and in each combination of counties, combined pursuant to RCW 41.14.040 to carry out the provisions of this chapter, a civil service commission which shall be composed of three persons. The commission members shall be appointed by the board of county commissioners, or boards of county commissioners of each combination of counties, within sixty days after December 4, 1958. No person shall be appointed to the commission who is not a citizen of the United States, a resident of the county, or one of the counties combined, for at least two years immediately preceding his appointment, and an elector of the county wherein he resides. The term of office of the commissioners shall be six years, except that the first three members of the commission shall be appointed for different terms, as follows: One to serve for a period of two years, one to serve for a period of four years, and one to serve for a period of six years. Any member of the commission may be removed from office for incompetency, incompatibility, or dereliction of duty, or malfeasance in office, or other good cause: PROVIDED, That no member of the commission shall be removed until charges have been preferred, in writing, due notice, and a full hearing had. Any vacancy in the commission shall be filled by the county commissioners for the unexpired term. Two members of the commission shall constitute a quorum and the votes of any two members concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission. Confirmation of the appointment of commissioners by any legislative body shall not be required. At the time of appointment not more than two commissioners shall be adherents of the same political party. No member after appointment shall hold any salaried public office or engage in county employment, other than his commission duties. The members of the commission shall

serve without compensation. [1959 c 1 § 3 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.040 Combined system authorized in counties with populations of less than forty thousand. Any counties with populations of less than forty thousand, whether contiguous or not, are authorized to establish and operate a combined civil service system to serve all counties so combined. The combination of any such counties shall be effective whenever each board of county commissioners of the counties involved adopts a resolution declaring intention to participate in the operation of a combined county civil service system in accordance with agreements made between any such counties. Any such combined county civil service commission shall serve the employees of each county sheriff's office impartially and according to need.

All matters affecting the combined civil service commission, including the selection of commissioners, shall be decided by majority vote of all the county commissioners of the counties involved.

All the provisions of this chapter shall apply equally to any such combined civil service system. [1991 c 363 § 114; 1959 c 1 § 4 (Initiative Measure No. 23, approved November 4, 1958).]

~~Purpose—Captions not law—~~1991 c 363: See notes following RCW 2.32.180.

41.14.050 Commission—Organization, meetings—Chief examiner, qualifications, duties. Immediately after appointment the commission shall organize by electing one of its members chairman and shall hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of its duties.

It shall appoint a chief examiner who shall also serve as secretary of the commission and such assistants as may be necessary. The chief examiner shall keep the records for the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe.

The chief examiner shall be appointed as a result of competitive examination, which examination must be open to all properly qualified citizens of the county: PROVIDED, That no appointee of the commission, either as chief examiner or as an assistant to the chief examiner, shall be an employee of the sheriff's department. The chief examiner may be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the classified service. [1979 ex.s. c 153 § 1; 1959 c 1 § 5 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.060 Powers and duties of commission. It shall be the duty of the civil service commission:

(1) To make suitable rules and regulations not inconsistent with the provisions hereof. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, reallocations, transfers, reinstatements, demotions, suspensions, and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel

administration, and which may be considered desirable to further carry out the general purposes of this chapter, or which may be found to be in the interest of good personnel administration. The rules and regulations and any amendments thereof shall be printed, mimeographed, or multigraphed for free public distribution. Such rules and regulations may be changed from time to time.

(2) To give practical tests which shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made. Such tests may include tests of physical fitness or manual skill or both.

(3) To make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; to inspect all departments, offices, places, positions, and employments affected by this chapter, and ascertain whether this chapter and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission as aforesaid, but the commission must make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission or designated commissioner, or chief examiner, may administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents, and accounts appertaining to the investigation and also cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the oaths administered and the subpoenas issued hereunder shall have the same force and effect as the oaths administered and subpoenas issued by a superior court judge in his judicial capacity; and the failure of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this chapter, and punishable as such.

(4) To conduct hearings and investigations in accordance with this chapter and by the rules of practice and procedure adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be bound by technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule, or regulation made, approved, or confirmed by the commission: PROVIDED, That no order, decision, rule, or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members.

(5) To hear and determine appeals or complaints respecting the allocation of positions, the rejection of an examinee, and such other matters as may be referred to the commission.

(6) To provide for, formulate, and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions,

and provide that persons laid off, or who have accepted voluntary demotion in lieu of layoff, because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed or reinstated in their former job class.

(7) To certify to the appointing authority, when a vacant position is to be filled, on written request, the names of the three persons highest on the eligible list for the class. If there is no such list, to authorize a provisional or temporary appointment list for such class. Such temporary provisional appointment shall not continue for a period longer than four months; nor shall any person receive more than one provisional appointment or serve more than four months as provisional appointee in any one fiscal year.

(8) To keep such records as may be necessary for the proper administration of this chapter. [1979 ex.s. c 153 § 2; 1959 c 1 § 6 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.065 Delegation of powers and duties of commission in county with a population of one million or more. Any county with a population of one million or more may assign the powers and duties of the commission to such county agencies or departments as may be designated by charter or ordinance: PROVIDED, That the powers and duties of the commission under RCW 41.14.120 shall not be assigned to any other body but shall continue to be vested in the commission, which shall exist to perform such powers and duties, together with such other adjudicative functions as may be designated by charter or ordinance. [1991 c 363 § 115; 1987 c 251 § 2.]

~~Purpose—Captions not law—1991 c 363:~~ See notes following RCW 2.32.180.

41.14.070 Classified and unclassified service designated—Procedures. The classified civil service and provisions of this chapter shall include all deputy sheriffs and other employees of the office of sheriff in each county except the county sheriff in every county and an additional number of positions, designated the unclassified service, determined as follows:

Staff Personnel	Unclassified Position Appointments
1 through 10	2
11 through 20	3
21 through 50	4
51 through 100	5
101 and over	6

The unclassified position appointments authorized by this section must include selections from the following positions up to the limit of the number of positions authorized: Undersheriff, inspector, chief criminal deputy, chief civil deputy, jail superintendent, and administrative assistant or administrative secretary. The initial selection of specific positions to be exempt shall be made by the sheriff, who shall notify the civil service commission of his or her selection. Subsequent changes in the designation of which positions are to be exempt may be made only with the concurrence of the sheriff and the civil service commission,

and then only after the civil service commission has heard the issue in open meeting. Should the position or positions initially selected by the sheriff to be exempt (unclassified) pursuant to this section be under the classified civil service at the time of such selection, and should it (or they) be occupied, the employee(s) occupying said position(s) shall have the right to return to the next highest position or a like position under classified civil service.

The county legislative authority of any county with a population of five hundred thousand or more operating under a home rule charter may designate unclassified positions of administrative responsibility not to exceed twelve positions. [1991 c 363 § 116; 1979 ex.s. c 153 § 3; 1975 1st ex.s. c 186 § 1; 1959 c 1 § 7 (Initiative Measure No. 23, approved November 4, 1958).]

~~Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.~~

41.14.080 Classified service—Appointment, promotion, transfer, suspension, discharge. All appointments to and promotions to positions in the classified civil service of the office of county sheriff shall be made solely on merit, efficiency, and fitness, which shall be ascertained by open competitive examination and impartial investigation: PROVIDED, That before June 30, 1981, employees in an existing county personnel system may be transferred to newly created and classified positions within such county's sheriff's office, in order to permanently transfer the functions of these positions, without meeting the open competitive examination requirements of this section if the transfer is approved by the civil service commission created in RCW 41.14.030. No person in the classified civil service shall be reinstated in or transferred, suspended, or discharged from any such place, position, or employment contrary to the provisions of this chapter. [1980 c 108 § 1; 1959 c 1 § 8 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.090 Status of existing employees in classified service. For the benefit of the public service and to prevent delay, injury, or interruption therein by reason of the enactment hereof, all persons holding a position which is deemed classified by RCW 41.14.070 for a continuous period of six months prior to *the effective date of this act, are eligible for permanent appointment under civil service to the offices, places, positions, or employments which they then held without examination or other act on their part, and not on probation; and every such person is automatically adopted and inducted permanently into civil service, into the office, place, position, or employment which he then held as completely and effectually to all intents and purposes as if such person had been permanently appointed thereto under civil service after examination and investigation. [1959 c 1 § 9 (Initiative Measure No. 23, approved November 4, 1958).]

*Reviser's note: "the effective date of this act" (Initiative Measure No. 23) was December 4, 1958.

41.14.100 Qualifications of applicants for position. An applicant for a position of any kind under civil service, must be a citizen of the United States who can read and

write the English language. [1963 c 95 § 3; 1959 c 1 § 10 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.110 Tenure—Grounds for deprivation. The tenure of every person holding an office, place, position, or employment under the provisions of this chapter shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

(1) Incompetency, inefficiency, or inattention to, or dereliction of duty;

(2) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other wilful failure on the part of the employee to properly conduct himself; or any wilful violation of the provisions of this chapter or the rules and regulations to be adopted hereunder;

(3) Mental or physical unfitness for the position which the employee holds;

(4) Dishonest, disgraceful, or prejudicial conduct;

(5) Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid, or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position under civil service;

(6) Conviction of a felony, or a misdemeanor involving moral turpitude;

(7) Any other act or failure to act which in the judgment of the civil service commission is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service. [1959 c 1 § 11 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.120 Removal, suspension, demotion, or discharge—Procedure—Appeal. No person in the classified civil service who has been permanently appointed or inducted into civil service under provisions of this chapter, shall be removed, suspended, demoted, or discharged except for cause, and only upon written accusation of the appointing power or any citizen or taxpayer; a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission. Any person so removed, suspended, discharged, or demoted may within ten days from the time of his removal, suspension, discharge, or demotion file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. Upon receipt of the written demand for an investigation, the commission shall within ten days set a date for a public hearing which will be held within thirty days from the date of receipt. The investigation shall be confined to the determination of the question of whether the removal, suspension, demotion, or discharge was made in good faith for cause. After such investigation the commission shall render a written decision within ten days and may affirm the removal, suspension, demotion, or discharge, or if it finds that removal, suspension, demotion, or discharge was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such

person in the office, place, position, or employment from which he was removed, suspended, demoted, or discharged, which reinstatement shall, if the commission so provides, be retroactive, and entitle such person to pay or compensation from the time of the removal, suspension, demotion, or discharge. The commission upon such investigation, in lieu of affirming a removal, suspension, demotion, or discharge, may modify the order by directing the removal, suspension, demotion, or discharge without pay, for a given period, and subsequent restoration to duty, or demotion in classification, grade, or pay. The findings of the commission shall be certified, in writing to the appointing power, and shall be forthwith enforced by such officer.

All investigations made by the commission pursuant to this section shall be by public hearing, after reasonable notice to the accused of the time and place thereof, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his defense. If order of removal, suspension, demotion, or discharge is concurred in by the commission or a majority thereof, the accused may appeal therefrom to the superior court of the county wherein he resides. Such appeal shall be taken by serving the commission, within thirty days after the entry of its order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to its order, be filed by the commission with the court. The commission shall, within ten days after the filing of the notice, make, certify, and file such transcript with the court. The court shall thereupon proceed to hear and determine the appeal in a summary manner. Such hearing shall be confined to the determination of whether the order of removal, suspension, demotion, or discharge made by the commission, was or was not made in good faith for cause, and no appeal shall be taken except upon such ground or grounds. The decision of the superior court may be appealed to the supreme court or the court of appeals. [1984 c 199 § 1; 1982 c 133 § 1; 1971 c 81 § 102; 1959 c 1 § 12 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.130 Filling vacancies in classified service—Eligibility list—Probation. Whenever a position in the classified service becomes vacant, the appointing power, if it desires to fill the vacancy, shall requisition the commission for the names and addresses of persons eligible for appointment thereto. Before a requisition can be made, the appointing authority shall give employees of the appointing authority who are in layoff status or who have been notified of an intended layoff an opportunity to qualify for any class within the office of the appointing authority. The commission shall certify the names of the three persons highest on the eligible list for the class to which the vacant position has been allocated, who are willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the names of the three persons standing highest on the list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint a person from those certified to the vacant position.

To enable the appointing power to exercise a greater degree of choice in the filling of positions, no appointment, employment, or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of one year's probationary service, as may be provided in the rules of the civil service commission, during which the appointing power may terminate the employment of the person appointed, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems such person unfit or unsatisfactory for service in the office of county sheriff. Thereupon the appointing power shall again requisition the commission for the names and addresses of persons eligible for appointment in the manner provided by this section and the person appointed in the manner provided by this section shall likewise enter upon said duties for the probationary period, until some person is found who is deemed fit for appointment, employment, or promotion whereupon the appointment, employment, or promotion shall be deemed complete. [1984 c 199 § 2; 1979 ex.s. c 153 § 4; 1959 c 1 § 13 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.140 Power to fill positions—Consent of county commissioners—Salaries and compensation. All offices, places, positions, and employments coming within the purview of this chapter, shall be filled by the appointing power with the consent of the board of county commissioners, and nothing herein contained shall infringe upon such authority that an appointing power may have to fix the salaries and compensation of all employees employed hereunder. [1959 c 1 § 14 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.150 Procedure for payment of compensation—Refusal to pay. No treasurer, auditor or other officer, or employee of any county subject to this chapter shall approve the payment of or be in any manner concerned in paying, auditing, or approving any salary, wage, or other compensation for services, to any person subject to the jurisdiction and scope of this chapter, unless a payroll, estimate, or account for such salary, wage, or other compensation, containing the names of the persons to be paid, the amount to be paid to each such person, the services on account of which same is paid, and any other information which, in the judgment of the civil service commission, should be furnished on such payroll, bears the certificate of the civil service commission, or of its chief examiner or other duly authorized agent, that the persons named therein have been appointed or employed in compliance with the terms of this chapter and the rules of the commission, and that the payroll, estimate, or account is, insofar as known to the commission, a true and accurate statement. The commission shall refuse to certify the pay of any public officer or employee whom it finds to be illegally or improperly appointed, and may further refuse to certify the pay of any public officer or employee who wilfully or through culpable negligence, violates or fails to comply with this chapter or with the rules of the commission. [1959 c 1 § 15 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.160 Leaves of absence. Leave of absence, without pay, may be granted by any appointing power to any person under civil service: PROVIDED, That such appointing power gives notice of the leave to the commission. All temporary employment caused by leaves of absence shall be made from the eligible list of the classified civil service. [1959 c 1 § 16 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.170 Actions to enforce chapter—Duties of prosecuting attorneys. The commission shall begin and conduct all civil suits which may be necessary for the proper enforcement of this chapter and rules of the commission. The commission shall be represented in such suits by the prosecuting attorney of the county. In the case of combined counties any one or more of the prosecuting attorneys of each county so combined may be selected by the commission to represent it. [1959 c 1 § 17 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.180 Prohibited acts relating to registration, examination, certification—Discrimination prohibited. No commissioner or any other person, shall, by himself or in cooperation with others, defeat, deceive, or obstruct any person in respect of his right of examination or registration according to the rules and regulations, or falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified pursuant to this chapter, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered, or certified, or persuade any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration of application or request to be examined or registered.

The right of any person to an appointment or promotion to any position in a sheriff's office shall not be withheld because of his race, color, creed, national origin, political affiliation or belief, nor shall any person be dismissed, demoted, or reduced in grade for such reason. [1959 c 1 § 18 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.190 Political activities regulated. No person holding any office, place, position, or employment subject to civil service, shall contribute to any political fund or render any political service to any person or party whatsoever, and no person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote, or in any manner change the official rank, employment, or compensation of any person under civil service or promise or threaten so to do for giving or withholding, or neglecting to make any contribution of money, or service, or any other valuable thing, for any political purpose. [1959 c 1 § 19 (Initiative Measure No. 23, approved November 4, 1958).]

Political activities of public employees: RCW 41.06.250.

41.14.200 Cooperation and aid by other county officers and employees. All officers and employees of each county shall aid in all proper ways in carrying out the provisions of this chapter, and such rules and regulations as may, from time to time, be prescribed by the commission and afford the commission, its members, and employees, all reasonable facilities and assistance in the inspection of books, papers, documents, and accounts applying or in any way appertaining to any and all offices, places, positions, and employments, subject to civil service, and also shall produce such books, papers, documents, and accounts, and attend and testify, whenever required so to do by the commission or any commissioner. [1959 c 1 § 20 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.210 Funds for commission in counties with populations of two hundred ten thousand or more—County budget—Surplus. The county legislative authority or [of] each county with a population of two hundred ten thousand or more may provide in the county budget for each fiscal year a sum equal to one percent of the preceding year's total payroll of those included under the jurisdiction and scope of this chapter. The funds so provided shall be used for the support of the commission. Any part of the funds so provided and not expended for the support of the commission during the fiscal year shall be placed in the general fund of the county, or counties according to the ratio of contribution, on the first day of January following the close of such fiscal year. [1991 c 363 § 117; 1971 ex.s. c 214 § 3; 1959 c 1 § 21 (Initiative Measure No. 23, approved November 4, 1958).]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

41.14.220 Penalty—Jurisdiction. Any person who wilfully violates any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars and by imprisonment in the county jail for not longer than thirty days or by both such fine and imprisonment. The superior court shall have jurisdiction of all such offenses. [1959 c 1 § 22 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.250 City contracts to obtain sheriff's office law enforcement services—Transfer of police department employees. When any city or town shall contract with the county sheriff's office to obtain law enforcement services to the city or town, any employee of the police department of such city or town who (1) was at the time such contract was entered into employed exclusively or principally in performing the powers, duties, and functions which are to be performed by the county sheriff's office under such contract (2) will, as a direct consequence of such contract, be separated from the employ of the city or town, and (3) meets the minimum standards and qualifications of the county sheriff's office, then such employee may transfer his employment to the county sheriff's office as provided for in RCW 41.14.260 and 41.14.270. [1972 ex.s. c 48 § 1.]

41.14.260 City contracts to obtain sheriff's office law enforcement services—Transfer of police department employees into county civil service for sheriff's office—Seniority for employment. (1) An eligible employee may transfer into the county civil service system for the sheriff's office by filing a written request with the county civil service commission and by giving written notice thereof to the legislative authority of the city or town. Upon receipt of such request by the civil service commission the transfer of employment shall be made. The employee so transferring will (1) be on probation for the same period as are new employees of the sheriff's office, (2) be eligible for promotion after completion of the probationary period as completed, (3) receive a salary at least equal to that of other new employees of the sheriff's office, and (4) in all other matters, such as retirement, vacation, etc., have, within the county civil service system, all the rights, benefits, and privileges that he would have been entitled to had he been a member of the county sheriff's office from the beginning of his employment with the city or town police department. The city or town shall, upon receipt of such notice, transmit to the county civil service commission a record of the employee's service with the city or town which shall be credited to such member as a part of his period of employment in the county sheriff's office. The sheriff may appoint the transferring employee to whatever duties he feels are in the best interest of the department and the individual.

(2) If in the process of contracting for law enforcement services economies or efficiencies are achieved or if the city or town intends by such contract to curtail expenditures and the level of services to the city or town, then only so many of the transferring employees shall be placed upon the payroll of the sheriff's office as the sheriff determines are needed to provide the contracted services. These needed employees shall be taken in order of seniority and the remaining employees who transfer as provided in RCW 41.14.250, 41.14.260, and 41.14.270 shall head the list of their respective class or job listing in the civil service system in order of their seniority, to the end that they shall be the first to be reemployed in the county sheriff's office when appropriate positions become available. [1972 ex.s. c 48 § 2.]

41.14.270 City contracts to obtain sheriff's office law enforcement services—Lay offs—Notice—Time limitation for transfers. When a city or town shall contract with the county sheriff's office for law enforcement services and as a result thereof lays off any employee who is eligible to transfer to the county sheriff's office pursuant to RCW 41.14.250 and 41.14.260, the city or town shall notify such employee of his right to so transfer and such employee shall have ninety days to transfer his employment to the county sheriff's office: PROVIDED, That any employee layed off during the year prior to February 21, 1972 shall have ninety days after the effective date to transfer his employment. [1972 ex.s. c 48 § 3.]

41.14.280 City contracts to obtain sheriff's office law enforcement services—Rules and regulations. In addition to its other duties prescribed by law, the civil service commission shall make such rules and regulations as

may be necessary to provide for the orderly integration of employees of a city or town who shall transfer to the county sheriff's office pursuant to RCW 41.14.250, 41.14.260, and 41.14.270. [1972 ex.s. c 48 § 4.]

41.14.290 Appointment of classified employee to exempt position—Return to regular position. Any classified employee having civil service status in a position may take an appointment in an exempt position in the same county and maintain the right to return to his or her regular position or to a like position at the conclusion of such appointment. Such employee must apply to return to classified service within thirty calendar days of:

(1) Termination of employment in such exempt position; or

(2) Termination of employment in any other exempt position in which the employee subsequently serves provided there was no break in service with the county of more than thirty calendar days. [1979 ex.s. c 153 § 5.]

41.14.900 Severability—1959 c 1. If any section, sentence, clause, or phrase of this chapter should be held to be invalid or unconstitutional, the validity or constitutionality thereof shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this chapter. [1959 c 1 § 23 (Initiative Measure No. 23, approved November 4, 1958).]

Chapter 41.16

FIREMEN'S RELIEF AND PENSIONS—1947 ACT

Sections

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41.16.230	Repeal does not affect accrued rights.
41.16.240	Application of chapter to fire protection districts.
41.16.250	Retirement and job security rights preserved upon annexation, etc., of district.
41.16.260	Transfer of credit from city employees' retirement system to firemen's pension system.
41.16.900	Severability—1947 c 91.
41.16.910	Severability—1959 c 5.
41.16.911	Severability—1975 1st ex.s. c 178.
41.16.920	Construction—1959 c 5—Benefits retroactively authorized.

41.16.921 Construction—1975 1st ex.s. c 178, RCW 41.16.145.

Prior acts relating to firemen's relief and pensions: 1935 c 39; 1929 c 86; 1919 c 196; 1909 c 50 were repealed by 1947 c 91 § 12 (codified herein as RCW 41.16.230).

Firemen's relief and pensions—1955 act: Chapter 41.18 RCW.

Rights of fireman injured outside corporate limits of municipality: RCW 35.84.050.

Volunteer fire fighters' relief and pensions: Chapter 41.24 RCW.

41.16.010 Terms defined. For the purpose of this chapter, unless clearly indicated by the context, words and phrases shall have the following meaning:

(1) "Beneficiary" shall mean any person or persons designated by a fireman in a writing filed with the board, and who shall be entitled to receive any benefits of a deceased fireman under this chapter.

(2) "Board" shall mean the municipal firemen's pension board.

(3) "Child or children" shall mean a child or children unmarried and under eighteen years of age.

(4) "Contributions" shall mean and include all sums deducted from the salary of firemen and paid into the fund as hereinafter provided.

(5) "Disability" shall mean and include injuries or sickness sustained as a result of the performance of duty.

(6) "Fireman" shall mean any person regularly or temporarily, or as a substitute, employed and paid as a member of a fire department, who has passed a civil service examination for fireman and who is actively employed as a fireman; and shall include any "prior fireman".

(7) "Fire department" shall mean the regularly organized, full time, paid, and employed force of firemen of the municipality.

(8) "Fund" shall mean the firemen's pension fund created herein.

(9) "Municipality" shall mean every city and town having a regularly organized full time, paid, fire department employing firemen.

(10) "Performance of duty" shall mean the performance of work and labor regularly required of firemen and shall include services of an emergency nature rendered while off regular duty, but shall not include time spent in traveling to work before answering roll call or traveling from work after dismissal at roll call.

(11) "Prior fireman" shall mean a fireman who was actively employed as a fireman of a fire department prior to the first day of January, 1947, and who continues such employment thereafter.

(12) "Retired fireman" shall mean and include a person employed as a fireman and retired under the provisions of chapter 50, Laws of 1909, as amended.

(13) "Widow or widower" means the surviving wife or husband of a retired fireman who was retired on account of length of service and who was lawfully married to such fireman; and whenever that term is used with reference to the wife or former wife or husband or former husband of a retired fireman who was retired because of disability, it shall mean his or her lawfully married wife or husband on the date he or she sustained the injury or contracted the illness that resulted in his or her disability. Said term shall not mean or include a surviving wife or husband who by process of law within one year prior to the retired fireman's death,

collected or attempted to collect from him or her funds for the support of herself or himself or for his or her children. [1973 1st ex.s. c 154 § 61; 1947 c 91 § 1; Rem. Supp. 1947 § 9578-40.]

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

41.16.020 Pension board created—Members—Terms—Vacancies—Officers—Quorum. There is hereby created in each city and town a municipal firemen's pension board to consist of the following five members, ex officio, the mayor, or in a city of the first class, the mayor or his designated representative who shall be an elected official of the city, who shall be chairman of the board, the city comptroller or clerk, the chairman of finance of the city council, or if there is no chairman of finance, the city treasurer, and in addition, two regularly employed or retired firemen elected by secret ballot of the employed and retired firemen. Retired members who are subject to the jurisdiction of the pension board have both the right to elect and the right to be elected under this section. The members to be elected by the firemen shall be elected annually for a two year term. The two firemen elected members shall, in turn, select a third eligible member who shall serve as an alternate in the event of an absence of one of the regularly elected members. In case a vacancy occurs in the membership of the firemen or retired members, the members shall in the same manner elect a successor to serve his unexpired term. The board may select and appoint a secretary who may, but need not be a member of the board. In case of absence or inability of the chairman to act, the board may select a chairman pro tempore who shall during such absence or inability perform the duties and exercise the powers of the chairman. A majority of the members of said board shall constitute a quorum and have power to transact business. [1988 c 164 § 2; 1973 1st ex.s. c 19 § 1; 1961 c 255 § 10; 1947 c 91 § 2; Rem. Supp. 1947 § 9578-41. Prior: 1935 c 39 § 1; 1919 c 196 § 3; 1909 c 50 §§ 1, 2.]

41.16.030 Meetings. The board shall meet at least once monthly, the date to be fixed by regulation of the board, at such other regular times as may be fixed by a regulation of the board; and at any time upon call of the chairman, of which due advance notice shall be given the other members of the board. [1947 c 91 § 3; Rem. Supp. 1947 § 9578-42. Prior: 1929 c 86 § 1; 1919 c 196 § 3; 1909 c 50 § 3.]

41.16.040 Powers and duties. The board shall have such general powers as are vested in it by the provisions of this chapter, and in addition thereto, the power to:

(1) Generally supervise and control the administration of this chapter and the firemen's pension fund created hereby.

(2) Pass upon and allow or disallow all applications for pensions or other benefits provided by this chapter.

(3) Provide for payment from said fund of necessary expenses of maintenance and administration of said pension system and fund.

(4) Invest the moneys of the fund in a manner consistent with the investment policies outlined in RCW 35.39.060.

Authorized investments shall include investment grade securities issued by the United States, state, municipal corporations, other public bodies, corporate bonds, and other investments authorized by RCW 35.39.030, 35.58.510, 35.81.070, 35.82.070, 36.29.020, 39.58.020, 39.58.080, 39.58.130, 39.60.010, 39.60.020, 68.52.060, 68.52.065, and 72.19.120.

(5) Employ such agents, employees and other personnel as the board may deem necessary for the proper administration of this chapter.

(6) Compel witnesses to appear and testify before it, in the same manner as is or may be provided by law for the taking of depositions in the superior court. Any member of the board may administer oaths to witnesses who testify before the board of a nature and in a similar manner to oaths administered by superior courts of the state of Washington.

(7) Issue vouchers approved by the chairman and secretary and to cause warrants therefor to be issued and paid from said fund for the payment of claims allowed by it.

(8) Keep a record of all its proceedings, which record shall be public; and prepare and file with the city treasurer and city clerk or comptroller prior to the date when any payments are to be made from the fund, a list of all persons entitled to payment from the fund, stating the amount and purpose of such payment, said list to be certified to and signed by the chairman and secretary of the board and attested under oath.

(9) Make rules and regulations not inconsistent with this chapter for the purpose of carrying out and effecting the same.

(10) Appoint one or more duly licensed and practicing physicians who shall examine and report to the board upon all applications for relief and pension under this chapter. Such physicians shall visit and examine all sick and disabled firemen when, in their judgment, the best interests of the relief and pension fund require it or when ordered by the board. They shall perform all operations on such sick and injured firemen and render all medical aid and care necessary for the recovery of such firemen on account of sickness or disability received while in the performance of duty as defined in this chapter. Such physicians shall be paid from said fund, the amount of said fees or salary to be set and agreed upon by the board and the physicians. No physician not regularly appointed or specially appointed and employed, as hereinafter provided, shall receive or be entitled to any fees or compensation from said fund as attending physician to a sick or injured fireman. If any sick or injured fireman refuses the services of the appointed physicians, or the specially appointed and employed physician, he shall be personally liable for the fees of any other physician employed by him. No person shall have a right of action against the board or the municipality for negligence of any physician employed by it. The board shall have the power and authority to select and employ, besides the regularly appointed physician, such other physician, surgeon or specialist for consultation with, or assistance to the regularly appointed physician, or for the purpose of performing operations or rendering services and treatment in particular cases, as it shall deem advisable, and to pay fees for such services from said fund. Said board shall hear and decide all applications for such relief or pensions under this chapter, and its decisions on such applications shall be final and conclusive

and not subject to revision or reversal except by the board. [1992 c 89 § 1; 1967 ex.s. c 91 § 1; 1947 c 91 § 4; Rem. Supp. 1947 § 9578-43. Prior: 1929 c 86 § 1; 1919 c 196 § 3; 1909 c 50 § 3.]

41.16.050 Firemen's pension fund—How constituted. There is hereby created and established in the treasury of each municipality a fund which shall be known and designated as the firemen's pension fund, which shall consist of: (1) All bequests, fees, gifts, emoluments, or donations given or paid thereto; (2) forty-five percent of all moneys received by the state from taxes on fire insurance premiums; (3) taxes paid pursuant to the provisions of RCW 41.16.060; (4) interest on the investments of the fund; and (5) contributions by fire fighters as provided for herein. The moneys received from the tax on fire insurance premiums under the provisions of this chapter shall be distributed in the proportion that the number of paid fire fighters in the city, town, or fire protection district bears to the total number of paid fire fighters throughout the state to be ascertained in the following manner: The secretary of the firemen's pension board of each city, town, and fire protection district now or hereafter coming under the provisions of this chapter shall within thirty days after June 7, 1961, and on or before the fifteenth day of January thereafter, certify to the state treasurer the number of paid fire fighters in the fire department in such city, town, or fire protection district. For any city or town annexed by a fire protection district at any time before, on, or after June 9, 1994, the city or town shall continue to certify to the state treasurer the number of paid fire fighters in the city or town fire department immediately before annexation until all obligations against the firemen's pension fund in the city or town have been satisfied. For the purposes of the calculation in this section, the state treasurer shall subtract the number certified by the annexed city or town from the number of paid fire fighters certified by an annexing fire protection district. The state treasurer shall on or before the first day of June of each year deliver to the treasurer of each city, town, and fire protection district coming under the provisions of this chapter his or her warrant, payable to each city, town, or fire protection district for the amount due such city, town or fire protection district ascertained as herein provided and the treasurer of each city, town, or fire protection district shall place the amount thereof to the credit of the firemen's pension fund of such city, town, or fire protection district. [1994 c 273 § 23; 1986 c 296 § 3; 1982 1st ex.s. c 35 § 16; 1967 c 42 § 1; 1961 c 255 § 8; 1949 c 45 § 1; 1947 c 91 § 5; Rem. Supp. 1949 § 9578-44. Prior: 1929 c 86 § 11; 1919 c 196 § 14.]

Severability—Effective date—1986 c 296: See notes following RCW 48.14.020.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Insurance premiums taxes: RCW 48.14.020.

41.16.060 Tax levy for fund. It shall be the duty of the legislative authority of each municipality, each year as a part of its annual tax levy, to levy and place in the fund a tax of twenty-two and one-half cents per thousand dollars of assessed value against all the taxable property of such municipality: PROVIDED, That if a report by a qualified

actuary on the condition of the fund establishes that the whole or any part of said dollar rate is not necessary to maintain the actuarial soundness of the fund, the levy of said twenty-two and one-half cents per thousand dollars of assessed value may be omitted, or the whole or any part of said dollar rate may be levied and used for any other municipal purpose.

It shall be the duty of the legislative authority of each municipality, each year as a part of its annual tax levy and in addition to the city levy limit set forth in RCW 84.52.043, to levy and place in the fund an additional tax of twenty-two and one-half cents per thousand dollars of assessed value against all taxable property of such municipality: PROVIDED, That if a report by a qualified actuary establishes that all or any part of the additional twenty-two and one-half cents per thousand dollars of assessed value levy is unnecessary to meet the estimated demands on the fund under this chapter for the ensuing budget year, the levy of said additional twenty-two and one-half cents per thousand dollars of assessed value may be omitted, or the whole or any part of such dollar rate may be levied and used for any other municipal purpose: PROVIDED FURTHER, That cities that have annexed to library districts according to RCW 27.12.360 through 27.12.395 and/or fire protection districts according to RCW 52.04.061 through 52.04.081 shall not levy this additional tax to the extent that it causes the combined levies to exceed the statutory or constitutional limits.

The amount of a levy under this section allocated to the pension fund may be reduced in the same proportion as the regular property tax levy of the municipality is reduced by chapter 84.55 RCW. [1987 c 319 § 2; 1980 c 155 § 4; 1973 1st ex.s. c 195 § 43; 1973 1st ex.s. c 195 § 144; 1970 ex.s. c 92 § 2; 1965 ex.s. c 45 § 1; 1961 c 255 § 9; 1951 c 72 § 1; 1947 c 91 § 6; Rem. Supp. 1947 § 9578-45. Prior: 1929 c 86 § 12; 1919 c 196 § 15; 1909 c 50 § 14.]

Effective date—Applicability—1980 c 155: See note following RCW 84.40.030.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Effective date—Application—1970 ex.s. c 92: See note following RCW 84.52.010.

41.16.070 Contributions by firemen. (1) Every fireman employed on and after January 1, 1947, shall contribute to the fund and there shall be deducted from his pay and placed in the fund an amount in accordance with the following table:

Fireman whose age at last birthday at time of entry of service was:	Contributions and deductions from salary
21 and under	5.00%
22	5.24%
23	5.50%
24	5.77%
25	6.07%
26	6.38%
27	6.72%
28	7.09%

29	7.49%
30 and over	7.92%

(2) Every fireman employed prior to January 1, 1947, and continuing active employment shall contribute to the fund and there shall be deducted from his salary and placed in the fund, five percent of his salary.

(3) Every fireman actively employed and eligible for retirement and not retired shall contribute to the fund and there shall be deducted from his salary and placed in the fund, four percent of his salary. [1947 c 91 § 7; Rem. Supp. 1947 § 9578-46. Prior: 1929 c 86 § 14; 1919 c 196 § 18.]

41.16.080 Retirement for service. Any fireman employed in a fire department on and before the first day of January, 1947, hereinafter in this section and RCW 41.16.090 to 41.16.190 inclusive, referred to as "fireman", and who shall have served twenty-five or more years and having attained the age of fifty-five years, as a member of the fire department, shall be eligible for retirement and shall be retired by the board upon his written request. Upon his retirement any fireman shall be paid a pension based upon the average monthly salary drawn for the five calendar years before retirement, the number of years of his service and a percentage factor based upon his age on entering service, as follows:

Entrance age at last birthday	Salary percentage factor
20 and under	1.50%
21	1.55%
22	1.60%
23	1.65%
24	1.70%
25	1.75%
26	1.80%
27	1.85%
28	1.90%
29	1.95%
30 and over	2.00%

Said monthly pension shall be in the amount of his average monthly salary for the five calendar years before retirement, times the number of years of service, times the applicable percentage factor. [1959 c 5 § 2; 1957 c 82 § 2. Prior: 1947 c 91 § 8, part; 1935 c 39 § 2, part; 1929 c 86 § 2, part; 1919 c 196 § 4, part; 1909 c 50 § 4, part; Rem. Supp. 1947 § 9578-47, part.]

41.16.090 Limit of pension. All pensioners receiving a pension under the provisions of this chapter as provided for in section 12, chapter 91, Laws of 1947 and RCW 41.16.230, shall from and after April 25, 1973 receive a minimum pension of three hundred dollars per month. [1973 1st ex.s. c 181 § 1; 1967 ex.s. c 91 § 2; 1959 c 5 § 3; 1957 c 82 § 3. Prior: 1947 c 91 § 8, part; 1935 c 39 § 2, part; 1929 c 86 § 2, part; 1919 c 196 § 4, part; 1909 c 50 § 4, part; Rem. Supp. 1947 § 9578-47, part.]

41.16.100 Payment on death of retired fireman. The widow or widower, child, children or beneficiary of any fireman retired under this chapter shall receive an amount

equal to his or her accumulated contributions to the fund, plus earned interest thereon compounded semiannually: PROVIDED, That there shall be deducted from said sum the amount paid to decedent in pensions and the remainder shall be paid to his or her widow or widower, child, children or beneficiary: PROVIDED FURTHER, That the amount paid shall not be less than one thousand dollars. [1973 1st ex.s. c 154 § 62; 1959 c 5 § 4; 1957 c 82 § 4. Prior: 1947 c 91 § 8, part; 1935 c 39 § 2, part; 1929 c 86 § 2, part; 1919 c 196 § 4, part; 1909 c 50 § 4, part; Rem. Supp. 1947 § 9578-47, part.]

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

41.16.110 Payment on death of eligible pensioner before retirement. Whenever any fireman shall die while eligible to retirement on account of years of service, and shall not have been retired, benefits shall be paid in accordance with RCW 41.16.100. [1959 c 5 § 5; 1957 c 82 § 5. Prior: 1947 c 91 § 8, part; 1935 c 39 § 2, part; 1929 c 86 § 2, part; 1919 c 196 § 4, part; 1909 c 50 § 4, part; Rem. Supp. 1947 § 9578-47, part.]

41.16.120 Payment on death in line of duty. Whenever any active fireman or fireman retired for disability shall die as the result of an accident or other fortuitous event occurring while in the performance of his or her duty, his widow or her widower may elect to accept a monthly pension equal to one-half the deceased fireman's salary but in no case in excess of one hundred fifty dollars per month, or the sum of five thousand dollars cash. The right of election must be exercised within sixty days of the fireman's death. If not so exercised, the pension benefits shall become fixed and shall be paid from the date of death. Such pension shall cease if, and when, he or she remarries. If there is no widow or widower, then such pension benefits shall be paid to his or her child or children. [1973 1st ex.s. c 154 § 63; 1959 c 5 § 6; 1957 c 82 § 6. Prior: 1947 c 91 § 8, part; 1935 c 39 § 2, part; 1929 c 86 § 2, part; 1919 c 196 § 5, part; 1909 c 50 § 4, part; Rem. Supp. 1947 § 9578-47, part.]

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

41.16.130 Payment upon disablement in line of duty. (1) Any fireman who shall become disabled as a result of the performance of his duty or duties as defined in this chapter, may be retired at the expiration of six months from the date of his disability, upon his written request filed with his retirement board. The board may upon such request being filed, consult such medical advice as it sees fit, and may have the applicant examined by such physicians as it deems desirable. If from the reports of such physicians the board finds the applicant capable of performing his duties in the fire department, the board may refuse to recommend his retirement.

(2) If the board deems it for the good of the fire department or the pension fund, it may recommend the applicant's retirement without any request therefor by him, after giving him a thirty days notice. Upon his retirement he shall be paid a monthly disability pension in amount equal to one-half of his monthly salary at date of retirement, but

which shall not exceed one hundred fifty dollars a month. If he recovers from his disability he shall thereupon be restored to active service, with the same rank he held when he retired.

(3) If the fireman dies during disability and not as a result thereof, RCW 41.16.160 shall apply. [1959 c 5 § 7; 1957 c 82 § 7. Prior: 1947 c 91 § 8, part; 1935 c 39 § 3, part; 1929 c 86 § 3, part; 1919 c 196 § 5, part; 1909 c 50 § 5, part; Rem. Supp. 1947 § 9578-47, part.]

41.16.140 Payment upon disablement not in line of duty. Any fireman who has served more than fifteen years and sustains a disability not in the performance of his or her duty which renders him or her unable to continue his or her service, shall within sixty days exercise his or her choice either to receive his or her contribution to the fund, plus earned interest compounded semiannually, or be retired and paid a monthly pension based on the factor of his or her age shown in RCW 41.16.080, times his or her average monthly salary as a member of the fire department of his or her municipality at the date of his or her retirement, times the number of years of service rendered at the time he or she sustained such disability. If such fireman shall die leaving surviving him a wife or surviving her a husband, or child or children, then such wife or husband, or if he leaves no wife or she leaves no husband, then his or her child or children shall receive the sum of his contributions, plus accumulated compound interest, and such payment shall be reduced in the amount of the payments made to deceased. [1973 1st ex.s. c 154 § 64; 1959 c 5 § 8; 1957 c 82 § 8. Prior: 1947 c 91 § 8, part; 1935 c 39 § 6, part; 1929 c 86 § 7, part; 1919 c 196 § 9, part; 1909 c 50 § 9, part; Rem. Supp. 1947 § 9578-47, part.]

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

41.16.145 Annual increase in benefits payable on retirement for service, death in line of duty, and disability—Appeals. The amount of all benefits payable under the provisions of RCW 41.16.080, 41.16.120, 41.16.130, 41.16.140 and 41.16.230 as now or hereafter amended, shall be increased annually as hereafter in this section provided. The local pension board shall meet subsequent to March 31st but prior to June 30th of each year for the purposes of adjusting benefit allowances payable pursuant to the aforementioned sections. The local board shall determine the increase in the consumer price index between January 1st and December 31st of the previous year and increase in dollar amount the benefits payable subsequent to July 1st of the year in which said board makes such determination by a dollar amount proportionate to the increase in the consumer price index: PROVIDED, That regardless of the change in the consumer price index, such increase shall be at least two percent each year such adjustment is made.

Each year effective with the July payment all benefits specified herein, shall be increased by this section. This benefit increase shall be paid monthly as part of the regular pension payment and shall be cumulative. The increased benefits authorized by this section shall not affect any benefit payable under the provisions of chapter 41.16 RCW in which the benefit payment is attached to a current salary

of the rank held at time of retirement. A beneficiary of benefit increases provided for pursuant to this section is hereby authorized to appeal a decision on such increases or the failure of the local pension board to order such increased benefits or the amount of such benefits to the Washington law enforcement officers' and fire fighters' system retirement board provided for in *RCW 41.26.050.

For the purpose of this section the term

"Consumer price index" shall mean, for any calendar year, the consumer price index for the Seattle, Washington area as compiled by the bureau of labor statistics of the United States department of labor. [1975-'76 2nd ex.s. c 44 § 1; 1975 1st ex.s. c 178 § 1; 1974 ex.s. c 190 § 1; 1970 ex.s. c 37 § 3; 1969 ex.s. c 209 § 38.]

*Reviser's note: RCW 41.26.050 was repealed by 1982 c 163 § 23. Powers, duties, and functions of the Washington law enforcement officers' and fire fighters' retirement board were transferred to the director of retirement systems by RCW 41.26.051, which has been decodified. See Table of Disposition of Former RCW Sections, Volume 0.

Construction of RCW 41.16.145—Severability—1975 1st ex.s. c 178: See RCW 41.16.921, 41.16.911.

Construction—1970 ex.s. c 37: See note following RCW 41.18.104.

Effective date—Construction—Severability—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

41.16.150 Payment on separation from service. (1)

Any fireman who has served twenty years or more and who shall resign or be dismissed, shall have the option of receiving all his or her contributions plus earned interest compounded semiannually, or a monthly pension in the amount of his average monthly salary times the number of years of service rendered, times one and one-half percent. Payment of such pension shall commence at the time of severance from the fire department, or at the age of fifty-five years, whichever shall be later. The fireman shall have sixty days from the severance date to elect which option he or she will take. In the event he or she fails to exercise his or her right of election then he or she shall receive the amount of his or her contributions plus accrued compounded interest. In the event he or she elects such pension, but dies before attaining the age of fifty-five, his widow or her widower, or if he leaves no widow or she leaves no widower, then his or her child or children shall receive only his contribution, plus accrued compounded interest. In the event he elects to take a pension and dies after attaining the age of fifty-five, his widow or her widower, or if he leaves no widow or she leaves no widower, then child or children shall receive his or her contributions, plus accrued compounded interest, less the amount of pension payments made to such fireman during his or her lifetime.

(2) Any fireman who shall have served for a period of less than twenty years, and shall resign or be dismissed, shall be paid the amount of his or her contributions, plus accrued compounded interest. [1973 1st ex.s. c 154 § 65; 1959 c 5 § 9; 1957 c 82 § 9. Prior: 1947 c 91 § 8, part; Rem. Supp. 1947 § 9578-47, part.]

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

41.16.160 Payment on death not in line of duty.

Whenever any fireman, after four years of service, shall die from natural causes, or from an injury not sustained in the

performance of his or her duty and for which no pension is provided in this chapter, and who has not been retired on account of disability, his widow or her widower, if he or she was his wife or her husband at the time he or she was stricken with his or her last illness, or at the time he or she received the injuries from which he or she died; or if there is no such widow, then his or her child or children shall be entitled to the amount of his or her contributions, plus accrued compounded interest, or the sum of one thousand dollars, whichever sum shall be the greater. In case of death as above stated, before the end of four years of service, an amount based on the proportion of the time of service to four years shall be paid such beneficiaries. [1973 1st ex.s. c 154 § 66; 1959 c 5 § 10; 1957 c 82 § 10. Prior: 1947 c 91 § 8, part; 1929 c 86 § 7, part; 1919 c 196 § 9, part; 1909 c 50 § 9, part; Rem. Supp. 1947 § 9578-47, part.]

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

41.16.170 Payment on death of fireman with no dependents.

Whenever a fireman dies leaving no widow or widower or children, the amount of his or her accumulated contributions, plus accrued compounded interest only, shall be paid his or her beneficiary. [1973 1st ex.s. c 154 § 67; 1959 c 5 § 11; 1957 c 82 § 11. Prior: 1947 c 91 § 8, part; 1935 c 39 § 5; 1929 c 86 § 6, part; 1919 c 196 § 8, part; 1909 c 50 § 8, part; Rem. Supp. 1947 § 9578-47, part.]

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

41.16.180 Funeral expense. Upon the death of any active, disabled or retired fireman the board shall pay from the fund the sum of two hundred dollars to assist in defraying the funeral expenses of such fireman. [1959 c 5 § 12; 1957 c 82 § 12. Prior: 1947 c 91 § 8, part; 1935 c 39 § 10; 1929 c 86 § 15; 1919 c 196 § 18; Rem. Supp. 1947 § 9578-47, part.]

41.16.190 Waiting period—Disability retirement.

No fireman disabled in the performance of duty shall receive a pension until six months has elapsed after such disability was sustained. Therefore, whenever the retirement board, pursuant to examination by the board's physician and such other evidence as it may require, shall find a fireman has been disabled while in the performance of his duties, it shall declare him inactive. For a period of six months from the time he became disabled, he shall continue to draw full pay from his municipality and in addition thereto he shall, at the expense of the municipality, be provided with such medical, hospital and nursing care as the retirement board deems proper. If the board finds at the expiration of six months that the fireman is unable to return to and perform his duties, then he shall be retired as herein provided. [1959 c 5 § 13; 1957 c 82 § 13. Prior: 1947 c 91 § 8, part; 1935 c 39 § 4, part; 1929 c 86 § 5, part; 1919 c 196 § 7, part; 1909 c 50 § 7, part; Rem. Supp. 1947 § 9578-47, part.]

41.16.200 Examination of disability pensioners—Restoration to duty. The board shall require all firemen receiving disability pensions to be examined every six months. All such examinations shall be made by physicians

duly appointed by the board. If a fireman shall fail to submit to such examination within ten days of having been so ordered in writing by said retirement board all pensions or benefits paid to said fireman under this chapter, shall immediately cease and the disbursing officer in charge of such payments shall issue no further payments to such fireman. If such fireman fails to present himself for examination within thirty days after being ordered so to do, he shall forfeit all rights under this chapter. If such fireman, upon examination as aforesaid, shall be found fit for service, he shall be restored to duty in the same rank held at the time of his retirement, or if unable to perform the duties of said rank, then, at his request, in such other rank, the duties of which he is then able to perform. The board shall thereupon so notify the fireman and shall require him to resume his duties as a member of the fire department. If, upon being so notified, such member shall fail to report for employment within ten days, he shall forfeit all rights to any benefits under this chapter. [1947 c 91 § 9; Rem. Supp. 1947 § 9578-48. Prior: 1929 c 86 § 8; 1919 c 196 § 10; 1909 c 50 § 10.]

41.16.210 Transfer of assets to new fund—Assumption of obligations. (1) Funds or assets on hand in the firemen's relief and pension fund of any municipality established under the provisions of chapter 50, Laws of 1909, as amended, after payment of warrants drawn upon and payable therefrom, shall, by the city treasurer, be transferred to and placed in the firemen's pension fund created by this chapter; and the firemen's pension fund created by this chapter shall be liable for and there shall be paid therefrom in the order of their issuance any and all unpaid warrants drawn upon said firemen's relief and pension fund.

(2) Any moneys loaned or advanced by a municipality from the general or any other fund of such municipality to the firemen's relief and pension fund created under the provisions of chapter 50, Laws of 1909, as amended, and not repaid shall be an obligation of the firemen's pension fund created under this chapter, and shall at such times and in such amounts as is directed by the board be repaid. [1947 c 91 § 10; Rem. Supp. 1947 § 9578-49.]

41.16.220 Credit for military service. Any person who was a member of the fire department and within the provisions of chapter 50, Laws of 1909, as amended, at the time he entered, and who is a veteran, as defined in RCW 41.04.005, shall have added and accredited to his period of employment as a fireman as computed under this chapter his period of war service in such armed forces upon payment by him of his contribution for the period of his absence, at the rate provided by chapter 50, Laws of 1909, as amended, for other members: PROVIDED, HOWEVER, Such accredited service shall not in any case exceed five years. [1969 ex.s. c 269 § 7; 1947 c 91 § 11; Rem. Supp. 1947 § 9578-50.]

41.16.230 Repeal does not affect accrued rights. Chapter 50, Laws of 1909; chapter 196, Laws of 1919; chapter 86, Laws of 1929, and chapter 39, Laws of 1935 (secs. 9559 to 9578, incl., Rem. Rev. Stat.; secs. 396-1 to 396-43, incl., PPC) and all other acts or parts of acts in conflict herewith are hereby repealed: PROVIDED, That the

repeal of said laws shall not affect any "prior fireman", his widow, her widower, child or children, any fireman eligible for retirement but not retired, his widow, her widower, child or children, or the rights of any retired fireman, his widow, her widower, child or children, to receive payments and benefits from the firemen's pension fund created under this chapter, in the amount, and in the manner provided by said laws which are hereby repealed and as if said laws had not been repealed. [1973 1st ex.s. c 154 § 68; 1947 c 91 § 12; Rem. Supp. 1947 § 9578-51.]

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

41.16.240 Application of chapter to fire protection districts. Any fire protection district having a full paid fire department may by resolution of its board of fire commissioners provide for the participation of its full time employees in a pension program in the same manner, with the same powers, and with the same force and effect as to such districts as the pension program provided by chapter 41.16 RCW for cities, towns and municipalities, or fire protection districts. [1955 c 46 § 1.]

41.16.250 Retirement and job security rights preserved upon annexation, etc., of district. If all or any portion of a fire protection district is annexed to or incorporated into a city or town, or is succeeded by a metropolitan municipal corporation or county fire department, no full time paid fireman affected by such annexation, incorporation or succession shall receive a reduction in his retirement and job security rights: PROVIDED, That this section shall not apply to any retirement and job security rights authorized under chapter 41.24 RCW. [1963 c 63 § 1.]

41.16.260 Transfer of credit from city employees' retirement system to firemen's pension system. See RCW 41.18.210.

41.16.900 Severability—1947 c 91. If any clause, part or section of this chapter shall be adjudged in violation of the Constitution, or for any reason invalid, such judgment shall not affect nor invalidate the remainder of the chapter, nor any other clause, part or section thereof, but such judgment shall be confined in its operation to the clause, part or section directly involved in the controversy in which such judgment was rendered, and the balance of the chapter shall remain in full force and effect. [1947 c 91 § 13.]

41.16.910 Severability—1959 c 5. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to any other persons or circumstances is not affected. [1959 c 5 § 15.]

41.16.911 Severability—1975 1st ex.s. c 178. If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 178 § 6.]

41.16.920 Construction—1959 c 5—Benefits retroactively authorized. The provisions of *this act are intended to be remedial and procedural and any benefits heretofore paid to recipients hereunder pursuant to any previous act are retroactively included and authorized as a part of *this act. [1959 c 5 § 14.]

***Reviser's note:** "this act" [1959 c 5], reenacted RCW 41.16.080, 41.16.100, 41.16.110, 41.16.120, 41.16.130, 41.16.140, 41.16.150, 41.16.160, 41.16.170, 41.16.180, and 41.16.190 and amended RCW 41.16.090.

41.16.921 Construction—1975 1st ex.s. c 178, RCW 41.16.145. (1) The provisions of this section are procedural and remedial.

(2) The application and effect of *this act shall be retroactive to and including May 6, 1974. Each benefit being paid on the effective date of *this act shall then be adjusted as if *this act had been in existence since May 6, 1974. Additionally, any amounts which would have been paid had *this act been in effect since May 6, 1974, shall then be due as a one-time lump sum payment.

(3) The provisions of RCW 41.16.145 shall be construed and read to have granted the percentage increase provided by that section to those receiving benefits pursuant to RCW 41.16.230, until and including July 1, 1974, at which time those persons shall be regarded as eligible for the benefits granted by chapter 190, Laws of 1974 ex. sess., as provided in subsection (2) of this section. Any amounts now payable due to a failure to so construe and read RCW 41.16.145 are now due as a one-time lump sum payment. [1975 1st ex.s. c 178 § 5.]

***Reviser's note:** "this act" [1975 1st ex.s. c 178] enacted this section and RCW 41.16.911 and amended RCW 41.16.145, 41.18.100, 41.18.104, and 41.26.250. The effective date of the act was June 4, 1975.

Chapter 41.18

FIREMEN'S RELIEF AND PENSIONS—1955 ACT

Sections

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41.18.180	Fireman contributor under prior law may obtain benefits of chapter—Refunds.
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Prior acts relating to firemen's relief and pensions: 1935 c 39; 1929 c 86; 1919 c 196; 1909 c 50 were repealed by 1947 c 91 § 12 (codified as RCW 41.16.230).

Firemen's relief and pensions—1947 act: Chapter 41.16 RCW.

Volunteer fire fighters' relief and pensions: Chapter 41.24 RCW.

41.18.010 Definitions. For the purpose of this chapter, unless clearly indicated otherwise by the context, words and phrases shall have the meaning hereinafter ascribed.

(1) "Beneficiary" shall mean any person or persons designated by a fireman in a writing filed with the board, and who shall be entitled to receive any benefits of a deceased fireman under this chapter.

(2) "Fireman" means any person hereafter regularly or temporarily, or as a substitute newly employed and paid as a member of a fire department, who has passed a civil service examination for fireman and who is actively employed as a fireman or, if provided by the municipality by appropriate local legislation, as a fire dispatcher: PROVIDED, Nothing in *this 1969 amendatory act shall impair or permit the impairment of any vested pension rights of persons who are employed as fire dispatchers at the time *this 1969 amendatory act takes effect; and any person heretofore regularly or temporarily, or as a substitute, employed and paid as a member of a fire department, and who has contributed under and been covered by the provisions of chapter 41.16 RCW as now or hereafter amended and who has come under the provisions of this chapter in accordance with RCW 41.18.170 and who is actively engaged as a fireman or as a member of the fire department as a fireman or fire dispatcher.

(3) "Retired fireman" means and includes a person employed as a fireman and retired under the provisions of this chapter.

(4) "Basic salary" means the basic monthly salary, including longevity pay, attached to the rank held by the retired fireman at the date of his retirement, without regard to extra compensation which such fireman may have received for special duties assignments not acquired through civil service examination: PROVIDED, That such basic salary shall not be deemed to exceed the salary of a battalion chief.

(5) "Widow or widower" means the surviving spouse of a fireman and shall include the surviving wife or husband of a fireman, retired on account of length of service, who was lawfully married to him or to her for a period of five years prior to the time of his or her retirement; and the surviving wife or husband of a fireman, retired on account of disability, who was lawfully married to him or her at and prior to the time he or she sustained the injury or contracted the illness resulting in his or her disability. The word shall not mean the divorced wife or husband of an active or retired fireman.

(6) "Child" or "children" means a fireman's child or children under the age of eighteen years, unmarried, and in

the legal custody of such fireman at the time of his death or her death.

(7) "Earned interest" means and includes all annual increments to the firemen's pension fund from income earned by investment of the fund. The earned interest payable to any fireman when he leaves the service and accepts his contributions, shall be that portion of the total earned income of the fund which is directly attributable to each individual fireman's contributions. Earnings of the fund for the preceding year attributable to individual contributions shall be allocated to individual firemen's accounts as of January 1st of each year.

(8) "Board" shall mean the municipal firemen's pension board.

(9) "Contributions" shall mean and include all sums deducted from the salary of firemen and paid into the fund as hereinafter provided.

(10) "Disability" shall mean and include injuries or sickness sustained by a fireman.

(11) "Fire department" shall mean the regularly organized, full time, paid, and employed force of firemen of the municipality.

(12) "Fund" shall have the same meaning as in RCW 41.16.010 as now or hereafter amended. Such fund shall be created in the manner and be subject to the provisions specified in chapter 41.16 RCW as now or hereafter amended.

(13) "Municipality" shall mean every city, town and fire protection district having a regularly organized full time, paid, fire department employing firemen.

(14) "Performance of duty" shall mean the performance of work or labor regularly required of firemen and shall include services of an emergency nature normally rendered while off regular duty. [1973 1st ex.s. c 154 § 69; 1969 ex.s. c 209 § 40; 1965 ex.s. c 45 § 2; 1961 c 255 § 1; 1955 c 382 § 1.]

***Reviser's note:** "this 1969 amendatory act" [1969 ex.s. c 209] consists of chapter 41.26 RCW, RCW 41.16.145, 41.18.010, 41.18.040, 41.18.045, 41.18.060, 41.18.100, 41.18.102, 41.18.104, 41.18.130, 41.18.190, 41.20.005, 41.20.085, and 41.20.170; and RCW 41.20.050 and 41.20.060, subsequently amended by 1969 ex.s. c 219.

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

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

Severability—1961 c 255: "If any clause, part or section of this act shall be adjudged in violation of the constitution, or for any reason invalid, such judgment shall not affect nor invalidate the remainder of the act, nor any clause, part or section thereof, but such judgment shall be confined in its operation to the clause, part or section directly involved in the controversy in which judgment was rendered, and the balance of the act shall remain in full force and effect." [1961 c 255 § 13.] For codification of 1961 c 255, see Codification Tables, Volume 0.

41.18.015 Pension boards in fire districts created—Members—Terms—Vacancies—Officers—Quorum. There is hereby created in each fire protection district which qualifies under this chapter, a firemen's pension board to consist of the following five members, the chairman of the fire commissioners for said district who shall be chairman of the board, the county auditor, county treasurer, and in addition, two regularly employed or retired fire fighters elected by secret ballot of the employed and retired fire fighters. Retired members who are subject to the jurisdiction

of the pension board have both the right to elect and the right to be elected under this section. The first members to be elected by the fire fighters shall be elected annually for a two-year term. The two fire fighter elected members shall, in turn, select a third eligible member who shall serve in the event of an absence of one of the regularly elected members. In case a vacancy occurs in the membership of the fire fighter or retired members, the members shall in the same manner elect a successor to serve the unexpired term. The board may select and appoint a secretary who may, but need not be a member of the board. In case of absence or inability of the chairman to act, the board may select a chairman pro tempore who shall during such absence or inability perform the duties and exercise the powers of the chairman. A majority of the members of said board shall constitute a quorum and have power to transact business. [1992 c 6 § 1; 1961 c 255 § 11.]

41.18.020 Powers and duties of board. The board, in addition to such general and special powers as are vested in it by the provisions of chapter 41.16 RCW, which powers the board shall have with respect to this chapter shall have power to:

(1) Generally supervise and control the administration of this chapter;

(2) Pass upon and allow or disallow applications for pensions or other benefits provided by this chapter;

(3) Provide for payment from the firemen's pension fund of necessary expenses of maintenance and administration required by the provisions of this chapter;

(4) Make rules and regulations not inconsistent with this chapter for the purpose of carrying out and effecting the same;

(5) Require the physicians appointed under the provisions of chapter 41.16 RCW, to examine and report to the board upon all applications for relief and pensions under this chapter; and

(6) Perform such acts, receive such compensation and enjoy such immunity as provided in RCW 41.16.040. [1955 c 382 § 2.]

41.18.030 Contributions by firemen. Every fireman to whom this chapter applies shall contribute to the firemen's pension fund a sum equal to six percent of his basic salary which shall be deducted therefrom and placed in the fund. [1961 c 255 § 2; 1955 c 382 § 3.]

41.18.040 Retirement for service—Widow's or widower's pension—Payments to children. Whenever any fireman, *at the time of taking effect of this act or thereafter, shall have been appointed under civil service rules and have served for a period of twenty-five years or more as a member in any capacity of the regularly constituted fire department of any city, town or fire protection district which may be subject to the provisions of this chapter, and shall have attained the age of fifty years, he or she shall be eligible for retirement and shall be retired by the board upon his or her written request. Upon his or her retirement such fireman shall be paid a monthly pension which shall be equal to fifty percent of the basic salary now or hereafter attached to the same rank and status held by the said fireman

at the date of his or her retirement: PROVIDED, That a fireman hereafter retiring who has served as a member for more than twenty-five years, shall have his pension payable under this section increased by two percent of the basic salary per year for each full year of such additional service to a maximum of five additional years.

Upon the death of any such retired fireman, his or her pension shall be paid to his widow or her widower, at the same monthly rate that the retired fireman would have received had he or she lived, if such widow or widower was his wife or her husband for a period of five years prior to the time of his or her retirement. If there be no widow or widower, then such monthly payments shall be distributed to and divided among his or her children, share and share alike, until they reach the age of eighteen or are married, whichever occurs first. [1973 1st ex.s. c 154 § 70; 1969 ex.s. c 209 § 29; 1965 ex.s. c 45 § 3; 1961 c 255 § 3; 1955 c 382 § 4.]

***Reviser's note:** The phrase "at the time of taking effect of this act or thereafter" first appears in the 1961 amendment, which became effective at midnight June 7, 1961 (see preface, 1961 session laws). The basic act, 1955 c 382, became effective at midnight June 8, 1955 (see preface, 1955 session laws).

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

Applicability—1969 ex.s. c 209: See RCW 41.18.102.

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

41.18.045 Pension benefits for widows or widowers of unretired, eligible firemen—Retroactive. Upon the death of a fireman who is eligible to retire under RCW 41.18.040 as now or hereafter amended, but who has not retired, a pension shall be paid to his widow or her widower at the same monthly rate that he or she was eligible to receive at the time of his or her death, if such widow or widower was his wife or her husband for a period of five years prior to his or her death. If there be no widow or widower, then such monthly payments shall be distributed to and divided among his or her children, share and share alike, until they reach the age of eighteen or are married, whichever comes first.

This section shall apply retroactively for the benefit of all widows or widowers and survivors of firemen who died after January 1, 1967, if such firemen were otherwise eligible to retire on the date of death. [1973 1st ex.s. c 154 § 71; 1969 ex.s. c 209 § 25.]

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

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

41.18.050 Disablement in line of duty—Retirement. Every fireman who shall become disabled as a result of the performance of duty may be retired at the expiration of six months from the date of his disability, upon his written request filed with his retirement board. The board may, upon such request being filed, consult such medical advice as it sees fit, and may have the applicant examined by such physicians as it deems desirable. If from the reports of such physicians the board finds the applicant capable of performing his duties in the fire department, the board may refuse to recommend his retirement. If, after the expiration of six

months from the date of his disability, the board deems it for the good of the fire department or the pension fund it may recommend the retirement of a fireman disabled as a result of the performance of duty without any request for the same by him, and after having been given by the board a thirty days' written notice of such recommendation he shall be retired. [1955 c 382 § 5.]

41.18.060 Disablement in line of duty—Inactive period—Allowance—Medical, hospital, nursing care.

Whenever the retirement board, pursuant to examination by the board's physician and such other evidence as it may require, shall find a fire fighter has been disabled while in the performance of his or her duties it shall declare the fire fighter inactive. For a period of six months from the time of the disability the fire fighter shall draw from the pension fund a disability allowance equal to his or her basic monthly salary and, in addition, shall be provided with medical, hospital and nursing care as long as the disability exists. The board may, at its discretion, elect to reimburse the disabled fire fighter for premiums the fire fighter has paid for medical insurance that supplements medicare, including premiums the fire fighter has paid for medicare part B coverage. If the board finds at the expiration of six months that the fire fighter is unable to return to and perform his or her duties, the fire fighter shall be retired at a monthly sum equal to fifty percent of the amount of his or her basic salary at any time thereafter attached to the rank which he or she held at the date of retirement: PROVIDED, That where, at the time of retirement hereafter for disability under this section, the fire fighter has served honorably for a period of more than twenty-five years as a member, in any capacity of the regularly constituted fire department of a municipality, the fire fighter shall have his or her pension payable under this section increased by two percent of his or her basic salary per year for each full year of additional service to a maximum of five additional years. [1992 c 22 § 1; 1969 ex.s. c 209 § 30; 1961 c 255 § 4; 1955 c 382 § 6.]

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

41.18.080 Payment upon disablement not in line of duty. Any fireman who has completed his or her probationary period and has been permanently appointed, and sustains a disability not in the performance of his or her duty which renders him or her unable to continue his or her service, may request to be retired by filing a written request with his or her retirement board within sixty days from the date of his or her disability. The board may, upon such request being filed, consult such medical advice as it deems fit and proper. If the board finds the fireman capable of performing his or her duties, it may refuse to recommend retirement and order the fireman back to duty. If no request for retirement has been received after the expiration of sixty days from the date of his or her disability, the board may recommend retirement of the fireman. The board shall give the fireman a thirty day written notice of its recommendation, and he or she shall be retired upon expiration of said notice. Upon retirement he shall receive a pension equal to fifty percent of his or her basic salary. For a period of ninety days following such disability the fireman shall receive an allowance from the

fund equal to his or her basic salary. He or she shall during said ninety days be provided with such medical, hospital, and nursing care as the board deems proper. No funds shall be expended for such disability if the board determines that the fireman was gainfully employed or engaged for compensation in other than fire department duty when the disability occurred, or if such disability was the result of dissipation or abuse. Whenever any fireman shall die as a result of a disability sustained not in the line of duty, his widow or her widower shall receive a monthly pension equal to one-third of his or her basic salary until remarried; if such widow or widower has dependent upon her or him for support a child or children of such deceased fireman, he or she shall receive an additional pension as follows: One child, one-eighth of the deceased's basic salary; two children, one-seventh; three or more children, one-sixth. If there be no widow or widower, monthly payments equal to one-third of the deceased fireman's basic salary shall be made to his or her child or children. The widow or widower may elect at any time in writing to receive a cash settlement, and if the board after hearing finds it financially beneficial to the pension fund, he or she may receive the sum of five thousand dollars cash in lieu of all future monthly pension payments, and other benefits, including benefits to any child and/or children. [1973 1st ex.s. c 154 § 72; 1965 c 109 § 1; 1961 c 255 § 5; 1955 c 382 § 9.]

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

41.18.090 Examination of disability pensioners—Restoration to active duty. The board shall require all firemen receiving disability pensions to be examined every six months: PROVIDED, That no such examinations shall be required if upon certification by physicians the board shall formally enter upon its records a finding of fact that the disability is and will continue to be of such a nature that return to active duty can never reasonably be expected. All examinations shall be made by physicians duly appointed by the board. If a fireman shall wilfully fail to present himself for examination, within thirty days after being ordered so to do, he shall forfeit all rights under this chapter. If such fireman, upon examination as aforesaid, shall be found fit for service, he shall be restored to duty in the same rank held at the time of his retirement, or if unable to perform the duties of said rank then, at his request, in such other like or lesser rank as may be or become open and available, the duties of which he is then able to perform. The board shall thereupon so notify the fireman and shall require him to resume his duties as a member of the fire department. If, upon being so notified, such member shall wilfully fail to report for employment within ten days, he shall forfeit all rights to any benefit under this chapter. [1955 c 382 § 15.]

41.18.100 Payment on death in line of duty or while retired on account of service connected disability. In the event a fireman is killed in the performance of duty, or in the event a fireman retired on account of service connected disability shall die from any cause, his widow or her widower shall receive a monthly pension under one of the following applicable provisions: (1) If a fireman is killed in the line of duty his widow or her widower shall receive a

monthly pension equal to fifty percent of his or her basic salary at the time of his or her death; (2) if a fireman who has retired on account of a service connected disability dies, his widow or her widower shall receive a monthly pension equal to the amount of the monthly pension such retired fireman was receiving at the time of his or her death. If she or he at any time so elects in writing and the board after hearing finds it to be financially beneficial to the pension fund, he or she may receive in lieu of all future monthly pension and other benefits, including benefits to child or children, the sum of five thousand dollars in cash. If there be no widow or widower at the time of such fireman's death or upon the widow's or widower's death the monthly pension benefits hereinabove provided for shall be paid to and divided among his or her child or children share and share alike, until they reach the age of eighteen or are married, whichever occurs first. The widow's or widower's monthly pension benefit, including increased benefits to his or her children shall cease if and when he or she remarries: PROVIDED, That no pension payable under the provisions of this section shall be less than that specified under RCW 41.18.200. [1975 1st ex.s. c 178 § 4; 1973 1st ex.s. c 154 § 73; 1969 ex.s. c 209 § 28; 1965 ex.s. c 45 § 4; 1955 c 382 § 8.]

Construction—Severability—1975 1st ex.s. c 178: See RCW 41.16.911, 41.16.921.

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

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

41.18.102 Applicability of RCW 41.18.040 and 41.18.100. The provisions of RCW 41.18.040 and 41.18.100 shall be applicable to all firemen employed prior to March 1, 1970, but shall not apply to any former fireman who has terminated his employment prior to July 1, 1969. [1969 ex.s. c 209 § 32.]

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

41.18.104 Annual increase in benefits payable on retirement for service or disability—Appeals. The amount of all benefits payable under the provisions of RCW 41.18.040, 41.18.080, 41.18.100 and 41.18.200 as now or hereafter amended, shall be increased annually as hereafter in this section provided. The local pension board shall meet subsequent to March 31st but prior to June 30th of each year for the purpose of adjusting benefit allowances payable pursuant to the aforementioned sections. The local board shall determine the increase in the consumer price index between January 1st and December 31st of the previous year and increase in dollar amount the benefits payable subsequent to July 1st of the year in which said board makes such determination by a dollar amount proportionate to the increase in the consumer price index: PROVIDED, That regardless of the change in the consumer price index, such increase shall be at least two percent each year such adjustment is made.

Each year effective with the July payment all benefits specified herein, shall be increased as authorized by this section. This benefit increase shall be paid monthly as part of the regular pension payment and shall be cumulative.

The increased benefits authorized by this section shall not affect any benefit payable under the provisions of chapter 41.18 RCW in which the benefit payment is attached to a current salary of the rank held at time of retirement. A beneficiary of benefit increases provided for pursuant to this section is hereby authorized to appeal a decision on such increases or the failure of the local pension board to order such increased benefits or the amount of such benefits to the Washington law enforcement officers' and fire fighters' system retirement board provided for in *RCW 41.26.050.

For the purpose of this section the term

"Consumer price index" shall mean, for any calendar year, the consumer price index for the Seattle, Washington area as compiled by the bureau of labor statistics of the United States department of labor. [1975-'76 2nd ex.s. c 44 § 2; 1975 1st ex.s. c 178 § 2; 1974 ex.s. c 190 § 2; 1970 ex.s. c 37 § 1; 1969 ex.s. c 209 § 33.]

***Reviser's note:** RCW 41.26.050 was repealed by 1982 c 163 § 23. Powers, duties, and functions of the Washington law enforcement officers' and fire fighters' retirement board were transferred to the director of retirement systems by RCW 41.26.051, which has been decodified. See Table of Disposition of Former RCW Sections, Volume 0.

Construction—Severability—1975 1st ex.s. c 178: See RCW 41.16.911, 41.16.921.

Construction—1970 ex.s. c 37: "This 1970 amendatory act shall be null and void and of no further force and effect if the 1970 extraordinary session of the Legislature does not pass legislation authorizing cities and counties to levy additional taxes or appropriate at least ten million dollars for distribution to cities and towns for the remainder of the 1969-71 fiscal biennium." [1970 ex.s. c 37 § 4.]

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

41.18.130 Payment on separation—With less than twenty-five years service or less than fifty years of age—Option to be classified as vested fireman. Any fireman who shall have served for a period of less than twenty-five years, or who shall be less than fifty years of age, and shall resign, or be dismissed from the fire department for a reason other than conviction for a felony, shall be paid the amount of his contributions to the fund plus earned interest: PROVIDED, That in the case of any fireman who has completed twenty years of service, such fireman, upon termination for any cause except for a conviction of a felony, shall have the option of electing, in lieu of recovery of his contributions as herein provided, to be classified as a vested fireman in accordance with the following provisions:

(1) Written notice of such election shall be filed with the board within thirty days after the effective date of such fireman's termination;

(2) During the period between the date of his termination and the date upon which he becomes a retired fireman as hereinafter provided, such vested fireman and his spouse or dependent children shall be entitled to all benefits available under chapter 41.18 RCW to a retired fireman and his spouse or dependent children with the exception of the service retirement allowance as herein provided for: PROVIDED, That any claim for medical coverage under RCW 41.18.060 shall be attributable to service connected illness or injury;

(3) Any fireman electing to become a vested fireman shall be entitled at such time as he otherwise would have completed twenty-five years of service had he not terminat-

ed, to receive a service retirement allowance computed on the following basis: Two percent of the amount of salary attached to the position held by the vested fireman for the year preceding the date of his termination, for each year of service rendered prior to the date of his termination. [1969 ex.s. c 209 § 31; 1961 c 255 § 6; 1955 c 382 § 11.]

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

41.18.140 Funeral expenses. The board shall pay from the firemen's pension fund upon the death of any active or retired fireman the sum of five hundred dollars, to assist in defraying the funeral expenses of such fireman. [1961 c 255 § 7; 1955 c 382 § 13.]

41.18.150 Credit for military service. Every person who was a member of the fire department at the time he entered and served in the armed forces of the United States in time of war, whether as a draftee, or inductee, and who shall have been discharged from such armed forces under conditions other than dishonorable, shall have added and accredited to his period of employment as a fireman his period of war or peacetime service in the armed forces: PROVIDED, That such added and accredited service shall not as to any individual exceed five years. [1955 c 382 § 14.]

41.18.160 Certain firemen may elect to be covered under other law. Every fireman as defined in this chapter heretofore employed as a member of a fire department, whether or not as a prior fireman as defined in chapter 41.16 RCW, who desires to make the contributions and avail himself of the pension and other benefits of said chapter 41.16 RCW, can do so by handing to and leaving with the firemen's pension board of his municipality a written notice of such intention within sixty days of the effective date of this chapter, or if he was on disability retirement under chapter 41.16 RCW, at the effective date of this chapter and has been recalled to active duty by the retirement board, shall give such notice within sixty days of his return to active duty, and not otherwise. [1955 c 382 § 17.]

Reviser's note: Effective date of chapter 41.18 RCW is midnight June 8, 1955; see preface 1955 session laws.

41.18.165 Credit for membership in private organization acquired by municipality. Every person who was a member of a fire-fighting organization operated by a private enterprise, which fire-fighting organization shall be hereafter acquired before September 1, 1959, by a municipality as its fire department as a matter of public convenience or necessity, where it is in the public interest to retain the trained personnel of such fire-fighting organization, shall have added and accredited to his period of employment as a fireman his period of service with said private enterprise, except that this shall apply only to those persons who are in the service of such fire-fighting organization at the time of its acquisition by the municipality and who remain in the service of that municipality until this chapter shall become applicable to such persons.

No such person shall have added and accredited to his period of employment as a fireman his period of service with

said private enterprise unless he or a third party shall pay to the municipality his contribution for the period of such service with the private enterprise at the rate provided in RCW 41.18.030, or, if he shall be entitled to any private pension or retirement benefits as a result of such service with the private enterprise, unless he agrees at the time of his employment by the municipality to accept a reduction in the payment of any benefits payable under this chapter that are based in whole or in part on such added and accredited service by the amount of those private pension or retirement benefits received. For the purposes of RCW 41.18.030, the date of entry of service shall be deemed the date of entry into service with the private enterprise, which service is accredited by this section, and the amount of contributions for the period of accredited service shall be based on the wages or salary of such person during that added and accredited period of service with the private enterprise.

The city may receive payments for these purposes from a third party and shall make from such payments contributions with respect to such prior service as may be necessary to enable the fund to assume its obligations. [1959 c 69 § 1.]

41.18.170 Application of chapter. The provisions of this chapter governing contributions, pensions, and benefits shall have exclusive application (1) to firemen as defined in this chapter hereafter becoming members of a fire department, (2) to firemen as defined in this chapter heretofore employed in a department who have not otherwise elected as provided for in RCW 41.18.160, and (3) to firemen on disability retirement under chapter 41.16 RCW, at the effective date of this chapter, who thereafter shall have been returned to active duty by the retirement board, and who have not otherwise elected as provided for in RCW 41.18.160 within sixty days after return to active duty. [1955 c 382 § 16.]

41.18.180 Fireman contributor under prior law may obtain benefits of chapter—Refunds. Any fireman who has made contributions under any prior act may elect to avail himself of the benefits provided by this chapter or under such prior act by filing written notice with the board within sixty days from the effective date of this 1961 amendatory act: PROVIDED, That any fireman who has received refunds by reason of selecting the benefits of prior acts shall return the amount of such refunds as a condition to coverage under this 1961 amendatory act. [1961 c 255 § 12.]

Reviser's note: "this 1961 amendatory act" [1961 c 255] consists of RCW 41.16.020, 41.16.050, 41.16.060, 41.18.010, 41.18.015, 41.18.030, 41.18.040, 41.18.060, 41.18.080, 41.18.130, 41.18.140, and 41.18.180, and the repeal of RCW 41.18.070, 41.18.110, and 41.18.120. The act became effective at midnight June 7, 1961 (see preface, 1961 session laws).

41.18.190 Transfer of membership authorized. Any fireman as defined in RCW 41.18.010 who has prior to July 1, 1969 been employed as a member of a fire department and who desires to make contributions and avail himself of the pension and other benefits of chapter 41.18 RCW as now law or hereafter amended, may transfer his membership from any other pension fund, except the Washington law enforcement officers' and fire fighters' retirement system, to the pension fund provided in chapter 41.18 RCW: PROVIDED,

That such fireman transmits written notice of his intent to transfer to the pension board of his municipality prior to September 1, 1969. [1969 ex.s. c 209 § 41.]

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

Law enforcement officers' and fire fighters' retirement system: Chapter 41.26 RCW.

41.18.200 Minimum pension. All retirees and survivors receiving a pension under the provisions of this chapter shall from and after April 25, 1973 receive a minimum pension of three hundred dollars per month. [1973 1st ex.s. c 181 § 2.]

41.18.210 Transfer of credit from city employees' retirement system to firemen's pension system. Any former employee of a department of a city of the first class, who (1) was a member of the employees' retirement system of such city, and (2) is now employed within the fire department of such city, may transfer his former membership credit from the city employees' retirement system to the fireman's pension system created by chapters 41.16 and 41.18 RCW by filing a written request with the board of administration and the municipal fireman's pension board, respectively.

Upon the receipt of such request, the transfer of membership to the city's fireman's pension system shall be made, together with a transfer of all accumulated contributions credited to such member. The board of administration shall transmit to the municipal fireman's pension board a record of service credited to such member which shall be computed and credited to such member as a part of his period of employment in the city's fireman's pension system. For the purpose of the transfer contemplated by this section, those affected individuals who have formerly withdrawn funds from the city employees' retirement system shall be allowed to restore contributions withdrawn from that retirement system directly to the fireman's pension system and receive credit in the fireman's pension system for their former membership service in the prior system.

Any employee so transferring shall have all the rights, benefits, and privileges that he would have been entitled to had he been a member of the city's fireman's pension system from the beginning of his employment with the city.

No person so transferring shall thereafter be entitled to any other public pension, except that provided by chapter 41.26 RCW or social security, which is based upon such service with the city.

The right of any employee to file a written request for transfer of membership as set forth in this section shall expire December 31, 1974. [1974 ex.s. c 148 § 1.]

Chapter 41.20

POLICE RELIEF AND PENSIONS IN FIRST CLASS CITIES

Sections

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41.20.005 Definitions. As used in chapter 41.20 RCW:

- (1) "Rank" means civil service rank.
- (2) "Position" means the particular employment held at any particular time, which may or may not be the same as civil service rank.
- (3) Words importing masculine gender shall extend to females also.
- (4) "Salary" means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages. [1969 ex.s. c 209 § 39; 1959 c 78 § 1.]

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

41.20.010 Board of trustees—Composition. (1) The mayor or his designated representative who shall be an elected official of the city, and the clerk, treasurer, president of the city council or mayor pro tem of each city of the first class, or in case any such city has no city council, the commissioner who has supervision of the police department, together with three active or retired members of the police department, to be elected as herein provided, in addition to the duties now required of them, are constituted a board of trustees of the relief and pension fund of the police department of each such city, and shall provide for the disbursement of the fund, and designate the beneficiaries thereof.

(2) The police department and the retired law enforcement officers of each city of the first class shall elect three members to act as members of the board. Members shall be elected for three year terms. Existing members shall continue in office until replaced as provided for in this section.

(3) Such election shall be held in the following manner. Not more than thirty nor less than fifteen days preceding the first day of June in each year, written notice of the nomination of any member or retired member of the department for

membership on the board may be filed with the secretary of the board. Each notice of nomination shall be signed by not less than five members or retired members of the department, and nothing herein contained shall prevent any member or retired member of the department from signing more than one notice of nomination. The election shall be held on a date to be fixed by the secretary during the month of June. Notice of the dates upon which notice of nomination may be filed and of the date fixed for the election of such members of the board shall be given by the secretary of the board by posting written notices thereof in a prominent place in the police headquarters. For the purpose of such election, the secretary of the board shall prepare and furnish printed or typewritten ballots in the usual form, containing the names of all persons regularly nominated for membership and shall furnish a ballot box for the election. Each member and each retired member of the police department shall be entitled to vote at the election for one nominee as a member of the board. The chief of the department shall appoint two members to act as officials of the election, who shall be allowed their regular wages for the day, but shall receive no additional compensation therefor. The election shall be held in the police headquarters of the department and the polls shall open at 7:30 a.m. and close at 8:30 p.m. The one nominee receiving the highest number of votes shall be declared elected to the board and his term shall commence on the first day of July succeeding the election. In the first election the nominee receiving the greatest number of votes shall be elected to the three year term, the second greatest to the two year term and the third greatest to the one year term. Retired members who are subject to the jurisdiction of the board have both the right to elect and the right to be elected under this section. Ballots shall contain all names of those nominated, both active and retired. Notice of nomination and voting by retired members shall be conducted by the board. [1988 c 164 § 3; 1973 1st ex.s. c 16 § 1; 1955 c 69 § 1; 1911 c 18 § 1; 1909 c 39 § 1; RRS § 9579.]

41.20.020 Officers of board—Annual report. The mayor, or his designated representative, shall be ex officio chairman, the clerk shall be ex officio secretary, and the treasurer shall be ex officio treasurer of said board. The secretary of said board, at the time of making his annual reports as said city clerk, shall annually report the condition of said fund, the receipts and disbursements on account of the same, together with a complete list of the beneficiaries of said fund, and the amounts paid to each of them. [1973 1st ex.s. c 16 § 2; 1909 c 39 § 2; RRS § 9580.]

41.20.030 Meetings—Disbursements of fund—Quorum. The board herein provided for shall hold monthly meetings on the first Mondays of each month and upon the call of its president. It shall issue warrants, signed by its president and secretary, to the persons entitled thereto under provisions of this chapter other than RCW 41.20.050, 41.20.060, 41.20.080 and 41.20.085 for the amounts of money ordered paid to such persons from such fund by said board, which warrants shall state for what purpose such payments are made; it shall keep a record of its proceedings, which record shall be a public record; it shall, at each monthly meeting, send to the treasurer of such city a written

or printed list of all persons entitled to payment under provisions of this chapter other than RCW 41.20.050, 41.20.060, 41.20.080 and 41.20.085 from the fund herein provided for, stating the amount of such payments and for what granted, which list shall be certified to and signed by the president and secretary of such board, attested under oath. The treasurer of such city shall thereupon enter a copy of said list upon a book to be kept for that purpose and which shall be known as "the police relief and pension fund book", and the said board shall direct payment of the amounts named therein to the persons entitled thereto, out of such fund. The treasurer shall prepare and enter into such book an additional list showing those persons entitled to payment under RCW 41.20.050, 41.20.060, 41.20.080 and 41.20.085 and shall on the last day of each month issue warrants in the appropriate amounts to such persons. A majority of all the members of said board herein provided for shall constitute a quorum, and have power to transact business. [1973 c 143 § 1; 1911 c 18 § 5; 1909 c 39 § 11; RRS § 9589.]

41.20.040 Additional powers of board. The board shall, in addition to other powers herein granted, have power:

(1) To compel witnesses to attend and testify before it upon all matters connected with the administration of this chapter, in the same manner as provided by law for the taking of testimony in courts of record in this state, and its president or any member of the board may administer oaths to such witnesses.

(2) To provide for the payment from the fund of all necessary expenses and printing.

No compensation or emolument shall be paid to any member of the board for any duty required or performed under this chapter.

Each board may make all needful rules and regulations for its guidance in the administration of and in conformity with the provisions of this chapter. [1955 c 69 § 2; 1909 c 39 § 12; RRS § 9590.]

41.20.050 Pension on retirement for years of service. Whenever a person has been duly appointed, and has served honorably for a period of twenty-five years, as a member, in any capacity, of the regularly constituted police department of a city subject to the provisions of this chapter, the board, after hearing, if one is requested in writing, may order and direct that such person be retired, and the board shall retire any member so entitled, upon his written request therefor. The member so retired *hereafter shall be paid from the fund during his lifetime a pension equal to fifty percent of the amount of salary *at any time hereafter attached to the position held by the retired member for the year preceding the date of his retirement: PROVIDED, That, except as to a position higher than that of captain held for at least three calendar years prior to date of retirement, no such pension shall exceed an amount equivalent to fifty percent of the salary of captain, and all existing pensions shall be increased to not less than three hundred dollars per month as of April 25, 1973: PROVIDED FURTHER, That a person *hereafter retiring who has served as a member for more than twenty-five years, shall have his pension payable

under this section increased by two percent of his salary per year for each full year of such additional service to a maximum of five additional years.

Any person who has served in a position higher than the rank of captain for a minimum of three years may elect to retire at such higher position and receive for his lifetime a pension equal to fifty percent of the amount of the salary *at any time hereafter attached to the position held by such retired member for the year preceding his date of retirement: PROVIDED, That such person make the said election to retire at a higher position by September 1, 1969 and at the time of making the said election, pay into the relief and pension fund in addition to the contribution required by RCW 41.20.130: (1) an amount equal to six percent of that portion of all monthly salaries previously received upon which a sum equal to six percent has not been previously deducted and paid into the police relief and pension fund; (2) and such person agrees to continue paying into the police relief and pension fund until the date of retirement, in addition to the contributions required by RCW 41.20.130, an amount equal to six percent of that portion of monthly salary upon which a six percent contribution is not currently deducted pursuant to RCW 41.20.130.

Any person affected by this chapter who at the time of entering the armed services was a member of such police department and is a veteran as defined in RCW 41.04.005, shall have added to his period of employment as computed under this chapter, his period of war service in the armed forces, but such credited service shall not exceed five years and such period of service shall be automatically added to each member's service upon payment by him of his contribution for the period of his absence at the rate provided in RCW 41.20.130. [1973 1st ex.s. c 181 § 3; 1969 ex.s. c 269 § 6; 1969 ex.s. c 219 § 1; 1969 ex.s. c 209 § 36; 1969 c 123 § 1; 1961 c 191 § 1; 1959 c 78 § 3; 1959 c 6 § 1. Prior: 1957 c 84 § 1; 1955 c 69 § 3; 1945 c 45 § 1; 1937 c 24 § 1; 1915 c 40 § 2; 1911 c 18 § 2; 1909 c 39 § 4; Rem. Supp. 1945 § 9582.]

*Reviser's note: The words "hereafter" and "at any time hereafter" first appear in the 1961 amendment.

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

41.20.060 Pension on retirement for disability. Whenever any person, while serving as a policeman in any such city becomes physically disabled by reason of any bodily injury received in the immediate or direct performance or discharge of his duties as a policeman, or becomes incapacitated for service, such incapacity not having been caused or brought on by dissipation or abuse, of which the board shall be judge, the board may, upon his written request filed with the secretary, or without such written request, if it deems it to be for the benefit of the public, retire such person from the department, and order and direct that he be paid from the fund during his lifetime, a pension equal to fifty percent of the amount of salary *at any time hereafter attached to the position which he held in the department at the date of his retirement, but not to exceed an amount equivalent to fifty percent of the salary of captain except as to a position higher than that of captain held for at least three calendar years prior to the date of retirement in which case as to such position the provisions of RCW 41.20.050

shall apply, and all existing pensions shall be increased to not less than three hundred dollars per month as of April 25, 1973: PROVIDED, That where, at the time of retirement hereafter for disability under this section, such person has served honorably for a period of more than twenty-five years as a member, in any capacity, of the regularly constituted police department of a city subject to the provisions of this chapter, the foregoing percentage factors to be applied in computing the pension payable under this section shall be increased by two percent of his salary per year for each full year of such additional service to a maximum of five additional years.

Whenever such disability ceases, the pension shall cease, and such person shall be restored to active service at the same rank he held at the time of his retirement, and at the current salary attached to said rank at the time of his return to active service.

Disability benefits provided for by this chapter shall not be paid when the policeman is disabled while he is engaged for compensation in outside work not of a police or special police nature. [1973 1st ex.s. c 181 § 4; 1969 ex.s. c 219 § 2; 1969 ex.s. c 209 § 37; 1969 c 123 § 2; 1961 c 191 § 2; 1959 c 78 § 4; 1959 c 6 § 2; 1957 c 84 § 2; 1955 c 69 § 5; 1937 c 24 § 2; 1911 c 18 § 3; 1909 c 39 § 5; RRS § 9583.]

*Reviser's note: The words "at any time hereafter" first appear in the 1961 amendment.

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

41.20.061 Increase in presently payable benefits for service or disability authorized. See RCW 41.26.250.

41.20.070 Certificate of disability. No person shall be retired, as provided in RCW 41.20.060, or receive any benefit from said fund, unless there shall be filed with said board certificate of his disability, which certificate shall be subscribed and sworn to by said person, and by the city physician (if there be one) and two regularly licensed and practicing physicians of such city, and such board may require other evidence of disability before ordering such retirement and payment as aforesaid. [1909 c 39 § 6; RRS § 9584.]

41.20.080 Pension on death before or after retirement. Whenever any member of the police department of any such city loses his life while actually engaged in the performance of duty, or as the proximate result thereof, leaving a surviving spouse or child or children under the age of eighteen years, upon satisfactory proof of such facts made to it, the board shall order and direct that a pension, equal to one-half of the amount of the salary *at any time hereafter attached to the position which such member held in the police department at the time of his death, shall be paid to the surviving spouse for life, or if there is no surviving spouse, or if the surviving spouse shall die, then to the child or children until they are eighteen years of age: PROVIDED, That if such spouse or child or children marry, the person so marrying shall thereafter receive no further pension from the fund: PROVIDED FURTHER, That all existing pensions shall be increased to not less than three hundred dollars per month as of April 25, 1973.

If any member so losing his life, leaves no spouse, or child or children under the age of eighteen years, the board shall pay the sum of two hundred dollars toward the funeral expenses of such member. [1973 1st ex.s. c 181 § 5; 1961 c 191 § 3; 1959 c 78 § 5; 1959 c 6 § 3; 1957 c 84 § 3; 1955 c 69 § 6; 1937 c 24 § 3; 1915 c 40 § 3; 1909 c 39 § 7; RRS § 9585.]

*Reviser's note: The words "at any time hereafter" first appear in the 1961 amendment.

41.20.085 Pension on death before or after retirement—Surviving spouse not formerly covered—"Surviving spouse" defined. Whenever any member of the police department of any such city shall die, or shall have heretofore died, or whenever any such member who has been heretofore retired or who is hereafter retired for length of service or a disability, shall have died, or shall die, leaving a surviving spouse or child or children under the age of eighteen years, upon satisfactory proof of such facts made to it, the board shall order and direct that a pension equal to one-third of the amount of salary at any time hereafter attached to the position held by such member in the police department at the time of his death or retirement, not to exceed one-third of the salary of captain, shall be paid to the surviving spouse during the surviving spouse's life, and in addition, to the child or children, until they are eighteen years of age, as follows: For one child, one-eighth of the salary on which such pension is based; for two children, a total of one-seventh of said salary; and for three or more children, a total of one-sixth of said salary: PROVIDED, If such spouse or child or children marry, the person so marrying shall receive no further pension from the fund. In case there is no surviving spouse, or if the surviving spouse shall die, the child or children shall be entitled to the spouse's share in addition to the share specified herein until they reach eighteen years of age. No spouse shall be entitled to any payments on the death of a retired officer unless such surviving spouse has been married to such officer for a period of at least five years prior to the date of his retirement.

As of April 25, 1973, a surviving spouse not otherwise covered by the provisions of section 2, chapter 78, Laws of 1959, shall be entitled to a pension of three hundred dollars per month.

"Surviving spouse" as used in this section means surviving female or male spouse. [1973 1st ex.s. c 181 § 6; 1969 ex.s. c 209 § 26; 1961 c 140 § 1; 1959 c 78 § 2.]

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

41.20.086 Increase in certain presently payable death benefits authorized. See RCW 41.26.260.

41.20.090 Lump sum payment on death before or after retirement. Whenever any member of the police department of such city shall, after five years of service in said department, die, his surviving spouse or, if there is no surviving spouse, the child or children under the age of eighteen years, or if there is no surviving spouse or child or children, then his parents or unmarried sister or sisters, minor brother or brothers, dependent upon him for support,

shall be entitled to the sum of one thousand dollars from such fund. This section to apply to members who shall have been retired, for any reason, from active service under the provisions of this chapter. [1959 c 78 § 6; 1937 c 24 § 4; 1915 c 40 § 4; 1911 c 18 § 4; 1909 c 39 § 8; RRS § 9586.]

Construction—1937 c 24: "Nothing contained in this act shall affect or be construed as affecting the validity of any act done, obligation entered into, or rights accrued, or any proceedings had or pending under the act of which this act is amendatory." [1937 c 24 § 6; RRS § 9592-1.]

Severability—1937 c 24: "If any section or part of this act shall be held to be unconstitutional and void, such holding shall not effect [affect] the remaining portions of the act." [1937 c 24 § 7; RRS § 9592-2.]

41.20.100 Examination of disability pensioners—Emergency duty. Any person retired for disability under this chapter may be summoned before the board herein provided for, at any time thereafter, and shall submit himself thereto for examination as to his fitness for duty, and shall abide the decision and order of said board with reference thereto; and all members of such police force who may be retired under the provisions of this chapter, shall report to the chief of police of such city where so retired on the first Mondays of April, July, October and January of each year; and in cases of emergency, may be assigned to and shall perform such duty as said chief of police may direct, and such persons shall have no claim against such city for payment for such duty so performed. [1909 c 39 § 9; RRS § 9587.]

41.20.110 Withdrawal of pension—Grounds. Whenever any person who shall have received any benefit from said fund shall be convicted of any felony, or shall become a habitual drunkard, or shall fail to report himself for examination for duty as required herein, unless excused by the board, or shall disobey the requirements of said board then such board shall order and direct that such pension or allowance that may have been granted to such person shall immediately cease, and such person shall receive no further pension or allowance or benefit under this chapter, but in lieu thereof the said pension or allowance or benefit may, at the discretion of the board, be paid to those immediately dependent upon him, or to his legally appointed guardian. [1937 c 24 § 5; 1909 c 39 § 10; RRS § 9588.]

Construction—Severability—1937 c 24: See notes following RCW 41.20.090.

41.20.120 Sick benefits. Whenever any active member of the police department, or any member *hereafter retired, on account of service, sickness or disability, not caused or brought on by dissipation or abuse, of which the board shall be judge, is confined in any hospital or in his or her home and, whether or not so confined, requires nursing, care, or attention, the board shall pay for the active member the necessary hospital, care, and nursing expenses of the member out of the fund; and the board may pay for the retired member hospital, care, and nursing expenses as are reasonable, in the board's discretion. The board may, at its discretion, elect, in lieu of paying some or all such expenses for the retired member, to reimburse the retired member for premiums the member has paid for medical insurance that supplements medicare, including premiums the member has paid for medicare part B coverage. The salary of the active

member shall continue while he or she is necessarily confined to the hospital or home or elsewhere during the period of recuperation, as determined by the board, for a period not exceeding six months; after which period the other provisions of this chapter shall apply: PROVIDED, That the board in all cases may have the active or retired member suffering from such sickness or disability examined at any time by a licensed physician or physicians, to be appointed by the board, for the purpose of ascertaining the nature and extent of the sickness or disability, the physician or physicians to report to the board the result of the examination within three days thereafter. Any active or retired member who refuses to submit to such examination or examinations shall forfeit all his or her rights to benefits under this section: PROVIDED FURTHER, That the board shall designate the hospital and medical services available to the sick or disabled policeman. [1992 c 22 § 2; 1961 c 191 § 4; 1959 c 78 § 7; 1955 c 69 § 7; 1915 c 40 § 5; 1911 c 18 § 6; 1909 c 39 § 13; RRS § 9591.]

***Reviser's note:** The words "hereafter retired" first appear in the 1961 amendment.

41.20.130 Fund created. There is created in each city subject to the provisions of this chapter a police relief and pension fund. The fund shall be constituted as follows:

A sum equal to six percent thereof shall be deducted monthly from the salary of each police officer by the city treasurer and placed in the fund, but the maximum deduction shall not exceed six percent of the monthly salary of captain.

At the time the annual tax levy of the city is made, the city council, or other legislative body, shall order the transfer of an amount of money into the fund, sufficient with the salary deductions, to meet the financial requirements thereof:

(1) From moneys collected or received from all licenses issued;

(2) From fines and forfeitures collected or received in money for violation of city ordinances. [1959 c 78 § 8; 1955 c 69 § 8; 1933 c 30 § 1; 1929 c 101 § 3; 1923 c 54 § 1; 1915 c 40 § 1; 1909 c 39 § 3; RRS § 9581.]

41.20.140 Pension payments monthly—Surplus to general fund. Payments provided for in this chapter shall be made monthly upon proper vouchers. If at any time there is more money in the fund provided for in this chapter than is necessary for the purposes of this chapter, then such surplus shall be transferred from such fund to the general fund of the city: PROVIDED, That at all times enough money shall be kept in said fund to meet all payments provided for in this chapter. [1911 c 18 § 7; 1909 c 39 § 14; RRS § 9592.]

41.20.150 Return of member's contributions—Option to be classified as vested member. Whenever any member affected by this chapter terminates his employment prior to the completion of twenty-five years of service he shall receive seventy-five percent of his contributions made after *the effective date of this act and he shall not receive any contributions made prior thereto: PROVIDED, That in the case of any member who has completed twenty years of service, such member, upon termination for any cause except for a conviction of a felony, shall have the option of

electing, in lieu of recovery of his contributions as herein provided, to be classified as a vested member in accordance with the following provisions:

(1) Written notice of such election shall be filed with the board within thirty days after the effective date of such member's termination;

(2) During the period between the date of his termination and the date upon which he becomes a retired member as hereinafter provided, such vested member and his spouse or dependent children shall be entitled to all benefits available under chapter 41.20 RCW to a retired member and his spouse or dependent children with the exception of the service retirement allowance as herein provided for: PROVIDED, That any claim for medical coverage under RCW 41.20.120 shall be attributable to service connected illness or injury;

(3) Any member electing to become a vested member shall be entitled at such time as he otherwise would have completed twenty-five years of service had he not terminated, to receive a service retirement allowance computed on the following basis: Two percent of the amount of salary at any time hereafter attached to the position held by the vested member for the year preceding the date of his termination, for each year of service rendered prior to the date of his termination. At such time the vested member shall be regarded as a retired member and, in addition to the retirement allowance herein provided for, shall continue to be entitled to all such other benefits as are by chapter 41.20 RCW made available to retired members. [1969 c 123 § 3; 1955 c 69 § 4.]

*Reviser's note: The words "the effective date of this act" first appear in 1955 c 69 § 4, which became effective midnight June 8, 1955.

41.20.155 Return of member's contributions—Applicability. The provisions of RCW 41.20.050, 41.20.060 and 41.20.150 shall be applicable to all members employed on June 12, 1969, and to those who shall thereafter become members, but shall not apply to any former member who has terminated his employment prior to June 12, 1969. [1969 c 123 § 4.]

41.20.160 Credit for membership in private organization acquired by city of first class. Any person affected by this chapter who was a member of a police organization operated by a private enterprise which police organization shall be hereafter acquired before September 1, 1959, by a city of the first class as its police department as a matter of public convenience or necessity, where it is in the public interest to retain the trained personnel of such police organization, shall have added to his period of employment as computed under this chapter his period of service with said private enterprise, except that this shall apply only to those persons who are in the service of such police organization at the time of its acquisition by the city of the first class and who remain in the service of that city until this chapter shall become applicable to such persons.

No such person shall have added to his period of employment as computed under this chapter his period of service with said private enterprise unless he or a third party shall pay to the city his contribution for the period of such service with the private enterprise, or, if he shall be entitled

to any private pension or retirement benefits as a result of such service with the private enterprise, unless he agrees at the time of his employment by the city to accept a reduction in the payment of any benefits payable under this chapter that are based in whole or in part on such added service by the amount of those private pension or retirement benefits received. The rate of such contribution shall be two percent of the wage or salary of such person during that added period of service with the private enterprise before midnight, June 8, 1955, and four and one-half percent of such wage or salary after midnight, June 8, 1955. Such contributions shall be paid into the police relief and pension fund and shall be held subject to the provisions of RCW 41.20.150, except that all such contributions shall be deemed to have been made after June 8, 1955. Such contributions may be invested in investments permitted under chapter 35.39 RCW and may be kept invested until required to meet payments of benefits to such persons.

The city may receive payments for these purposes from a third party and shall make from such payments contributions with respect to such prior service as may be necessary to enable the police relief and pension fund to assume its obligations. [1983 c 3 § 92; 1959 c 71 § 1.]

Severability—1959 c 71: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1959 c 71 § 2.]

41.20.170 Transfer of membership. Any former employee of a department of a city of the first class who (1) was a member of the employees' retirement system of such city, and (2) is now employed within the police department of such city, may transfer his membership from the city employees' retirement system to the city's police relief and pension fund system by filing a written request with the board of administration and the board of trustees, respectively, of the two systems.

Upon the receipt of such request, the transfer of membership to the city's police relief and pension fund system shall be made, together with a transfer of all accumulated contributions credited to such member. The board of administration of the city's employees' retirement system shall transmit to the board of trustees of the city's police relief and pension fund system a record of service credited to such member which shall be computed and credited to such member as a part of his period of employment in the city's police relief and pension fund system. For the purpose of the transfer contemplated by this section, the affected individuals shall be allowed to restore withdrawn contributions to the city employees' retirement system and reinstate their membership service records.

Any employee so transferring shall have all the rights, benefits and privileges that he would have been entitled to had he been a member of the city's police relief and pension fund system from the beginning of his employment with the city.

No person so transferring shall thereafter be entitled to any other public pension, except that provided by chapter 41.26 RCW or social security, which is based upon service with the city.

The right of any employee to file a written request for transfer of membership as set forth herein shall expire

December 31, 1973. [1973 c 143 § 2; 1969 ex.s. c 209 § 27; 1963 c 82 § 1.]

Effective date—Severability—Construction—1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

41.20.175 Transfer of service credit from firemen's pension system to city's police pension system. A former employee of a fire department of a city of the first class who (1) was a member of the fireman's pension system created by chapters 41.16 or 41.18 RCW, and (2) is now employed within the police department of such city, will be regarded as having received membership service credit for such service to the fire department in the city's police and relief pension system at the time he recovers such service credit by paying withdrawn contributions to the Washington law enforcement officers' and fire fighters' retirement system pursuant to RCW 41.26.030(14). [1974 ex.s. c 148 § 2.]

41.20.180 Exemption from taxation and judicial process—Exception—Assignability. The right of a person to a pension, an annuity, or retirement allowance, or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any person under the provisions of this chapter, and any fund created hereby, and all moneys and investments and income thereof, are exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable: PROVIDED, That benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation. [1979 ex.s. c 205 § 2; 1965 c 33 § 1.]

41.20.900 Construction—1959 c 6—Benefits retroactively authorized. The provisions of *this act are intended to be remedial and procedural and any benefits heretofore paid to recipients hereunder pursuant to any previous act are retroactively included and authorized as a part of *this act. [1959 c 6 § 4.]

***Reviser's note:** "this act" appears in chapter 6, Laws of 1959, which reenacted RCW 41.20.050, 41.20.060, and 41.20.080. These sections were subsequently amended by chapter 78, Laws of 1959.

41.20.910 Severability—1959 c 6. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1959 c 6 § 5.]

Chapter 41.22

LAW ENFORCEMENT CHAPLAINS

Sections

- 41.22.010 Legislative findings.
- 41.22.020 Washington state patrol—Volunteer chaplain authorized.
- 41.22.030 Local law enforcement agencies—Volunteer chaplains authorized.

41.22.040 Volunteer chaplains—Duties.

41.22.900 Severability—1985 c 223.

State-employed chaplains—Housing allowance: RCW 41.04.360.

41.22.010 Legislative findings. The career of a police officer is highly stressful, resulting in unacceptable rates of divorce, alcoholism, low morale and suicide. The nature of law enforcement work requires that much information be kept confidential, unfairly burdening the emotional capacity of law enforcement personnel. Police officers may become the hidden victims of society because of their daily work with crisis.

The legislature finds that law enforcement chaplains can provide emotional support for law enforcement personnel, including counseling, stress management, and family life counseling. The legislature also finds that law enforcement chaplains can serve as a crisis intervention resource for personnel of police, fire, and corrections departments, and medical examiners or coroners. [1985 c 223 § 1.]

41.22.020 Washington state patrol—Volunteer chaplain authorized. The Washington state patrol may utilize the services of a volunteer chaplain. [1985 c 223 § 2.]

41.22.030 Local law enforcement agencies—Volunteer chaplains authorized. The legislature authorizes local law enforcement agencies to use the services of volunteer chaplains associated with an agency. [1985 c 223 § 3.]

41.22.040 Volunteer chaplains—Duties. The duties of a volunteer law enforcement chaplain include counseling, training, and crises intervention for law enforcement personnel, their families and the general public. [1985 c 223 § 4.]

41.22.900 Severability—1985 c 223. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 223 § 5.]

Chapter 41.24

VOLUNTEER FIRE FIGHTERS' RELIEF AND PENSIONS

Sections

- 41.24.010 Definitions.
- 41.24.020 Enrollment of fire fighters—Death, disability, retirement benefits.
- 41.24.030 Volunteer fire fighters' relief and pension principal and administrative funds created—Composition—Investment—Use—Treasurer's report.
- 41.24.035 Legal, medical expenses—May be paid from interest earnings of trust funds.
- 41.24.040 Fees, when payable—Interest—Effect of nonpayment.
- 41.24.050 Limitation of membership of volunteer fire departments—Emergency first aid and ambulance service personnel.
- 41.24.060 Board of trustees—How constituted.
- 41.24.070 Officers of board—Record of proceedings—Forms.
- 41.24.080 Duties of board and state board—Disbursements.
- 41.24.090 Meetings.
- 41.24.100 Compelling attendance of witnesses—Oaths—Rules and regulations.

- 41.24.110 Employment of examining physician.
- 41.24.120 Hearing of application for benefits—Appeal to state board.
- 41.24.130 Quorum—Vote on allowance of claims.
- 41.24.140 Guardian may be appointed.
- 41.24.150 Disability payments.
- 41.24.160 Death benefits.
- 41.24.170 Retirement pensions.
- 41.24.172 Retirement pensions—Options—Election.
- 41.24.175 Disability or retirement payments—Computation according to latest legislative expression.
- 41.24.176 Disability or retirement payments—Construction.
- 41.24.180 Lump sum payments.
- 41.24.185 Lump sum payments—Monthly pension under twenty-five dollars.
- 41.24.190 Proof of service.
- 41.24.200 Service need not be continuous nor in a single department or agency.
- 41.24.210 Report of accident—Time limitation for filing report and claim.
- 41.24.220 Hospitalization, surgery, etc.
- 41.24.230 Funeral and burial expenses.
- 41.24.240 Benefits not transferable or subject to legal process—Exceptions—Chapter not exclusive.
- 41.24.245 Payments to spouse or ex spouse pursuant to court order.
- 41.24.250 State board for volunteer fire fighters—Composition—Terms—Vacancies—Oath.
- 41.24.260 State board for volunteer fire fighters—Meetings—Quorum.
- 41.24.270 State board for volunteer fire fighters—Compensation—Travel expenses.
- 41.24.280 State board for volunteer fire fighters—Attorney general is legal advisor.
- 41.24.290 State board for volunteer fire fighters—Powers and duties.
- 41.24.300 State board for volunteer fire fighters—Vouchers, warrants.
- 41.24.310 State board for volunteer fire fighters—Secretary, duties, compensation.
- 41.24.320 State board for volunteer fire fighters—State actuary to provide actuarial services.
- 41.24.330 Emergency medical service districts—Board of trustees—Creation.
- 41.24.340 Emergency medical service districts—Board of trustees—Officers—Annual report.
- 41.24.350 Emergency medical service districts—State board shall set pension fees.
- 41.24.400 Reserve officers—Enrollment—Limitations.
- 41.24.410 Reserve officers—Credit for service.
- 41.24.420 Reserve officers—Enrollment—Procedure.
- 41.24.430 Reserve officers—Eligibility for benefit.
- 41.24.440 Reserve officers—Lump sum payments—Payments to surviving spouse.

Prior acts relating to volunteer firemen's relief and pensions: (1) 1935 c 121 (repealed by 1945 c 261 § 27).

(2) Benefits extended to volunteer firemen of fire protection districts: 1943 c 137.

Fire protection districts: Title 52 RCW.

Firemen's relief and pensions: Chapters 41.16, 41.18 RCW.

41.24.010 Definitions. As used in this chapter:

"Municipal corporation" or "municipality" includes any county, city, town or combination thereof, fire protection district, local law enforcement agency, or any water, irrigation, or other district, authorized by law to afford emergency medical services or protection to life and property within its boundaries.

"Fire department" means any regularly organized fire department or emergency medical service district consisting wholly of volunteer fire fighters, or any part-paid and part-volunteer fire department duly organized and maintained by any municipality: PROVIDED, That any such municipality wherein a part-paid fire department is maintained may by appropriate legislation permit the full-paid members of its

department to come under the provisions of chapter 41.16 RCW.

"Fire fighter" includes any fire fighter or emergency worker who is a member of any fire department of any municipality but shall not include full time, paid fire fighters who are members of the Washington law enforcement officers' and fire fighters' retirement system, with respect to periods of service rendered in such capacity.

"Emergency worker" means any emergency medical service personnel, regulated by chapters 18.71 and 18.73 RCW, who is a member of an emergency medical service district but shall not include full-time, paid emergency medical service personnel who are members of the Washington public employees' retirement system, with respect to periods of service rendered in such capacity.

"Performance of duty" shall be construed to mean and include any work in and about company quarters or any fire station or any other place under the direction or general orders of the chief or other officer having authority to order such member to perform such work; responding to, working at, or returning from an alarm of fire; drill; or any work performed of an emergency nature in accordance with the rules and regulations of the fire department.

"State board" means the state board for volunteer fire fighters and reserve officers created herein.

"Board of trustees" means a board of trustees created under RCW 41.24.060 or, for matters affecting an emergency worker, an emergency medical service district board of trustees created under RCW 41.24.330.

"Appropriate legislation" means an ordinance when an ordinance is the means of legislating by any municipality, and resolution in all other cases.

"Reserve officer" means the same as defined by the Washington state criminal justice training commission under chapter 43.101 RCW.

"Participant" means any fire fighter, emergency worker, or reserve officer who is or may become eligible to receive a benefit of any type under the retirement provisions of this chapter, or whose beneficiary may be eligible to receive any such benefit. [1995 c 11 § 1; 1993 c 331 § 1; 1989 c 91 § 8; 1970 ex.s. c 6 § 18; 1955 c 263 § 1; 1945 c 261 § 1; Rem. Supp. 1945 § 9578-15.]

Effective date—1989 c 91: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 91 § 27.]

Construction—Saving—1955 c 263: "Any provisions of chapter 41.24 RCW inconsistent with the provisions of this act are hereby repealed: PROVIDED, That such repeal shall not affect any act or proceeding had or pending, under such provision repealed, but the same shall be construed and prosecuted as though such provision had not been repealed." [1955 c 263 § 12.] This applies to RCW 41.24.010, 41.24.080, 41.24.120, and 41.24.250 through 41.24.310.

Severability—1945 c 261: "If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, clause and phrase thereof irrespective of the fact that any one or more of the other sections, subsections, sentences, clauses and phrases be declared unconstitutional." [1945 c 261 § 26.]

Construction—Saving—1945 c 261: "Chapter 121, Laws of 1935 (sections 9578-1 to 9578-11, inclusive, Remington's Revised Statutes, also

Pierce's Perpetual Code 773-37 to -57), is hereby repealed: PROVIDED, That such repeal shall not be construed as affecting any act done or right acquired, or obligation incurred, or proceedings had or pending, under said act repealed, but the same shall be continued and prosecuted as though such act had not been repealed." [1945 c 261 § 27.]

The two foregoing annotations apply to RCW 41.24.010 through 41.24.240.

Fire protection district having full paid fire department: RCW 41.16.240.

41.24.020 Enrollment of fire fighters—Death, disability, retirement benefits. (1) Every municipal corporation maintaining and operating a regularly organized fire department shall make provision by appropriate legislation for the enrollment of every fire fighter under the relief and compensation provisions of this chapter for the purpose of providing protection for all its fire fighters and their families from death or disability arising in the performance of their duties as fire fighters: PROVIDED, That nothing herein shall prohibit any municipality from providing such additional protection for relief and compensation, or death benefit as it may deem proper.

(2) Any municipal corporation maintaining and operating a regularly organized fire department may make provision by appropriate legislation whereby any fire fighter may enroll under the pension provisions of this chapter for the purpose of enabling any fire fighter, so electing, to avail himself or herself of the retirement provisions of this chapter.

(3) Every municipal corporation shall make provisions for the collection and payment of the fees as herein provided, and shall continue to make such provisions for all fire fighters who come under this chapter as long as they shall continue to be members of its fire department. [1989 c 91 § 9; 1945 c 261 § 2; Rem. Supp. 1945 § 9578-16.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.030 Volunteer fire fighters' relief and pension principal and administrative funds created—Composition—Investment—Use—Treasurer's report. (1) There is created in the state treasury a trust fund for the benefit of the participants covered by this chapter, which shall be designated the volunteer fire fighters' relief and pension principal fund and shall consist of:

(a) All bequests, fees, gifts, emoluments, or donations given or paid to the fund.

(b) An annual fee for each member of its fire department to be paid by each municipal corporation for the purpose of affording the members of its fire department with protection from death or disability as provided in this chapter as follows:

(i) Ten dollars for each volunteer or part-paid member of its fire department;

(ii) A sum equal to one and one-half of one percent of the annual salary attached to the rank of each full-paid member of its fire department, prorated for 1970 on the basis of services prior to March 1, 1970.

(c) Where a municipal corporation has elected to make available to the members of its fire department the retirement provisions as provided in this chapter, an annual fee of sixty dollars for each of its fire fighters electing to enroll therein, thirty dollars of which shall be paid by the municipality and thirty dollars of which shall be paid by the fire fighter.

However, nothing in this section prohibits any municipality from voluntarily paying the fire fighters' share of the retirement provision.

(d) Where a municipal corporation has elected to make the retirement provisions of this chapter available to reserve officers, for each reserve officer that elects to enroll: An annual fee of thirty dollars shall be paid by the reserve officer and an annual fee determined by the state board based on the latest actuarial valuation shall be paid by the municipal corporation. The fee paid by the municipal corporation may include operating expenses.

(e) Forty percent of all moneys received by the state from taxes on fire insurance premiums shall be paid into the state treasury and credited to the administrative fund created in subsection (2) of this section.

(f) The state investment board, upon request of the state treasurer shall have full power to invest or reinvest such portion of the amounts credited to the principal fund as is not, in the judgment of the treasurer, required to meet current withdrawals. Such investments shall be made in the manner prescribed by RCW 43.84.150 and not otherwise.

(g) All bonds or other obligations purchased according to (f) of this subsection shall be forthwith placed in the custody of the state treasurer, and he or she shall collect the principal thereof and interest thereon when due.

The state investment board may sell any of the bonds or obligations so acquired and the proceeds thereof shall be paid to the state treasurer.

The interest and proceeds from the sale and redemption of any bonds or other obligations held by the fund and invested by the state investment board shall be credited to and form a part of the principal fund, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160.

All amounts credited to the principal fund shall be available for making the benefit payments required by this chapter.

The state treasurer shall make an annual report showing the condition of the fund.

(2) The volunteer fire fighters' relief and pension administrative fund is hereby created in the state treasury. Moneys in the account, including unanticipated revenues under RCW 43.79.270, may be spent only after appropriation, and may be used only for operating expenses of the volunteer fire fighters' relief and pension principal fund, the operating expenses of the volunteer fire fighters' relief and pension administrative fund, or for transfer from the administrative fund to the principal fund.

(a) The state board shall compute a percentage of the amounts credited to the administrative fund to be paid into the principal fund.

(b) For the purpose of providing amounts to be used to defray the cost of administration of the principal and administrative funds, the state board shall ascertain at the beginning of each biennium and request from the legislature an appropriation from the administrative fund sufficient to cover estimated expenses for the biennium. [1995 c 45 § 1; 1995 c 11 § 3; 1992 c 97 § 1; 1991 sp.s. c 13 § 98. Prior: 1989 c 194 s 1; 1989 c 91 § 1; 1986 c 296 § 4; 1982 1st ex.s. c 35 § 17; 1981 c 3 § 26; 1973 1st ex.s. c 170 § 1; 1970 ex.s. c 6 § 19; 1967 c 160 § 2; 1957 c 116 § 1; 1955

c 223 § 1; 1945 c 261 § 3; Rem. Supp. 1945 § 9578-17; prior: 1935 c 121 § 1; RRS § 9578-1.]

Reviser's note: This section was amended by 1995 c 11 § 3 and by 1995 c 45 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1992 c 97: "This act shall take effect July 1, 1992." [1992 c 97 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1989 c 194 §§ 1, 2, and 3: "Sections 1, 2, and 3 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 194 § 4.]

Effective date—1989 c 91: See note following RCW 41.24.010.

Severability—Effective date—1986 c 296: See notes following RCW 48.14.020.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Effective date—1973 1st ex.s. c 170: "This 1973 amendatory act shall take effect on July 1, 1973." [1973 1st ex.s. c 170 § 5.]

Insurance premium taxes: RCW 48.14.020.

41.24.035 Legal, medical expenses—May be paid from interest earnings of trust funds. The state board is authorized to pay from the interest earnings of the trust funds of the system lawful obligations of the system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings. [1989 c 194 § 2.]

Effective date—1989 c 194 §§ 1, 2, and 3: See note following RCW 41.24.030.

41.24.040 Fees, when payable—Interest—Effect of nonpayment. On or before the first day of March of each year, every municipal corporation shall pay such amount as shall be due from it to said fund, together with the amounts collected from the participants: PROVIDED, That no fire fighter [participant] shall forfeit his or her right to participate in the relief and compensation provisions of this chapter by reason of nonpayment: PROVIDED FURTHER, That no participant shall forfeit his or her right to participate in the retirement provisions of this chapter until after March 1st of such year: AND PROVIDED FURTHER, That where a municipality has failed to pay or remit the annual fees required within the time provided such delinquent payment shall bear interest at the rate of one percent per month from March 1st until paid: AND PROVIDED FURTHER, That where a participant has forfeited his or her right to partici-

pate in the retirement provisions of this chapter that participant may be reinstated so as to participate to the same extent as if all fees had been paid by the payment of all back fees with interest at the rate of one percent per month provided he or she has at all times been otherwise eligible. [1995 c 11 § 5; 1989 c 91 § 10; 1945 c 261 § 4; Rem. Supp. 1945 § 9578-18. Prior: 1935 c 121 § 10; RRS § 9578-10.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.050 Limitation of membership of volunteer fire departments—Emergency first aid and ambulance service personnel. Each municipal corporation shall by appropriate legislation limit the membership of its volunteer fire department to not to exceed twenty-five fire fighters for each one thousand population or fraction thereof: PROVIDED, That any fire department maintaining and operating an emergency first aid and ambulance service requiring emergency medical training under chapter 18.73 RCW shall be permitted to increase its membership by the number of fire fighters obtaining and maintaining such qualification: PROVIDED FURTHER, That no person serving as an emergency medical technician or first aid vehicle operator under chapter 18.73 RCW shall be permitted to join the law enforcement officers' and fire fighters' retirement system solely on the basis of such service: PROVIDED FURTHER, That in no case shall the membership of any fire department coming under the provisions of this chapter be limited to less than fifteen fire fighters. [1989 c 91 § 11; 1975-'76 2nd ex.s. c 67 § 1; 1945 c 261 § 5; Rem. Supp. 1945 § 9578-19. Prior: 1935 c 121 § 9; RRS § 9578-9.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.060 Board of trustees—How constituted. In every municipal corporation maintaining a regularly organized fire department there is hereby created and established a board of trustees for the administration of this chapter. Such board shall consist of the mayor, city clerk or comptroller, and one councilmember of such municipality, the chief of the fire department, and one member of the fire department to be elected by the members of such fire department for a term of one year and annually thereafter. Where a municipality is governed by a board, the chair, one member of the board and the secretary or clerk thereof shall serve as members of said board in lieu of the mayor, clerk or comptroller and councilmember. [1981 c 213 § 7; 1945 c 261 § 6; 1943 c 137 § 2; Rem. Supp. 1945 § 9578-20. Prior: 1935 c 121 § 2; RRS § 9578-2.]

41.24.070 Officers of board—Record of proceedings—Forms. The mayor or chairman of the board or commission of any such municipality shall be chairman of the board of trustees, and the clerk or comptroller or secretary of any such municipality, board or commission shall be the secretary-treasurer of the board of trustees. The secretary shall keep a public record of all proceedings, of all receipts and disbursements made by the board of trustees and shall make an annual report of its expenses and disbursements with a full list of the beneficiaries of said fund in such municipality, such record to be placed on file in such municipality. Such forms as shall be necessary for the proper administration of this fund and of making the reports

required hereunder shall be provided by the state board. [1969 c 118 § 1; 1945 c 261 § 7; Rem. Supp. 1945 § 9578-21. Prior: 1935 c 121 § 3; RRS § 9578-3.]

41.24.080 Duties of board and state board—Disbursements. The board of trustees of each municipal corporation shall provide for enrollment of all members of its fire department under the death and disability provisions hereof; receive all applications for the enrollment under the retirement provisions hereof when the municipality has elected to enroll thereunder; provide for disbursements of relief and compensation; determine the eligibility of fire fighters for pensions; and pass on all claims and direct payment thereof from the volunteer fire fighters' relief and pension fund to those entitled thereto. Vouchers shall be issued to the persons entitled thereto by the board. It shall send to the state board, after each meeting, a voucher for each person entitled to payment from the fund, stating the amount of such payment and for what granted, which voucher shall be certified and signed by the chairman and secretary of the board. The state board, after review and approval shall cause a warrant to be issued on the fund for the amount specified and approved on each voucher: PROVIDED, That in pension cases after the applicant's eligibility for pension is verified the state board shall authorize the regular issuance of monthly warrants in payment thereof without further action of the board of trustees of any such municipality. [1989 c 91 § 12; 1969 c 118 § 2; 1955 c 263 § 9; 1945 c 261 § 8; Rem. Supp. 1945 § 9578-22. Prior: 1935 c 121 § 2; RRS § 9578-2.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.090 Meetings. Said board of trustees shall meet on the call of its chairman on a regular monthly meeting day when there is business to come before it. The chairman shall be required to call a meeting on any regular meeting day at the request of any member of the fund or his beneficiary claiming any relief, compensation or pension therefrom. [1945 c 261 § 9; Rem. Supp. 1945 § 9578-23.]

41.24.100 Compelling attendance of witnesses—Oaths—Rules and regulations. The board of trustees herein, in addition to other powers herein granted, shall have power to compel the attendance of witnesses to testify before it on all matters connected with the operation of this chapter, and its chairman or any member of said board may administer oaths to such witnesses; to make all necessary rules and regulations for its guidance in conformity with the provisions of this chapter: PROVIDED, HOWEVER, That no compensation or emoluments shall be paid to any member of said board of trustees for any duties performed under this chapter as such trustees. [1945 c 261 § 10; Rem. Supp. 1945 § 9578-24. Prior: 1935 c 121 § 2; RRS § 9578-2.]

41.24.110 Employment of examining physician. The board shall make provisions for the employment of a regularly licensed practicing physician for the examination of members of fire departments making application for membership. Such appointed physician shall visit and examine all sick and injured fire fighters, perform such services and operations and render all medical aid and care necessary for

the recovery of fire fighters on account of sickness or disability received while in the performance of duties. Such appointed physician shall be paid his or her fees from said fund but not in excess of the schedule of fees for like services approved by the director of labor and industries under Title 51 RCW. No physician or surgeon, not approved by the board, shall receive or be entitled to any compensation from said fund as the private or attending physician of any fire fighter. No person shall have any right of action against the board of trustees of said fund for the negligence of any physician or surgeon employed by it. Any physician employed by the board to attend upon any fire fighter shall report his or her findings in writing to said board. [1989 c 91 § 13; 1953 c 253 § 6; 1949 c 145 § 1; 1945 c 261 § 11; Rem. Supp. 1949 § 9578-25. Prior: 1935 c 121 § 2; RRS § 9578-2.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.120 Hearing of application for benefits—Appeal to state board. The local board shall initially hear and decide all applications for relief or compensation and pensions under this chapter, subject to review by, or appeal by the proper person to, the state board where decision on such review or appeal shall be final and conclusive. [1969 c 118 § 3; 1955 c 263 § 10; 1945 c 261 § 12; Rem. Supp. 1945 § 9578-27. Prior: 1935 c 121 § 2; RRS § 9578-2.]

41.24.130 Quorum—Vote on allowance of claims. A majority of the board of trustees shall constitute a quorum, and no business shall be transacted when a majority is not present, and no claim shall be allowed where a majority of the board has not voted favorably thereon. [1945 c 261 § 13; Rem. Supp. 1945 § 9578-27. Prior: 1935 c 121 § 2; RRS § 9578-2.]

41.24.140 Guardian may be appointed. Said board of trustees shall have the power and authority to ask for the appointment of a guardian whenever and wherever the claim of a fire fighter or his beneficiary would, in the opinion of the board, be best served thereby. The board shall have full power to make and direct the payments herein provided for to any person entitled thereto without the necessity of any guardianship or administration proceedings, when in its judgment, it shall determine it to be for the best interests of the beneficiary. [1989 c 91 § 14; 1945 c 261 § 14; Rem. Supp. 1945 § 9578-28. Prior: 1935 c 121 § 2; RRS § 9578-2.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.150 Disability payments. Whenever a fire fighter serving in any capacity as a member of the fire fighter's own fire department subject to the provisions of this chapter becomes physically or mentally disabled, or sick, in consequence or as the result of the performance of his or her duties, so as to be wholly prevented from engaging in each and every duty of his or her regular occupation, business, or profession, he or she shall be paid from the fund monthly, an amount equal to his or her monthly wage as certified by the local board or two thousand five hundred fifty dollars, whichever is less, for a period not to exceed six months, or an amount equal to his or her daily wage as certified by the

local board or eighty-five dollars, whichever is less, per day for such period as is part of a month, after which period, if the member is incapacitated to such an extent that he or she is thereby prevented from engaging in any occupation or performing any work for compensation or profit or if the member sustained an injury after October 1, 1978, which resulted in the loss or paralysis of both legs or arms, or one leg and one arm, or total loss of eyesight, but such injury has not prevented the member from engaging in an occupation or performing work for compensation or profit, he or she is entitled to draw from the fund monthly, the sum of one thousand two hundred seventy-five dollars so long as the disability continues, except as hereinafter provided: PROVIDED, That if the member has a wife or husband and/or a child or children unemancipated or under eighteen years of age, he or she is entitled to draw from the fund monthly the additional sums of two hundred fifty-five dollars because of the fact of his wife or her husband, and one hundred ten dollars because of the fact of each child unemancipated or under eighteen years of age, all to a total maximum amount of two thousand five hundred fifty dollars. The board may at any time reopen the grant of such disability pension if the pensioner is gainfully employed, and may reduce it in the proportion that the annual income from such gainful employment bears to the annual income received by the pensioner at the time of his disability: PROVIDED, That where a fire fighter sustains a permanent partial disability the state board may provide that such injured fire fighter shall receive a lump sum compensation therefor to the same extent as is provided for permanent partial disability under the workers' compensation act under Title 51 RCW in lieu of such monthly disability payments. [1996 c 57 § 1; 1989 c 91 § 2; 1987 c 185 § 10; 1986 c 163 § 1; 1981 c 21 § 1; 1975-'76 2nd ex.s. c 76 § 1; 1969 c 118 § 4; 1965 c 86 § 1; 1957 c 159 § 1; 1953 c 253 § 1; 1945 c 261 § 15; Rem. Supp. 1945 § 9578-29. Prior: 1935 c 121 § 4; RRS § 9578-4.]

Effective date—1996 c 57: "This act shall take effect July 1, 1996." [1996 c 57 § 3.]

Effective date—1989 c 91: See note following RCW 41.24.010.

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Effective date—1981 c 21: "This amendatory act shall take effect July 1, 1981." [1981 c 21 § 6.]

Severability—1981 c 21: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 21 § 5.]

41.24.160 Death benefits. (1) Whenever a fire fighter dies as the result of injuries received, or sickness contracted in consequence or as the result of the performance of his or her duties, the board of trustees shall order and direct the payment of the sum of two thousand dollars to his widow or her widower, or if there is no widow or widower, then to his or her dependent child or children, or if there is no dependent child or children, then to his or her parents or either of them, and the sum of one thousand two hundred seventy-five dollars per month to his widow or her widower during his or her life together with the additional monthly sum of one hundred ten dollars for each child of the member, unemancipated or under eighteen years of age, dependent upon the member for support at the time of his or her death, to a

maximum total of two thousand five hundred fifty dollars per month.

(2) If the widow or widower does not have legal custody of one or more dependent children of the deceased fire fighter or if, after the death of the fire fighter, legal custody of such child or children passes from the widow or widower to another person, any payment on account of such child or children not in the legal custody of the widow or widower shall be made to the person or persons having legal custody of such child or children. Such payments on account of such child or children shall be subtracted from the amount to which such widow or widower would have been entitled had such widow or widower had legal custody of all the children and the widow or widower shall receive the remainder after such payments on account of such child or children have been subtracted. If there is no widow or widower, or the widow or widower dies while there are children, unemancipated or under eighteen years of age, then the amount of eight hundred twenty-five dollars per month shall be paid for the youngest or only child together with an additional seventy dollars per month for each additional of such children to a maximum of one thousand six hundred fifty dollars per month until they become emancipated or reach the age of eighteen years; and if there are no widow or widower, child, or children entitled thereto, then to his or her parents or either of them the sum of eight hundred twenty-five dollars per month for life, if it is proved to the satisfaction of the board that the parents, or either of them, were dependent on the deceased for their support at the time of his or her death. In any instance in subsections (1) and (2) of this section, if the widow or widower, child or children, or the parents, or either of them, marries while receiving such pension the person so marrying shall thereafter receive no further pension from the fund.

(3) In the case provided for in this section, the monthly payment provided may be converted in whole or in part into a lump sum payment, not in any case to exceed twelve thousand dollars, equal or proportionate, as the case may be, to the actuarial equivalent of the monthly payment in which event the monthly payments shall cease in whole or in part accordingly or proportionately. Such conversion may be made either upon written application to the state board and shall rest in the discretion of the state board; or the state board is authorized to make, and authority is hereby given it to make, on its own motion, lump sum payments, equal or proportionate, as the case may be, to the value of the annuity then remaining in full satisfaction of claims due to dependents. Within the rule aforesaid the amount and value of the lump sum payment may be agreed upon between the applicant and the state board. Any person receiving a monthly payment under this section on June 29, 1961, may elect, within two years, to convert such payments into a lump sum payment as provided in this section. [1996 c 57 § 2; 1989 c 91 § 3; 1986 c 163 § 2; 1981 c 21 § 2; 1975-'76 2nd ex.s. c 76 § 2; 1973 1st ex.s. c 154 § 74; 1965 c 86 § 2; 1961 c 57 § 1; 1957 c 159 § 2; 1953 c 253 § 2; 1951 c 103 § 2; 1945 c 261 § 16; Rem. Supp. 1945 § 9578-30. Prior: 1935 c 121 § 6; RRS § 9578-6.]

Effective date—1996 c 57: See note following RCW 41.24.150.

Effective date—1989 c 91: See note following RCW 41.24.010.

Effective date—Severability—1981 c 21: See notes following RCW 41.24.150.

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

41.24.170 Retirement pensions. Except as provided in RCW 41.24.410, whenever any participant has been a member and served honorably for a period of ten years or more as an active member in any capacity, of any regularly organized volunteer fire department or law enforcement agency of any municipality in this state, and which municipality and participant are enrolled under the retirement provisions, and the participant has reached the age of sixty-five years, the board of trustees shall order and direct that he or she be retired and be paid a monthly pension as provided in this section.

Whenever a participant has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department or law enforcement agency of any municipality in this state, and he or she has reached the age of sixty-five years, and the annual retirement fee has been paid for a period of twenty-five years, the board of trustees shall order and direct that he or she be retired and such participant be paid a monthly pension of two hundred twenty-five dollars from the fund for the balance of that participant's life.

Whenever any participant has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department or law enforcement agency of any municipality in this state, and the participant has reached the age of sixty-five years, and the annual retirement fee has been paid for a period of less than twenty-five years, the board of trustees shall order and direct that he or she be retired and that such participant shall receive a minimum monthly pension of twenty-five dollars increased by the sum of eight dollars each month for each year the annual fee has been paid, but not to exceed the maximum monthly pension provided in this section, for the balance of the participant's life.

No pension provided in this section may become payable before the sixty-fifth birthday of the participant, nor for any service less than twenty-five years: **PROVIDED, HOWEVER, That:**

(1) Any participant, upon completion of twenty-five years' service and attainment of age sixty, may irrevocably elect, in lieu of the pension to which that participant would be entitled under this section at age sixty-five, to receive for the balance of his or her life a monthly pension equal to sixty percent of such pension.

(2) Any participant, upon completion of twenty-five years' service and attainment of age sixty-two, may irrevocably elect, in lieu of the pension to which that participant would be entitled under this section at age sixty-five, to receive for the balance of his or her life a monthly pension equal to seventy-five percent of such pension.

(3) Any participant, upon completion of less than twenty-five years of service shall receive the applicable reduced pension provided in this subsection, according to the age at which that participant elects to begin to receive the pension. If receipt of the benefits begins at age sixty-five the participant shall receive one hundred percent of the reduced benefit; at age sixty-two the participant shall receive

seventy-five percent of the reduced benefit; and at age sixty the participant shall receive sixty percent of the reduced benefit. The reduced benefit shall be computed as follows:

(a) Upon completion of ten years, but less than fifteen years of service, a monthly pension equal to fifteen percent of such pension as the participant would have been entitled to receive at age sixty-five after twenty-five years of service;

(b) Upon completion of fifteen years, but less than twenty years of service, a monthly pension equal to thirty percent of such pension as the participant would have been entitled to receive at age sixty-five after twenty-five years of service; and

(c) Upon completion of twenty years, but less than twenty-five years of service, a monthly pension equal to sixty percent of such pension as the participant would have been entitled to receive at age sixty-five after twenty-five years of service. [1995 c 11 § 7; 1992 c 97 § 2; 1989 c 91 § 4; 1981 c 21 § 4; 1979 ex.s. c 157 § 1; 1973 1st ex.s. c 170 § 2; 1969 c 118 § 5; 1961 c 57 § 2; 1953 c 253 § 3; 1951 c 103 § 1; 1945 c 261 § 17; Rem. Supp. 1945 § 9578-31.]

Effective date—1992 c 97: See note following RCW 41.24.030.

Effective date—1989 c 91: See note following RCW 41.24.010.

Effective date—Severability—1981 c 21: See notes following RCW 41.24.150.

Effective date—1973 1st ex.s. c 170: See note following RCW 41.24.030.

41.24.172 Retirement pensions—Options—Election. Before beginning to receive the pension provided for in RCW 41.24.170, the participant shall elect, in a writing filed with the state board, to have the pension paid under either option 1 or 2, with option 2 calculated so as to be actuarially equivalent to option 1.

(1) Option 1. A participant electing this option shall receive a monthly pension payable throughout the participant's life. However, if the participant dies before the total pension paid to the participant equals the amount paid into the fund, then the balance shall be paid to the participant's surviving spouse, or if there be no surviving spouse, then to the participant's legal representatives.

(2) Option 2. A participant electing this option shall receive a reduced monthly pension, which upon the participant's death shall be continued throughout the life of and paid to the participant's surviving spouse named in the written election filed with the state board. [1995 c 11 § 9; 1989 c 91 § 6.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.175 Disability or retirement payments—Computation according to latest legislative expression. Payments to persons who are now receiving, or who may hereafter receive any disability or retirement payments under the provisions of chapter 41.24 RCW shall be computed in accordance with the last act enacted by the legislature relative thereto: **PROVIDED HOWEVER, That** nothing herein contained shall be construed as reducing the amount of any pension to which any fire fighter shall have been eligible to receive under the provisions of section 1, chapter 103, Laws of 1951. [1989 c 91 § 15; 1959 c 9 § 1.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.176 Disability or retirement payments—Construction. The provisions of *this act are intended to be remedial and procedural and any benefits heretofore paid to recipients hereunder pursuant to any previous act are retroactively included and authorized as part of *this act. [1959 c 9 § 2.]

*Reviser's note: "this act" appears in 1959 c 9, which is codified as RCW 41.24.175 and 41.24.176.

41.24.180 Lump sum payments. The board of trustees of any municipal corporation shall direct payment from said fund in the following cases:

(1) To any volunteer fire fighter, upon his or her request, upon attaining the age of sixty-five years, who, for any reason, is not qualified to receive the monthly retirement pension herein provided and who was enrolled in said fund and on whose behalf annual fees for retirement pension were paid, a lump sum amount equal to the amount paid into the fund by the fire fighter.

(2) If any fire fighter who has not completed at least ten years of service dies without having requested a lump sum payment under subsection (1) or (4) of this section, there shall be paid to the fire fighter's surviving spouse, or if there be no surviving spouse, then to such fire fighter's legal representatives, a lump sum amount equal to the amount paid into the fund by the fire fighter. If any fire fighter who has completed at least ten years of service dies other than as the result of injuries received or sickness contracted in consequence or as the result of the performance of his or her duties, without having requested a lump sum payment under subsection (1) or (4) of this section and before beginning to receive the monthly pension provided for in this chapter, the fire fighter's surviving spouse shall elect to receive either:

(a) A monthly pension computed as provided for in RCW 41.24.170 actuarially adjusted to reflect option 2 of RCW 41.24.172 and further actuarially reduced to reflect the difference in the number of years between the fire fighter's age at death and age sixty-five; or

(b) A lump sum amount equal to the amount paid into the fund by the fire fighter and the municipality or municipalities in whose department he or she has served.

If there be no such surviving spouse, then there shall be paid to the fire fighter's legal representatives a lump sum amount equal to the amount paid into the fund by the fire fighter.

(4)[(3)] If any volunteer fire fighter retires from the fire service before attaining the age of sixty-five years, the fire fighter may make application for the return in a lump sum of the amount paid into the fund by himself or herself. [1989 c 91 § 5; 1975-'76 2nd ex.s. c 76 § 3; 1974 ex.s. c 26 § 1. Prior: 1973 1st ex.s. c 170 § 3; 1973 1st ex.s. c 154 § 75; 1961 c 57 § 3; 1945 c 261 § 18; Rem. Supp. 1945 § 9578-22.]

Effective date—1989 c 91: See note following RCW 41.24.010.

Effective date—1973 1st ex.s. c 170: See note following RCW 41.24.030.

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

Conversion of death benefits to lump sum: RCW 41.24.160.

41.24.185 Lump sum payments—Monthly pension under twenty-five dollars. Any monthly pension, payable under this chapter, which will not amount to twenty-five dollars may be converted into a lump sum payment equal to the actuarial equivalent of the monthly pension. The conversion may be made either upon written application to the state board and shall rest at the discretion of the state board; or the state board may make, on its own motion, lump sum payments, equal or proportionate, as the case may be, to the value of the annuity then remaining in full satisfaction of claims due. Any person receiving a monthly payment of less than twenty-five dollars at the time of September 1, 1979, may elect, within two years, to convert such payments into a lump sum payment as herein provided. [1989 c 91 § 7.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.190 Proof of service. The filing of reports of enrollment shall be prima facie evidence of the service of the participants therein listed for the year of such report as to service rendered subsequent to July 6, 1945. Proof of service of fire fighters [participants] prior to that date shall be by documentary evidence, or such other evidence reduced to writing and sworn to under oath, as shall be submitted to the state board and certified by it as sufficient. [1995 c 11 § 11; 1989 c 91 § 16; 1969 c 118 § 6; 1953 c 253 § 4; 1945 c 261 § 19; Rem. Supp. 1945 § 9578-33.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.200 Service need not be continuous nor in a single department or agency. The aggregate term of service of any participant need not be continuous nor need it be confined to a single fire department or law enforcement agency nor a single municipality in this state to entitle such participant to a pension: PROVIDED, That the participant has been duly enrolled in a fire department or law enforcement agency of a municipality which has elected to make provisions for the retirement of its participants at the time he or she becomes eligible for such pension as in this chapter provided, and has paid all fees prescribed. To be eligible to the full pension a participant must have an aggregate of twenty-five years service, have made twenty-five annual payments into the fund, and be sixty-five years of age at the time the participant commences drawing the pension provided for by this chapter, all of which twenty-five years service must have been in the fire department or law enforcement agency of a municipality or municipalities which have elected to make provisions for the retirement of its participants: PROVIDED, HOWEVER, That nothing herein contained shall require any participant having twenty-five years active service to continue as a fire fighter or reserve officer and no participant who has completed twenty-five years of active service for which annual pension fees have been paid and who continues as a fire fighter or reserve officer shall be required to pay any additional annual pension fees. [1995 c 11 § 12; 1989 c 91 § 17; 1973 1st ex.s. c 170 § 4; 1961 c 57 § 4; 1953 c 253 § 5; 1945 c 261 § 20; Rem. Supp. 1945 § 9578-34.]

Effective date—1989 c 91: See note following RCW 41.24.010.

Effective date—1973 1st ex.s. c 170: See note following RCW 41.24.030.

41.24.210 Report of accident—Time limitation for filing report and claim. No fire fighter shall receive any disability pension from the fund, or be entitled to receive any relief or compensation for sickness or injuries received in the performance of his or her duties, unless there is filed with the board of trustees a report of accident, which report shall be subscribed to by the claimant, the fire chief, and the authorized attending physician, if there is one. No claim for benefits arising from sickness or injuries incurred in consequence or as a result of the performance of duties shall be allowed by the state board unless there has been filed with it a report of accident within ninety days after its occurrence and a claim based thereon within one year after the occurrence of the accident on which such claim is based. The board may require such other or further evidence as it deems advisable before ordering any relief, compensation, or pension. [1989 c 91 § 18; 1969 c 118 § 7; 1957 c 159 § 3; 1945 c 261 § 21; Rem. Supp. 1945 § 9578-35.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.220 Hospitalization, surgery, etc. Whenever any fire fighter becomes disabled or sick in consequence or as the result of the performance of his or her duties by reason of which he or she is confined to any hospital an amount not exceeding the daily ward rate of the hospital shall be allowed and paid from said fund toward such hospital expenses: PROVIDED, That this allowance shall not be in lieu of but in addition to any other allowance in this chapter provided: PROVIDED FURTHER, That costs of surgery, medicine, laboratory fees, x-ray, special therapies, and similar additional costs shall be paid in addition thereto: PROVIDED FURTHER, That when extended treatment, not available in the injured fire fighter's home area, is required, such fire fighter may be reimbursed for actual mileage to and from the place of extended treatment pursuant to RCW 43.03.060 as now existing or hereafter amended. [1989 c 91 § 19; 1975-'76 2nd ex.s. c 76 § 4; 1965 c 86 § 3; 1961 c 57 § 5; 1957 c 159 § 4; 1953 c 253 § 7; 1951 c 103 § 3; 1949 c 145 § 2; 1945 c 261 § 22; Rem. Supp. 1949 § 9578-36. Prior: 1935 c 121 § 5; RRS § 9578-5.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.230 Funeral and burial expenses. Upon the death of any fire fighter resulting from injuries or sickness in consequence or as the result of the performance of his or her duties, the board of trustees shall authorize the issuance of a voucher for the sum of two thousand dollars, and upon the death of any fire fighter who is receiving any disability pension provided for in this chapter, the board of trustees shall authorize the issuance of a voucher for the sum of five hundred dollars, to help defray the funeral expenses and burial of such fire fighter, which voucher shall be paid in the manner provided for payment of other charges against the fund. [1989 c 91 § 20; 1986 c 163 § 3; 1981 c 21 § 3; 1975-'76 2nd ex.s. c 76 § 5; 1961 c 57 § 6; 1957 c 159 § 5; 1951 c 103 § 4; 1945 c 261 § 23; Rem. Supp. 1945 § 9578-37. Prior: 1935 c 121 § 7; RRS § 9578-7.]

Effective date—1989 c 91: See note following RCW 41.24.010.

Effective date—Severability—1981 c 21: See notes following RCW 41.24.150.

41.24.240 Benefits not transferable or subject to legal process—Exceptions—Chapter not exclusive. The right of any person to any future payment under the provisions of this chapter shall not be transferable or assignable at law or in equity, and none of the moneys paid or payable or the rights existing under this chapter, shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. This section shall not be applicable to any child support collection action taken under chapter 26.18, 26.23, or 74.20A RCW. Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

Nothing in this chapter shall be construed to deprive any participant, eligible to receive a pension hereunder, from receiving a pension under any other act to which that participant may become eligible by reason of services other than or in addition to his or her services under this chapter. [1995 c 11 § 13. Prior: 1989 c 360 § 26; 1989 c 91 § 21; 1979 ex.s. c 205 § 3; 1957 c 159 § 6; 1945 c 261 § 24; Rem. Supp. 1945 § 9578-38.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.245 Payments to spouse or ex spouse pursuant to court order. (1) If the state board or the secretary makes payments to a spouse or ex spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to a court decree of dissolution or legal separation, it shall be a sufficient answer to any claim of a beneficiary against the state board, the secretary, or the fund for the state board or secretary to show that the payments were made pursuant to a court decree.

(2) All payments made to a nonmember spouse or ex spouse pursuant to RCW 41.24.240 shall cease upon the death of such a nonmember spouse or ex spouse. Upon such a death, the state board and the secretary shall pay to the member his or her full monthly entitlement of benefits.

(3) The provisions of RCW 41.24.240 and this section shall apply to all court decrees of dissolution or legal separation and court-approved property settlement agreements, regardless of when entered, but shall apply only to those persons who have actually retired or who have requested withdrawal of any or all of their contributions to the fund: PROVIDED, That the state board or secretary shall not be responsible for making court-ordered divisions of withdrawals unless the order is filed with the state board at least thirty days before the withdrawal payment date. [1987 c 326 § 19.]

Effective date—1987 c 326: See RCW 41.50.901.

Mandatory assignment of retirement benefits to spouse or ex spouse: RCW 41.50.500 through 41.50.660.

41.24.250 State board for volunteer fire fighters—Composition—Terms—Vacancies—Oath. There is established a state board for volunteer fire fighters to consist of three members of a fire department covered by this chapter, no two of whom shall be from the same congressio-

nal district, to be appointed by the governor to serve overlapping terms of six years. Of members first appointed, one shall be appointed for a term of six years, one for four years, and one for two years. Upon the expiration of a term, a successor shall be appointed by the governor for a term of six years. Any vacancy shall be filled by the governor for the unexpired term. Each member of the state board, before entering on the performance of his or her duties, shall take an oath that he or she will not knowingly violate or willingly permit the violation of any provision of law applicable to this chapter, which oath shall be filed with the secretary of state.

The board shall not be deemed to be unlawfully constituted and a member of the board shall not be deemed ineligible to serve the remainder of the member's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts. [1989 c 91 § 22; 1982 1st ex.s. c 30 § 11; 1955 c 263 § 2.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.260 State board for volunteer fire fighters—Meetings—Quorum. The state board shall hold regular semiannual meetings in April and October of each year, and special meetings not more than once monthly at such times and places as may be called by the chairman or by two of its members. No action shall be taken by the state board without the approval of two members. [1955 c 263 § 3.]

41.24.270 State board for volunteer fire fighters—Compensation—Travel expenses. Each member of the state board shall be compensated in accordance with RCW 43.03.240. Each member shall also receive travel expenses, including going to and from meetings of the state board or other authorized business of the state board, in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 70; 1975-'76 2nd ex.s. c 34 § 87; 1969 c 118 § 8; 1955 c 263 § 4.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

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

41.24.280 State board for volunteer fire fighters—Attorney general is legal advisor. The attorney general shall be the legal advisor for the board. [1955 c 263 § 5.]

41.24.290 State board for volunteer fire fighters—Powers and duties. The state board shall:

(1) Generally supervise and control the administration of this chapter;

(2) Promulgate, amend, or repeal rules and regulations not inconsistent with this chapter for the purpose of effecting a uniform and efficient manner of carrying out the provisions of this chapter and the purposes to be accomplished thereby, and for the government of boards of trustees of the municipalities of this state in the discharge of their functions under this chapter;

(3) Review any action, and hear and determine any appeal which may be taken from the decision of the board of trustees of any municipality made pursuant to this chapter;

(4) Take such action as may be necessary to secure compliance of the municipalities governed by this chapter and to provide for the collection of all fees and penalties which are, or may be, due and delinquent from any such municipality;

(5) Review the action of the board of trustees of any municipality authorizing any pension as provided by this chapter; and authorize the regular issuance of monthly warrants in payment thereof without further action of the board of trustees of such municipality;

(6) Require periodic reports from the recipient of any benefits under this chapter for the purpose of determining their continued eligibility therefor;

(7) Maintain such records as may be necessary and proper for the proper maintenance and operation of the volunteer fire fighters' relief and pension fund, including records of the names and addresses of every person enrolled under this chapter, and provide all necessary forms to enable local boards of trustees to effectively carry out their duties as provided by this chapter;

(8) Compel the taking of testimony from witnesses under oath before the state board, or any member or the secretary thereof, or before the local board of trustees or any member thereof, for the purpose of obtaining evidence, at any time, in connection with any claim or pension pending or authorized for payment. For such purpose the state board shall have the same power of subpoena as prescribed in RCW 51.52.100. Failure of any claimant to appear and give any testimony as herein provided shall suspend any rights or eligibility to receive payments for the period of such failure to appear and testify;

(9) Appoint a secretary to hold office at the pleasure of the state board, fix the secretary's compensation at such sum as it shall deem appropriate, and prescribe the secretary's duties not otherwise provided by this chapter. [1989 c 91 § 23; 1955 c 263 § 6.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.300 State board for volunteer fire fighters—Vouchers, warrants. All expenses incurred by the state board shall be accomplished by vouchers signed by the secretary and one member of the state board and issued to the persons entitled thereto and sent to the proper state agency. The proper state agency shall issue a warrant on the fund for the amount specified. [1979 ex.s. c 157 § 2; 1969 c 118 § 9; 1955 c 263 § 7.]

41.24.310 State board for volunteer fire fighters—Secretary, duties, compensation. The secretary shall maintain an office at Olympia at a place to be provided, wherein the secretary shall

(1) keep a record of all proceedings of the state board, which shall be public,

(2) maintain a record of all members of the pension fund, including such pertinent information relative thereto as may be required by law or regulation of the state board,

(3) receive and promptly remit to the state treasurer all moneys received for the volunteer fire fighters' relief and pension fund,

(4) transmit periodically to the proper state agency for payment all claims payable from the volunteer fire fighters'

relief and pension fund, stating the amount and purpose of such payment,

(5) certify monthly for payment a list of all persons approved for pensions and the amount to which each is entitled,

(6) perform such other and further duties as shall be prescribed by the state board.

The secretary shall receive such compensation as shall be fixed by the state board, together with travel expenses in carrying out his or her duties authorized by the state board in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1989 c 91 § 24; 1975-'76 2nd ex.s. c 34 § 88; 1969 c 118 § 10; 1955 c 263 § 8.]

Effective date—1989 c 91: See note following RCW 41.24.010.

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

41.24.320 State board for volunteer fire fighters—State actuary to provide actuarial services. The state actuary shall provide actuarial services for the board. [1989 c 91 § 25.]

Effective date—1989 c 91: See note following RCW 41.24.010.

41.24.330 Emergency medical service districts—Board of trustees—Creation. In every county maintaining a regularly organized emergency medical service district there is hereby created an emergency medical service district board of trustees for the administration of this chapter. The emergency medical service district board shall consist of three of the members of the county legislative authority or their designees, the county auditor or the auditor's designee, the head of the emergency medical service district, and one emergency worker from the emergency medical service district to be elected by the emergency workers of the emergency medical service district for a term of one year and annually thereafter. [1993 c 331 § 2.]

41.24.340 Emergency medical service districts—Board of trustees—Officers—Annual report. The chair of the board of county commissioners shall be chair of the emergency medical service district board of trustees, and the county clerk shall be the secretary-treasurer of the emergency medical service district board of trustees. The secretary shall keep a public record of all proceedings, of all receipts and disbursements made by the emergency medical service district board of trustees and shall make an annual report of its expenses and disbursements with a full list of the beneficiaries of said fund in the county, the record to be placed on file in the county. Such forms as shall be necessary for the proper administration of this fund and of making the reports required hereunder shall be provided by the state board. [1993 c 331 § 3.]

41.24.350 Emergency medical service districts—State board shall set pension fees. The state board shall set the amount consistent with the most recent valuation of the volunteer fire fighters relief and pension fund to be paid for the purposes of this chapter by emergency medical service districts for emergency worker relief and pension fees and by emergency workers for emergency worker

pensions. The fees set under this section are subject to the other provisions of this chapter. [1993 c 331 § 4.]

41.24.400 Reserve officers—Enrollment—Limitations. (1) Except as provided in subsection (2) of this section, any municipality may make provision by appropriate legislation and payment of fees required by RCW 41.24.030(1)(d) solely for the purpose of enabling any reserve officer to enroll under the retirement provisions of this chapter.

(2) A reserve officer is not eligible to receive a benefit under the retirement provisions of this chapter for service under chapter 41.26, 41.32, or 41.40 RCW.

(3) Every municipality shall make provisions for the collection and payment of the fees required under this chapter, and shall continue to make provisions for all reserve officers who come under this chapter as long as they continue to be employed as reserve officers.

(4) A reserve officer is not eligible to receive a benefit under the relief and compensation provisions of this chapter. [1995 c 11 § 2.]

41.24.410 Reserve officers—Credit for service. Credit for service as a reserve officer shall not be counted for purposes of RCW 41.24.170 except as stated in this section: Within one year of an election to cover reserve officers under the retirement provisions of this chapter, the municipality must elect, on a one-time basis, one of the following:

(1)(a) To count credit for service only after July 23, 1995;

(b) To pay annual fees only for service after July 23, 1995; or

(2)(a) To count credit for all service as a reserve officer, but only if the actuarial cost, as determined by the state board, is paid by the municipality. The municipality may charge reserve officers for any portion of the cost; and

(b) To pay annual fees only for service after July 23, 1995; or

(3)(a) To count credit for all service as a reserve officer, but only if the actuarial cost, as determined by the state board, is paid by the municipality. The municipality may charge reserve officers for any portion of the cost; and

(b) To pay annual fees for service prior to July 23, 1995, if:

(i) The reserve officer elects, within one year of the municipality's election under this section, to pay the annual fee plus one percent per month interest for each year of past service counted; and

(ii) The municipality pays the actuarial cost, as determined by the state board, of the benefit provided in (b) of this subsection. The municipality may charge reserve officers for any portion of the cost.

Payments under this section may be made in a lump sum or in a manner prescribed by the state board. [1995 c 11 § 4.]

41.24.420 Reserve officers—Enrollment—Procedure. The head of a local law enforcement agency is authorized to enroll its reserve officers and to certify reserve officer service under the retirement provisions of this

chapter. The head of that agency shall sign, certify, and send to the state board a voucher for each person entitled to payment from the fund, stating the amount of the payment. The state board, after review and approval shall cause a warrant to be issued on the fund for the amount specified and approved on each voucher. However, after the applicant's eligibility for pension is verified, the state board shall authorize the regular issuance of monthly warrants in payment thereof without further action of the head of the law enforcement agency. [1995 c 11 § 6.]

41.24.430 Reserve officers—Eligibility for benefit.

A reserve officer shall not receive a retirement benefit under this chapter unless he or she completes at least three years of service after July 23, 1995. [1995 c 11 § 8.]

41.24.440 Reserve officers—Lump sum payments—Payments to surviving spouse. The state board shall direct payment from the fund in the following cases:

(1) To any reserve officer, upon his or her request, upon attaining the age of sixty-five years, who, for any reason, is not qualified to receive the monthly retirement pension under this chapter and who was enrolled in the fund and on whose behalf annual fees for retirement pension were paid, a lump sum amount equal to the amount paid into the fund by the reserve officer.

(2) If any reserve officer who has not completed at least ten years of service dies without having requested a lump sum payment under subsection (1) or (3) of this section, there shall be paid to the reserve officer's surviving spouse, or if there is no surviving spouse, then to such reserve officer's legal representatives, a lump sum amount equal to the amount paid into the fund by the reserve officer. If any reserve officer who has completed at least ten years of service dies without having requested a lump sum payment under subsection (1) or (3) of this section and before beginning to receive the monthly pension provided for in this chapter, the reserve officer's surviving spouse shall elect to receive either:

(a) A monthly pension computed as provided for in RCW 41.24.170 actuarially adjusted to reflect option 2 of RCW 41.24.172 and further actuarially reduced to reflect the difference in the number of years between the reserve officer's age at death and age sixty-five; or

(b) A lump sum amount equal to the amount paid into the fund by the reserve officer and the municipality or municipalities in whose department he or she has served.

If there is no surviving spouse, then there shall be paid to the reserve officer's legal representatives a lump sum amount equal to the amount paid into the fund by the reserve officer.

(3) If any reserve officer retires from service before attaining the age of sixty-five years, the reserve officer may make application for the return in a lump sum of the amount paid into the fund by himself or herself. [1995 c 11 § 10.]

Chapter 41.26

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

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- 41.26.921 Effective date—1977 ex.s. c 294.

Reviser's note: Throughout chapter 41.26 RCW, the phrase "this act" has been changed to "this chapter." 1969 ex.s. c 209 consists of this chapter and RCW 41.16.145, 41.18.010, 41.18.040, 41.18.045, 41.18.060, 41.18.100, 41.18.102, 41.18.104, 41.18.130, 41.18.190, 41.20.005, 41.20.085, 41.20.170, 41.20.050, and 41.20.060.

Emergency medical technician or first aid vehicle operator prohibited from joining system solely on basis of such service: RCW 41.24.050.

Receipt of retirement benefit at age seventy and one-half: RCW 41.04.065.

"PROVISIONS APPLICABLE TO PLAN I AND PLAN II"

41.26.005 Provisions applicable to "plan I" and "plan II." RCW 41.26.010 through 41.26.062 shall apply to members of plan I and plan II. [1992 c 72 § 2; 1991 c 35 § 12; 1989 c 273 § 10; 1985 c 102 § 5; 1979 ex.s. c 249 § 1; 1977 ex.s. c 294 § 18.]

Recodification ratified—Correction of statutory references—1992 c 72: "(1) The recodification of retirement provisions adopted by the code reviser pursuant to the directives of chapter 35, Laws of 1991, is hereby ratified.

(2) The code reviser shall correct all statutory references to sections recodified pursuant to chapter 35, Laws of 1991." [1992 c 72 § 1.]

Intent—1991 c 35: "(1) The legislature intends to reorganize chapter 41.26 RCW. The goals of this reorganization are to: (a) Arrange provisions relating to the Washington law enforcement officers' and fire fighters' retirement system plan I, the Washington law enforcement officers' and fire fighters' retirement system plan II, and those provisions relating to both plan I and plan II into three separate subchapters within chapter 41.26 RCW; (b) decodify or repeal obsolete statutes; (c) update references to the retirement board to refer to either the department of retirement systems or the director of that department, as appropriate; (d) make all references gender neutral; and (e) recodify administrative provisions. The legislature does not intend to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of chapter 41.26 RCW or other statutory provisions or rules adopted under those provisions.

(2) The legislature intends to reorganize chapter 41.32 RCW. The goals of this reorganization are to: (a) Arrange provisions relating to the Washington teachers' retirement system plan I, the Washington teachers' retirement system plan II, and both plan I and plan II into three separate subchapters within chapter 41.32 RCW; (b) decodify or repeal obsolete statutes; (c) update references to the retirement board to refer to either the department of retirement systems or the director of that department, as appropriate; (d) make all references gender neutral; and (e) recodify administrative provisions. The legislature does not intend to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of chapter 41.32 RCW or other statutory provisions or rules adopted under those provisions.

(3) The legislature intends to reorganize chapter 41.40 RCW. The goals of this reorganization are to: (a) Arrange provisions relating to the

public employees' retirement system plan I, the public employees' retirement system plan II, and both plan I and plan II into three separate subchapters within chapter 41.40 RCW; (b) decodify obsolete statutes; (c) update references to the retirement board to refer to either the department of retirement systems or the director of that department, as appropriate; (d) make all references gender neutral; and (e) recodify administrative provisions. The legislature does not intend to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of chapter 41.40 RCW or other statutory provisions or rules adopted under those provisions.

(4) This act is technical in nature and shall not have the effect of terminating or in any way modifying any rights, proceedings, or liabilities, civil or criminal, which exist on July 28, 1991." [1991 c 35 § 1.]

Severability—1989 c 273: See RCW 41.45.900.

Purpose—Retrospective application—1985 c 102: See notes following RCW 41.26.120.

41.26.010 Short title. This chapter shall be known and cited as the "Washington Law Enforcement Officers' and Fire Fighters' Retirement System Act". [1969 ex.s. c 209 § 1.]

41.26.020 Purpose of chapter. The purpose of this chapter is to provide for an actuarial reserve system for the payment of death, disability, and retirement benefits to law enforcement officers and fire fighters, and to beneficiaries of such employees, thereby enabling such employees to provide for themselves and their dependents in case of disability or death, and effecting a system of retirement from active duty. [1969 ex.s. c 209 § 2.]

41.26.030 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the "Washington law enforcement officers' and fire fighters' retirement system" provided herein.

(2)(a) "Employer" for plan I members, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the fire fighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or fire fighters as defined in this chapter.

(b) "Employer" for plan II members, means the following entities to the extent that the entity employs any law enforcement officer and/or fire fighter:

(i) The legislative authority of any city, town, county, or district;

(ii) The elected officials of any municipal corporation;

(iii) The governing body of any other general authority law enforcement agency; or

(iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996.

(3) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2)) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to plan II members; and

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (3)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.

(4) "Fire fighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for fire fighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time fire fighter where the fire department does not have a civil service examination;

(c) Supervisory fire fighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (4)(d) shall not apply to plan II members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (4)(e) shall not apply to plan II members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for fire fighter; and

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and

who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW.

(5) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(6) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

(7)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically handicapped as determined by the department, except a handicapped person in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(8) "Member" means any fire fighter, law enforcement officer, or other person as would apply under subsections (3) or (4) of this section whose membership is transferred to the Washington law enforcement officers' and fire fighters' retirement system on or after March 1, 1970, and every law enforcement officer and fire fighter who is employed in that capacity on or after such date.

(9) "Retirement fund" means the "Washington law enforcement officers' and fire fighters' retirement system fund" as provided for herein.

(10) "Employee" means any law enforcement officer or fire fighter as defined in subsections (3) and (4) of this section.

(11)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12)(a) "Final average salary" for plan I members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, comput-

ed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for plan II members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(13)(a) "Basic salary" for plan I members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(14)(a) "Service" for plan I members, means all periods of employment for an employer as a fire fighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a fire fighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160 or 41.20.170.

However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(b) "Service" for plan II members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(15) "Accumulated contributions" means the employee's contributions made by a member, including any amount paid under RCW 41.50.165(2), plus accrued interest credited thereon.

(16) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(17) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(18) "Disability board" for plan I members means either the county disability board or the city disability board established in RCW 41.26.110.

(19) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at

an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan I members.

(20) "Disability retirement" for plan I members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(21) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(22) "Medical services" for plan I members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopathic physician and surgeon licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic x-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(23) "Regular interest" means such rate as the director may determine.

(24) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(25) "Director" means the director of the department.

(26) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(27) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(28) "Plan I" means the law enforcement officers' and fire fighters' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(29) "Plan II" means the law enforcement officers' and fire fighters' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(30) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(31) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(32) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources, fish and wildlife, and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, and the state department of corrections. [1996 c 178 § 11; 1996 c 38 § 2. Prior: 1994 c 264 § 14; 1994 c 197 § 5; prior: 1993 c 502 § 1; 1993 c 322 § 1; 1991 sp.s. c 12 § 1; prior: (1991 sp.s. c 11 § 3 repealed by 1991 sp.s. c 12 § 3); 1991 c 365 § 35; 1991 c 343 § 14; 1991 c 35 § 13; 1987 c 418 § 1; 1985 c 13 § 5; 1984 c 230 § 83; 1981 c 256 § 4; 1979 ex.s. c 249 § 2; 1977 ex.s. c 294 § 17; 1974 ex.s. c 120 § 1; 1972 ex.s. c 131 § 1; 1971 ex.s. c 257 § 6; 1970 ex.s. c 6 § 1; 1969 ex.s. c 209 § 3.]

Reviser's note: This section was amended by 1996 c 38 § 2 and by 1996 c 178 § 11, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1996 c 178: See note following RCW 18.35.110.

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Effective date—1993 c 502: "This act shall take effect January 1, 1994." [1993 c 502 § 6.]

Application—1993 c 322 § 1: "Section 1 of this act shall apply retroactively to January 1, 1993." [1993 c 322 § 2.]

Effective date—1993 c 322: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 12, 1993]." [1993 c 322 § 3.]

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

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Purpose—Application—Retrospective application—1985 c 13: See notes following RCW 41.04.445.

Purpose—1981 c 256: "It is the primary purpose of this act to assure that the provisions of RCW 41.04.250 and 41.04.260 and of any deferred compensation plan established thereunder, are in conformity with the requirements of 26 U.S.C. Sec. 457 and any other requirements of federal law relating to such a deferred compensation plan. This act shall be construed in such a manner as to accomplish this purpose." [1981 c 256 § 1.]

Severability—1981 c 256: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 256 § 7.]

Severability—1974 ex.s. c 120: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 120 § 15.]

Severability—1972 ex.s. c 131: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 131 § 12.]

Purpose—1971 ex.s. c 257: "It is the purpose of this act to provide minimum medical and health standards for membership coverage into the Washington law enforcement officers' and fire fighters' retirement system act, for the improvement of the public service, and to safeguard the integrity and actuarial soundness of their pension systems, and to improve their retirement and pension systems and related provisions." [1971 ex.s. c 257 § 1.]

Severability—1971 ex.s. c 257: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 257 § 22.]

41.26.035 "Minimum medical and health standards" defined. The term "minimum medical and health standards" means minimum medical and health standards adopted by the department under this chapter. [1991 c 35 § 14; 1971 ex.s. c 257 § 2.]

Intent—1991 c 35: See note following RCW 41.26.005.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.040 System created—Membership—Funds. The Washington law enforcement officers' and fire fighters' retirement system is hereby created for fire fighters and law enforcement officers.

(1) Notwithstanding RCW 41.26.030(8), all fire fighters and law enforcement officers employed as such on or after March 1, 1970, on a full time fully compensated basis in this state shall be members of the retirement system established by this chapter with respect to all periods of service as such, to the exclusion of any pension system existing under any prior act.

(2) Any employee serving as a law enforcement officer or fire fighter on March 1, 1970, who is then making

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retirement contributions under any prior act shall have his membership transferred to the system established by this chapter as of such date. Upon retirement for service or for disability, or death, of any such employee, his retirement benefits earned under this chapter shall be computed and paid. In addition, his benefits under the prior retirement act to which he was making contributions at the time of this transfer shall be computed as if he had not transferred. For the purpose of such computations, the employee's creditability of service and eligibility for service or disability retirement and survivor and all other benefits shall continue to be as provided in such prior retirement act, as if transfer of membership had not occurred. The excess, if any, of the benefits so computed, giving full value to survivor benefits, over the benefits payable under this chapter shall be paid whether or not the employee has made application under the prior act. If the employee's prior retirement system was the Washington public employees' retirement system, payment of such excess shall be made by that system; if the employee's prior retirement system was the state-wide city employees' retirement system, payment of such excess shall be made by the employer which was the member's employer when his transfer of membership occurred: PROVIDED, That any death in line of duty lump sum benefit payment shall continue to be the obligation of that system as provided in RCW 41.44.210; in the case of all other prior retirement systems, payment of such excess shall be made by the employer which was the member's employer when his transfer of membership occurred.

(3) All funds held by any firemen's or policemen's relief and pension fund shall remain in that fund for the purpose of paying the obligations of the fund. The municipality shall continue to levy the dollar rate as provided in RCW 41.16.060, and this dollar rate shall be used for the purpose of paying the benefits provided in chapters 41.16 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to be paid from whatever financial sources the city has been using for this purpose. [1991 c 35 § 15; 1989 c 273 § 11; 1979 ex.s. c 45 § 1; 1974 ex.s. c 120 § 7; 1973 1st ex.s. c 195 § 44; 1970 ex.s. c 6 § 2; 1969 ex.s. c 209 § 4.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1989 c 273: See RCW 41.45.900.

Effective date—1979 ex.s. c 45: "This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1979." [1979 ex.s. c 45 § 8.]

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

41.26.045 Minimum medical and health standards.

(1) Notwithstanding any other provision of law after February 19, 1974 no law enforcement officer or fire fighter, may become eligible for coverage in the pension system established by this chapter, until the individual has met and has been certified as having met minimum medical and health standards: PROVIDED, That an elected sheriff or an appointed chief of police or fire chief, shall not be required to meet the age standard: PROVIDED FURTHER, That in cities and towns having not more than two law enforcement officers and/or not more than two fire fighters and if one or

more of such persons do not meet the minimum medical and health standards as required by the provisions of this chapter, then such person or persons may join any other pension system that the city has available for its other employees: AND PROVIDED FURTHER, That for one year after February 19, 1974 any such medical or health standard now existing or hereinafter adopted, insofar as it establishes a maximum age beyond which an applicant is to be deemed ineligible for coverage, shall be waived as to any applicant for employment or reemployment who is otherwise eligible except for his age, who has been a member of any one or more of the retirement systems created by chapter 41.20 of the Revised Code of Washington and who has restored all contributions which he has previously withdrawn from any such system or systems.

(2) This section shall not apply to persons who initially establish membership in the retirement system on or after July 1, 1979. [1979 ex.s. c 249 § 3; 1977 ex.s. c 294 § 20; 1974 ex.s. c 120 § 8; 1971 ex.s. c 257 § 3.]

Reviser's note: "this 1971 act" [1971 ex.s. c 257] translated to "this chapter." The act consists of RCW 41.16.146, 41.18.105, 41.26.035, 41.26.045, 41.26.046, 41.26.047, 41.26.270, 41.26.280, and 41.26.290, and amendments to RCW 41.26.030, 41.26.050, 41.26.090, 41.26.100, 41.26.150, 41.26.160, 41.26.180, 41.26.200, 41.48.030, and 41.48.050.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.046 Minimum medical and health standards—Board to adopt—Publication and distribution—Employer certification procedures. By July 31, 1971, the *retirement board shall adopt minimum medical and health standards for membership coverage into the Washington law enforcement officers' and fire fighters' retirement system act. In adopting such standards the *retirement board shall consider existing standards recommended by the international association of chiefs of police and the international association of fire fighters; and shall adopt equal or higher standards, together with appropriate standards and procedures to insure uniform compliance with this chapter. The standards when adopted shall be published and distributed to each employer, and each employer shall adopt certification procedures and such other procedures as are required to insure that no law enforcement officer or fire fighter receives membership coverage unless and until he has actually met minimum medical and health standards: PROVIDED, That an elected sheriff or an appointed chief of police, fire chief, or director of public safety shall not be required to meet the age standard. The *retirement board may amend the minimum medical and health standards as experience indicates, even if the standards as so amended are lower or less rigid than those recommended by the international associations mentioned above. The cost of the medical examination contemplated by this section is to be paid by the employer. [1987 c 418 § 2; 1977 ex.s. c 294 § 21; 1974 ex.s. c 120 § 12; 1972 ex.s. c 131 § 2; 1971 ex.s. c 257 § 4.]

Reviser's note: (1) "this 1971 act" [1971 ex.s. c 257] translated to "this chapter." The act consists of RCW 41.16.146, 41.18.105, 41.26.035, 41.26.045, 41.26.046, 41.26.047, 41.26.270, 41.26.280, and 41.26.290, and amendments to RCW 41.26.030, 41.26.050, 41.26.090, 41.26.100, 41.26.150, 41.26.160, 41.26.180, 41.26.200, 41.48.030, and 41.48.050.

*** (2) Powers, duties, and functions of the Washington law enforcement officers' and fire fighters' retirement board were transferred to the director of retirement systems by RCW 41.26.051, which has been decodified. See Table of Disposition of Former RCW Sections, Volume 0.**

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.047 Minimum medical and health standards—Exemptions—Employer may adopt higher standards. Nothing in RCW 41.26.035, 41.26.045 and 41.26.046 shall apply to any fire fighters or law enforcement officers who are employed as such on or before August 1, 1971, as long as they continue in such employment; nor to promotional appointments after becoming a member in the police or fire department of any employer nor to the reemployment of a law enforcement officer or fire fighter by the same or a different employer within six months after the termination of his employment, nor to the reinstatement of a law enforcement officer or fire fighter who has been on military or disability leave, disability retirement status, or leave of absence status. Nothing in this chapter shall be deemed to prevent any employer from adopting higher medical and health standards than those which are adopted by the *retirement board. [1972 ex.s. c 131 § 3; 1971 ex.s. c 257 § 5.]

Reviser's note: (1) "this act" [1971 ex.s. c 257] translated to "this chapter." The act consists of RCW 41.16.146, 41.18.105, 41.26.035, 41.26.045, 41.26.046, 41.26.047, 41.26.270, 41.26.280, and 41.26.290, and amendments to RCW 41.26.030, 41.26.050, 41.26.090, 41.26.100, 41.26.150, 41.26.160, 41.26.180, 41.26.200, 41.48.030, and 41.48.050.

*** (2) Powers, duties, and functions of the Washington law enforcement officers' and fire fighters' retirement board were transferred to the director of retirement systems by RCW 41.26.051, which has been decodified. See Table of Disposition of Former RCW Sections, Volume 0.**

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.048 Special death benefit—Death in the course of employment. (1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050. [1996 c 226 § 1.]

Effective date—1996 c 226: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 28, 1996]." [1996 c 226 § 4.]

41.26.053 Exemption from judicial process, taxes—Exceptions—Deduction for insurance upon request. (1) Subject to subsections (2) and (3) of this section, the right of a person to a retirement allowance, disability allowance, or death benefit, to the return of accumulated contributions; the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable.

(2) On the written request of any person eligible to receive benefits under this section, the department may deduct from such payments the premiums for life, health, or other insurance. The request on behalf of any child or children shall be made by the legal guardian of such child or children. The department may provide for such persons one or more plans of group insurance, through contracts with regularly constituted insurance carriers or health care service contractors.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law. [1991 c 365 § 20; 1991 c 35 § 25; 1989 c 360 § 24; 1987 c 326 § 22; 1979 ex.s. c 205 § 4; 1971 ex.s. c 257 § 12; 1970 ex.s. c 6 § 15; 1969 ex.s. c 209 § 23. Formerly RCW 41.26.180.]

Reviser's note: This section was amended by 1991 c 35 § 25 and by 1991 c 365 § 20, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

Intent—1991 c 35: See note following RCW 41.26.005.

Effective date—1987 c 326: See RCW 41.50.901.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.056 No bond required on appeal to court. No bond of any kind shall be required of a claimant appealing to the superior court, the court of appeals, or the supreme court from a decision of the director affecting such claimant's right to retirement or disability benefits. [1984 c 184 § 18; 1971 c 81 § 103; 1969 ex.s. c 209 § 21. Formerly RCW 41.26.230.]

Severability—1984 c 184: See note following RCW 41.50.150.

41.26.057 Benefit calculation—Limitation. (1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section. [1995 c 145 § 1.]

41.26.062 Falsification—Penalty. Any employer, member or beneficiary who shall knowingly make false statements or shall falsify or permit to be falsified any record or records of the retirement system in an attempt to defraud the retirement system, shall be guilty of a felony. [1972 ex.s. c 131 § 10. Formerly RCW 41.26.300.]

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

"PLAN I"

41.26.075 Provisions applicable to plan I. RCW 41.26.080 through 41.26.3903 shall apply only to members of plan I. [1992 c 72 § 3; 1991 c 35 § 101.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.26.080 Funding total liability of plan I system. The total liability of the plan I system shall be funded as follows:

(1) Every plan I member shall have deducted from each payroll a sum equal to six percent of his or her basic salary for each pay period.

(2) Every employer shall contribute monthly a sum equal to six percent of the basic salary of each plan I employee who is a member of this retirement system. The employer shall transmit the employee and employer contributions with a copy of the payroll to the retirement system monthly.

(3) The remaining liabilities of the plan I system shall be funded as provided in chapter 41.45 RCW.

(4) Every member shall be deemed to consent and agree to the contribution made and provided for herein, and shall receipt in full for his or her salary or compensation. Payment less said contributions shall be a complete discharge of all claims and demands whatsoever for the services rendered by such person during the period covered by such payments, except his or her claim to the benefits to which he or she may be entitled under the provisions of this chapter. [1991 c 35 § 17; 1989 c 273 § 13; 1969 ex.s. c 209 § 8.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1989 c 273: See RCW 41.45.900.

41.26.090 Retirement for service. Retirement of a member for service shall be made by the department as follows:

(1) Any member having five or more service credit years of service and having attained the age of fifty years shall be eligible for a service retirement allowance and shall be retired upon the member's written request effective the first day following the date upon which the member is separated from service.

(2) Any member having five or more service credit years of service, who terminates his or her employment with any employer, may leave his or her contributions in the fund. Any employee who so elects, upon attaining age fifty, shall be eligible to apply for and receive a service retirement allowance based on his or her years of service, commencing on the first day following his or her attainment of age fifty.

(3) Any member selecting optional vesting under subsection (2) of this section with less than twenty service credit years of service shall not be covered by the provisions of RCW 41.26.150, and the member's survivors shall not be entitled to the benefits of RCW 41.26.160 unless his or her death occurs after he or she has attained the age of fifty years. Those members selecting this optional vesting with twenty or more years service shall not be covered by the provisions of RCW 41.26.150 until the attainment of the age of fifty years. A member selecting this optional vesting, with less than twenty service credit years of service credit, who dies prior to attaining the age of fifty years, shall have paid from the Washington law enforcement officers' and fire fighters' retirement fund, to such member's surviving spouse, if any, otherwise to such beneficiary as the member shall have designated in writing, or if no such designation has been made, to the personal representative of his or her estate, a lump sum which is equal to the amount of such member's accumulated contributions plus accrued interest. If the vested member has twenty or more service credit years of service credit the surviving spouse or children shall then become eligible for the benefits of RCW 41.26.160 regardless of the member's age at the time of his or her death, to the exclusion of the lump sum amount provided by this subsection.

(4) Any member who has attained the age of sixty years shall be retired on the first day of the calendar month next succeeding that in which said member shall have attained the age of sixty and may not thereafter be employed as a law enforcement officer or fire fighter: PROVIDED, That for any member who is elected or appointed to the office of sheriff, chief of police, or fire chief, his or her election or appointment shall be considered as a waiver of the age sixty provision for retirement and nonemployment for whatever number of years remain in his or her present term of office and any succeeding periods for which he or she may be so elected or appointed. The provisions of this subsection shall not apply to any member who is employed as a law enforcement officer or fire fighter on March 1, 1970. [1991 sp.s. c 11 § 4. Prior: 1991 c 343 § 15; 1991 c 35 § 18; 1977 ex.s. c 294 § 22; 1972 ex.s. c 131 § 6; 1971 ex.s. c 257 § 8; 1970 ex.s. c 6 § 4; 1969 ex.s. c 209 § 9.]

Purpose—1991 sp.s. c 11: "The purpose of this act is to correct certain double amendments created during the 1991 regular session that the code reviser's office is unable to merge under RCW 1.12.025. The session laws repealed by section 2 of this act are strictly technical in nature and affect no policy. Sections *3 through 6 of this act are being reenacted to effectuate a legislative directive contained in 1991 c 35 s 2." [1991 sp.s. c 11 § 1.]

***Reviser's note:** 1991 sp.s. c 11 § 3 was repealed by 1991 sp.s. c 12 § 3.

Effective dates—1991 sp.s. c 11: "(1) Sections *3 through 5 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect September 1, 1991.

(2) Sections 1, 2, and 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately." [1991 sp.s. c 11 § 7.]

***Reviser's note:** 1991 sp.s. c 11 § 3 was repealed by 1991 sp.s. c 12 § 3.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.100 Allowance on retirement for service. A member upon retirement for service shall receive a monthly retirement allowance computed according to his or her completed creditable service credit years of service as follows: Five years but under ten years, one-twelfth of one percent of his or her final average salary for each month of service; ten years but under twenty years, one-twelfth of one and one-half percent of his or her final average salary for each month of service; and twenty years and over one-twelfth of two percent of his or her final average salary for each month of service: PROVIDED, That the recipient of a retirement allowance who shall return to service as a law enforcement officer or fire fighter shall be considered to have terminated his or her retirement status and he or she shall immediately become a member of the retirement system with the status of membership he or she had as of the date of retirement. Retirement benefits shall be suspended during the period of his or her return to service and he or she shall make contributions and receive service credit. Such a member shall have the right to again retire at any time and his or her retirement allowance shall be recomputed, and paid, based upon additional service rendered and any change in final average salary: PROVIDED FURTHER, That no retirement allowance paid pursuant to this section shall exceed sixty percent of final average salary, except as such allowance may be increased by virtue of RCW 41.26.240, as now or hereafter amended. [1991 c 343 § 16; 1974 ex.s. c 120 § 3; 1972 ex.s. c 131 § 7; 1971 ex.s. c 257 § 9; 1970 ex.s. c 6 § 5; 1969 ex.s. c 209 § 10.]

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.110 City and county disability boards authorized—Composition—Terms—Reimbursement for travel expenses—Duties. (1) All claims for disability shall be acted upon and either approved or disapproved by either type of disability board hereafter authorized to be created.

(a) Each city having a population of twenty thousand or more shall establish a disability board having jurisdiction over all members employed by said cities and composed of the following five members: Two members of the city legislative body to be appointed by the mayor, one active or retired fire fighter to be elected by the fire fighters employed by or retired from the city, one active or retired law enforcement officer to be elected by the law enforcement officers employed by or retired from the city and one member from the public at large who resides within the city to be appointed by the other four members heretofore designated in this subsection. Retired members who are subject to the jurisdiction of the board have both the right to elect and the right to be elected under this section. Each of the elected members shall serve a two year term. The members appointed pursuant to this subsection shall serve for two year terms: PROVIDED, That cities of the first class only, shall retain

existing firemen's pension boards established pursuant to RCW 41.16.020 and existing boards of trustees of the relief and pension fund of the police department as established pursuant to RCW 41.20.010 which such boards shall have authority to act upon and approve or disapprove claims for disability by fire fighters or law enforcement officers as provided under the Washington law enforcement officers' and fire fighters' retirement system act.

(b) Each county shall establish a disability board having jurisdiction over all members residing in the county and not employed by a city in which a disability board is established. The county disability board so created shall be composed of five members to be chosen as follows: One member of the legislative body of the county to be appointed by the county legislative body, one member of a city or town legislative body located within the county which does not contain a city disability board established pursuant to subsection (1)(a) of this section to be chosen by a majority of the mayors of such cities and towns within the county which does not contain a city disability board, one fire fighter or retired fire fighter to be elected by the fire fighters employed or retired in the county who are not employed by or retired from a city in which a disability board is established, one law enforcement officer or retired law enforcement officer to be elected by the law enforcement officers employed in or retired from the county who are not employed by or retired from a city in which a disability board is established, and one member from the public at large who resides within the county but does not reside within a city in which a city disability board is established, to be appointed by the other four members heretofore designated in this subsection. Retired members who are subject to the jurisdiction of the board have both the right to elect and the right to be elected under this section. All members appointed or elected pursuant to this subsection shall serve for two year terms.

(2) The members of both the county and city disability boards shall not receive compensation for their service upon the boards but said members shall be reimbursed by their respective county or city for all expenses incidental to such service as to the amount authorized by law.

(3) The disability boards authorized for establishment by this section shall perform all functions, exercise all powers, and make all such determinations as specified in this chapter. [1988 c 164 § 1; 1982 c 12 § 1; 1974 ex.s. c 120 § 9; 1970 ex.s. c 6 § 6; 1969 ex.s. c 219 § 3; 1969 ex.s. c 209 § 11.]

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

41.26.115 Director of retirement systems to adopt rules governing disability boards—Remand of orders not in accordance with rules. (1) The director of retirement systems shall adopt rules, in accordance with chapter 34.05 RCW, under which each disability board shall execute its disability retirement duties under this chapter. The rules shall include, but not be limited to, the following:

(a) Standards governing the type and manner of presentation of medical, employability, and other evidence before disability boards; and

(b) Standards governing the necessity and frequency of medical and employability reexaminations of persons receiving disability benefits.

(2) If the director determines that an order or determination of a disability board was not processed in accordance with the rules established under this section, the director may remand the order or determination for further proceedings consistent with the rules. [1981 c 294 § 1.]

Severability—1981 c 294: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 294 § 16.]

41.26.120 Retirement for disability incurred in the line of duty. Any member, regardless of age or years of service may be retired by the disability board, subject to approval by the director as hereinafter provided, for any disability incurred in the line of duty which has been continuous since his or her discontinuance of service and which renders the member unable to continue service. No disability retirement allowance shall be paid until the expiration of a period of six months after the discontinuance of service during which period the member, if found to be physically or mentally unfit for duty by the disability board following receipt of his or her application for disability retirement, shall be granted a disability leave by the disability board and shall receive an allowance equal to the full monthly salary and shall continue to receive all other benefits provided to active employees from the employer for such period. However, if, at any time during the initial six-month period, the disability board finds the beneficiary is no longer disabled, the disability leave allowance shall be canceled and the member shall be restored to duty in the same rank or position, if any, held by the beneficiary at the time the member became disabled. Applications for disability retirement shall be processed in accordance with the following procedures:

(1) Any member who believes he or she is or is believed to be physically or mentally disabled shall be examined by such medical authority as the disability board shall employ, upon application of said member, or a person acting in his or her behalf, stating that said member is disabled, either physically or mentally: **PROVIDED,** That no such application shall be considered unless said member or someone in his or her behalf, in case of the incapacity of a member, shall have filed the application within a period of one year from and after the discontinuance of service of said member.

(2) If the examination shows, to the satisfaction of the disability board, that the member is physically or mentally disabled from the further performance of duty, that such disability was incurred in the line of duty, and that such disability has been continuous from the discontinuance of service, the disability board shall enter its written decision and order, accompanied by appropriate findings of fact and by conclusions evidencing compliance with this chapter as now or hereafter amended, granting the member a disability retirement allowance; otherwise, if the member is not found by the disability board to be so disabled, the application shall be denied pursuant to a similar written decision and order, subject to appeal to the director in accordance with RCW 41.26.200: **PROVIDED,** That in any order granting a duty disability retirement allowance, the disability board shall make a finding that the disability was incurred in line of duty.

(3) Every order of a disability board granting a duty disability retirement allowance shall forthwith be reviewed by the director except the finding that the disability was incurred in the line of duty. The director may affirm the decision of the disability board or remand the case for further proceedings, or the director may reverse the decision of the disability board if the director finds the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious.

(4) Every member who can establish, to the disability board, that he or she is physically or mentally disabled from the further performance of duty, that such disability was incurred in the line of duty, and that such disability will be in existence for a period of at least six months may waive the six-month period of disability leave and be immediately granted a duty disability retirement allowance, subject to the approval of the director as provided in subsection (3) of this section. [1991 c 35 § 19; 1986 c 176 § 5; 1985 c 102 § 2; 1981 c 294 § 2; 1974 ex.s. c 120 § 10; 1972 ex.s. c 131 § 8; 1970 ex.s. c 6 § 7; 1969 ex.s. c 209 § 12.]

Intent—1991 c 35: See note following RCW 41.26.005.

Purpose—1985 c 102: "As expressed in RCW 41.26.270, the intent of the legislature in enacting the law enforcement officers' and fire fighters' retirement system was to provide in RCW 41.26.120 a statute in the nature of a workers' compensation act which provides compensation to employees for personal injuries or sickness incurred in the course of employment. The sole purpose of this 1985 act is to clarify that intent." [1985 c 102 § 1.]

Retrospective application—1985 c 102: "The provisions of this 1985 act apply retrospectively to all disability leave and disability retirement allowances granted under chapter 41.26 RCW on or after March 1, 1970." [1985 c 102 § 7.]

Severability—1981 c 294: See note following RCW 41.26.115.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Disability leave supplement for law enforcement officers and fire fighters: RCW 41.04.500 through 41.04.550.

41.26.125 Retirement for disability not incurred in the line of duty. Any member, regardless of age or years of service, may be retired by the disability board, subject to approval by the director as provided in this section, for any disability not incurred in the line of duty which has been continuous since discontinuance of service and which renders the member unable to continue service. No disability retirement allowance may be paid until the expiration of a period of six months after the discontinuance of service during which period the member, if found to be physically or mentally unfit for duty by the disability board following receipt of the member's application for disability retirement, shall be granted a disability leave by the disability board and shall receive an allowance equal to the member's full monthly salary and shall continue to receive all other benefits provided to active employees from the member's employer for the period. However, if, at any time during the initial six-month period, the disability board finds the beneficiary is no longer disabled, the disability leave

allowance shall be canceled and the member shall be restored to duty in the same rank or position, if any, held by the member at the time the member became disabled. Applications for disability retirement shall be processed in accordance with the following procedures:

(1) Any member who believes he or she is, or is believed to be, physically or mentally disabled shall be examined by such medical authority as the disability board shall employ, upon application of the member, or a person acting in the member's behalf, stating that the member is disabled, either physically or mentally: **PROVIDED**, That no such application shall be considered unless the member or someone acting in the member's behalf, in case of the incapacity of a member, has filed the application within a period of one year from and after the discontinuance of service of the member.

(2) If the examination shows, to the satisfaction of the disability board, that the member is physically or mentally disabled from the further performance of duty, that such disability was not incurred in the line of duty, and that such disability had been continuous from the discontinuance of service, the disability board shall enter its written decision and order, accompanied by appropriate findings of fact and by conclusions evidencing compliance with this chapter, granting the member a disability retirement allowance. Otherwise, if the member is not found by the disability board to be so disabled, the application shall be denied pursuant to a similar written decision and order, subject to appeal to the director in accordance with RCW 41.26.200: **PROVIDED**, That in any order granting a nonduty disability retirement allowance, the disability board shall make a finding that the disability was not incurred in the line of duty.

(3) Every order of a disability board granting a nonduty disability retirement allowance shall forthwith be reviewed by the director except the finding that the disability was not incurred in the line of duty. The director may affirm the decision of the disability board or remand the case for further proceedings, or the director may reverse the decision of the disability board if the director finds the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious.

(4) Every member who can establish to the disability board that the member is physically or mentally disabled from the further performance of duty, that such disability was not incurred in the line of duty, and that such disability will be in existence for a period of at least six months, may waive the six-month period of disability leave and be immediately granted a nonduty disability retirement allowance, subject to the approval of the director as provided in subsection (3) of this section. [1986 c 176 § 6; 1985 c 102 § 3.]

Purpose—Retrospective application—1985 c 102: See notes following RCW 41.26.120.

41.26.130 Allowance on retirement for disability.

(1) Upon retirement for disability a member shall be entitled to receive a monthly retirement allowance computed as follows: (a) A basic amount of fifty percent of final average salary at time of disability retirement, and (b) an additional five percent of final average salary for each child as defined in RCW 41.26.030(7), (c) the combined total of (a) and (b) of this subsection shall not exceed a maximum of sixty percent of final average salary.

(2) A disabled member shall begin receiving the disability retirement allowance as of the expiration of his or her six month period of disability leave or, if his or her application was filed after the sixth month of discontinuance of service but prior to the one year time limit, the member's disability retirement allowance shall be retroactive to the end of the sixth month.

(3) Benefits under this section will be payable until the member recovers from the disability or dies. If at the time that the disability ceases the member is over the age of fifty, he or she shall then receive either disability retirement allowance or retirement for service allowance, whichever is greater.

(4) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the member receives or is entitled to receive from workers' compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability.

(5) A member retired for disability shall be subject to periodic examinations by a physician approved by the disability board prior to attainment of age fifty, pursuant to rules adopted by the director under RCW 41.26.115. Examinations of members who retired for disability prior to July 26, 1981, shall not exceed two medical examinations per year. [1991 c 35 § 20; 1987 c 185 § 11; 1981 c 294 § 3; 1970 ex.s. c 6 § 8; 1969 ex.s. c 209 § 13.]

Intent—1991 c 35: See note following RCW 41.26.005.

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Severability—1981 c 294: See note following RCW 41.26.115.

41.26.135 Cessation of disability—Determination.

(1) A disabled member who believes that his or her disability has ceased in accordance with RCW 41.26.130(3) may make application to the disability board which originally found the member to be disabled, for a determination that the disability has ceased.

(2) Every order of a disability board determining that a member's disability has ceased pursuant to RCW 41.26.130(3) shall forthwith be reviewed by the director. The director may affirm the decision of the disability board or remand the case for further proceedings if the director finds the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or

(f) Arbitrary or capricious.

(3) Determinations of whether a disability has ceased under RCW 41.26.130(3) and this section shall be made in accordance with the same procedures and standards governing other cancellations of disability retirement. [1985 c 103 § 1.]

41.26.140 Reexaminations of disability beneficiaries—Reentry—Appeal. (1) Upon the basis of reexaminations of members on disability retirement as provided in RCW 41.26.130, the disability board shall determine whether such disability beneficiary is still unable to perform his or her duties either physically or mentally for service in the department where he or she was employed.

(2) If the disability board shall determine that the beneficiary is not so incapacitated the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the beneficiary at the time of his or her retirement or if unable to perform the duties of said rank, then, at his or her request, in such other like or lesser rank as may be or become open and available, the duties of which he or she is then able to perform. In no event, shall a beneficiary previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the said beneficiary at the date of retirement for disability. If the disability board determines that the beneficiary is able to return to service he or she shall be entitled to notice and a hearing, both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW, as now or hereafter amended.

(3) Should a disability beneficiary reenter service and be eligible for membership in the retirement system, the retirement allowance shall be canceled and he or she shall immediately become a member of the retirement system.

(4) Should any disability beneficiary under age fifty refuse to submit to examination, the retirement allowance shall be discontinued until withdrawal of such refusal, and should such refusal continue for one year or more, the retirement allowance shall be canceled.

(5) Should the disability retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into service or retirement for service, he or she shall be paid the excess, if any, of the accumulated contributions at the time of retirement over all payments made on his or her behalf under this chapter.

(6) Any person feeling aggrieved by an order of a disability board determining that a beneficiary's disability has not ceased, pursuant to RCW 41.26.130(3) has the right to appeal the order or determination to the director. The director shall have no jurisdiction to entertain the appeal unless a notice of appeal is filed with the director within thirty days following the rendition of the order by the disability board. A copy of the notice of appeal shall be served upon the director and the applicable disability board and, within ninety days thereof, the disability board shall certify its decision and order which shall include findings of fact and conclusions of law, together with a transcript of all proceedings in connection therewith, to the director for review. Upon review of the record, the director may affirm the order of the disability board or may remand the case for

further proceedings if the director finds that the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious. [1991 c 35 § 21; 1985 c 103 § 2; 1981 c 294 § 4; 1974 ex.s. c 120 § 4; 1970 ex.s. c 6 § 9; 1969 ex.s. c 209 § 14.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1981 c 294: See note following RCW 41.26.115.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

41.26.150 Sickness or disability benefits—Medical services. (1) Whenever any active member, or any member hereafter retired, on account of service, sickness, or disability, not caused or brought on by dissipation or abuse, of which the disability board shall be judge, is confined in any hospital or in home, and whether or not so confined, requires medical services, the employer shall pay for the active or retired member the necessary medical services not payable from some other source as provided for in subsection (2) of this section. In the case of active or retired fire fighters the employer may make the payments provided for in this section from the firemen's pension fund established pursuant to RCW 41.16.050 where the fund had been established prior to March 1, 1970. If this pension fund is depleted, the employer shall have the obligation to pay all benefits payable under chapters 41.16 and 41.18 RCW.

(a) The disability board in all cases may have the active or retired member suffering from such sickness or disability examined at any time by a licensed physician or physicians, to be appointed by the disability board, for the purpose of ascertaining the nature and extent of the sickness or disability, the physician or physicians to report to the disability board the result of the examination within three days thereafter. Any active or retired member who refuses to submit to such examination or examinations shall forfeit all rights to benefits under this section for the period of the refusal.

(b) The disability board shall designate the medical services available to any sick or disabled member.

(2) The medical services payable under this section will be reduced by any amount received or eligible to be received by the member under workers' compensation, social security including the changes incorporated under Public Law 89-97, insurance provided by another employer, other pension plan, or any other similar source. Failure to apply for coverage if otherwise eligible under the provisions of Public Law 89-97 shall not be deemed a refusal of payment of benefits thereby enabling collection of charges under the provisions of this chapter.

(3) Upon making the payments provided for in subsection (1) of this section, the employer shall be subrogated to all rights of the member against any third party who may be held liable for the member's injuries or for payment of the cost of medical services in connection with a member's

sickness or disability to the extent necessary to recover the amount of payments made by the employer.

(4) Any employer under this chapter, either singly, or jointly with any other such employer or employers through an association thereof as provided for in chapter 48.21 RCW, may provide for all or part of one or more plans of group hospitalization and medical aid insurance to cover any of its employees who are members of the Washington law enforcement officers' and fire fighters' retirement system, and/or retired former employees who were, before retirement, members of the retirement system, through contracts with regularly constituted insurance carriers, with health maintenance organizations as defined in chapter 48.46 RCW, or with health care service contractors as defined in chapter 48.44 RCW. Benefits payable under any the [under the] plan or plans shall be deemed to be amounts received or eligible to be received by the active or retired member under subsection (2) of this section.

(5) Any employer under this chapter may, at its discretion, elect to reimburse a retired former employee under this chapter for premiums the retired former employee has paid for medical insurance that supplements medicare, including premiums the retired former employee has paid for medicare part B coverage. [1992 c 22 § 3; 1991 c 35 § 22; 1987 c 185 § 12; 1983 c 106 § 23; 1974 ex.s. c 120 § 11; 1971 ex.s. c 257 § 10; 1970 ex.s. c 6 § 10; 1969 ex.s. c 219 § 4; 1969 ex.s. c 209 § 15.]

Intent—1991 c 35: See note following RCW 41.26.005.

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.160 Death benefits. (1) In the event of the death of any member who is in active service, or who has vested under the provisions of RCW 41.26.090 with twenty or more service credit years of service, or who is on disability leave or retired, whether for disability or service, the surviving spouse shall become entitled to receive a monthly allowance equal to fifty percent of the final average salary at the date of death if active, or the amount of retirement allowance the vested member would have received at age fifty, or the amount of the retirement allowance such retired member was receiving at the time of death if retired for service or disability. The amount of this allowance will be increased five percent of final average salary for each child as defined in RCW 41.26.030(7), as now or hereafter amended, subject to a maximum combined allowance of sixty percent of final average salary: PROVIDED, That if the child or children is or are in the care of a legal guardian, payment of the increase attributable to each child will be made to the child's legal guardian or, in the absence of a legal guardian and if the member has created a trust for the benefit of the child or children, payment of the increase attributable to each child will be made to the trust.

(2) If at the time of the death of a vested member with twenty or more service credit years of service as provided in subsection (1) of this section or a member retired for service or disability, the surviving spouse has not been lawfully married to such member for one year prior to retirement or separation from service if a vested member, the surviving

spouse shall not be eligible to receive the benefits under this section: PROVIDED, That if a member dies as a result of a disability incurred in the line of duty, then if he or she was married at the time he or she was disabled, the surviving spouse shall be eligible to receive the benefits under this section.

(3) If there be no surviving spouse eligible to receive benefits at the time of such member's death, then the child or children of such member shall receive a monthly allowance equal to thirty percent of final average salary for one child and an additional ten percent for each additional child subject to a maximum combined payment, under this subsection, of sixty percent of final average salary. When there cease to be any eligible children as defined in RCW 41.26.030(7), as now or hereafter amended, there shall be paid to the legal heirs of said member the excess, if any, of accumulated contributions of said member at the time of death over all payments made to survivors on his or her behalf under this chapter: PROVIDED, That payments under this subsection to children shall be prorated equally among the children, if more than one. If the member has created a trust for the benefit of the child or children, the payment shall be made to the trust.

(4) In the event that there is no surviving spouse eligible to receive benefits under this section, and that there be no child or children eligible to receive benefits under this section, then the accumulated contributions shall be paid to the estate of said member.

(5) If a surviving spouse receiving benefits under the provisions of this section thereafter dies and there are children as defined in RCW 41.26.030(7), as now or hereafter amended, payment to the spouse shall cease and the child or children shall receive the benefits as provided in subsection (3) of this section.

(6) The payment provided by this section shall become due the day following the date of death and payments shall be retroactive to that date. [1991 sp.s. c 11 § 5. Prior: 1991 c 343 § 17; 1991 c 35 § 23; 1986 c 176 § 7; 1977 ex.s. c 294 § 23; 1974 ex.s. c 120 § 5; 1972 ex.s. c 131 § 9; 1971 ex.s. c 257 § 11; 1970 ex.s. c 6 § 12; 1969 ex.s. c 209 § 17.]

Purpose—Effective dates—1991 sp.s. c 11: See notes following RCW 41.26.090.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.162 Ex spouse qualifying as surviving spouse—When. (1) An ex spouse of a law enforcement officers' and fire fighters' retirement system retiree shall qualify as surviving spouse under RCW 41.26.160 if the ex spouse:

(a) Has been provided benefits under any currently effective court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation entered after the member's retirement and prior to December 31, 1979; and

(b) Was married to the retiree for at least thirty years, including at least twenty years prior to the member's retirement or separation from service if a vested member.

(2) If two or more persons are eligible for a surviving spouse benefit under this subsection, benefits shall be divided between the surviving spouses based on the percentage of total service credit the member accrued during each marriage.

(3) This section shall apply retroactively. [1991 sp.s. c 12 § 2.]

41.26.170 Refund of contributions on discontinuance of service—Reentry. (1) Should service of a member be discontinued except by death, disability, or retirement, the member shall, upon application therefor, be paid the accumulated contributions within sixty days after the day of application and the rights to all benefits as a member shall cease: PROVIDED, That any member with at least five years' service may elect the provisions of RCW 41.26.090(2).

(2) Any member whose contributions have been paid in accordance with subsection (1) of this section and who reenters the service of an employer shall upon the restoration of withdrawn contributions, which restoration must be completed within a total period of five years of service following resumption of employment, then receive credit toward retirement for the period of previous service which these contributions are to cover.

(3) If the member fails to meet the time limitations of subsection (2) of this section, the member may make the payment required under RCW 41.50.165(2) prior to retirement. The member shall then receive credit toward retirement for the period of previous service that the withdrawn contributions cover. [1994 c 197 § 6; 1991 c 35 § 24; 1970 ex.s. c 6 § 14; 1969 ex.s. c 209 § 22.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Intent—1991 c 35: See note following RCW 41.26.005.

41.26.190 Credit for military service. Each person affected by this chapter who at the time of entering the armed services was a member of this system, and has honorably served in the armed services of the United States, shall have added to the period of service as computed under this chapter, the period of service in the armed forces: PROVIDED, That such credited service shall not exceed five years. [1991 c 35 § 26; 1970 ex.s. c 6 § 13; 1969 ex.s. c 209 § 18.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.26.192 Credit for service under prior pension system—Restoration of withdrawn contributions. If a member of plan I served as a law enforcement officer or fire fighter under a prior pension system and that service is not creditable to plan I because the member withdrew his or her contributions plus accrued interest from the prior pension system, the member's prior service as a law enforcement officer shall be credited to plan I if the member pays to the retirement system the amount under RCW 41.50.165(2) prior to retirement. [1994 c 197 § 7; 1992 c 157 § 1.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

41.26.194 Credit for service under prior pension system—Service not covered under prior system. If a plan I member's prior service as a law enforcement officer or fire fighter under a prior pension system is not creditable because, although employed in a position covered by a prior pension act, the member had not yet become a member of the pension system governed by the act, the member's prior service as a law enforcement officer or fire fighter shall be creditable under plan I, if the member pays to the plan the amount set forth under RCW 41.50.165(2) prior to retirement. [1994 c 197 § 8; 1992 c 157 § 2.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

41.26.197 Service credit for paid leave of absence—Application to elected officials of labor organizations. (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided under the provisions of RCW 41.26.080 through 41.26.3903.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The basic salary reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement. [1993 c 95 § 3.]

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

41.26.200 Appeal to director of retirement systems. Any person feeling aggrieved by any order or determination of a disability board denying disability leave or disability retirement, or canceling a previously granted disability retirement allowance, shall have the right to appeal the order or determination to the director. The director shall have no jurisdiction to entertain the appeal unless a notice of appeal is filed with the director within thirty days following the rendition of the order by the applicable disability board. A copy of the notice of appeal shall be served upon the director and the applicable disability board and, within ninety days thereof, the disability board shall certify its decision and order which shall include findings of fact and conclusions of law, together with a transcript of all proceedings in connection therewith, to the director for review. Upon review of the record, the director may affirm the order of the disability board or may remand the case for such further proceedings as he or she may direct, in accordance with such rules of procedure as the director shall promulgate. [1981 c 294 § 5; 1974 ex.s. c 120 § 6; 1971 ex.s. c 257 § 13; 1970 ex.s. c 6 § 11; 1969 ex.s. c 209 § 16.]

Severability—1981 c 294: See note following RCW 41.26.115.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.211 Notice for hearing required prior to petitioning for judicial review. Any person aggrieved by any final decision of the director must, before petitioning for judicial review, file with the director of the retirement system by mail or personally within sixty days from the day such decision was communicated to such person, a notice for a hearing. The notice of hearing shall set forth in full detail the grounds upon which such person considers such decision unjust or unlawful and shall include every issue to be considered, and it must contain a detailed statement of facts upon which such person relies in support thereof. Such persons shall be deemed to have waived all objections or irregularities concerning the matter on which such appeal is taken other than those specifically set forth in the notice of hearing or appearing in the records of the retirement system. [1984 c 184 § 16; 1981 c 294 § 6; 1969 ex.s. c 209 § 19. Formerly RCW 41.26.052, 41.26.210.]

Severability—1984 c 184: See note following RCW 41.50.150.

Severability—1981 c 294: See note following RCW 41.26.115.

41.26.221 Hearing—Conduct. A hearing shall be held by the director, or the director's duly authorized representative, in the county of the residence of the claimant at a time and place designated by the director. Such hearing shall be de novo and shall conform to the provisions of chapter 34.05 RCW, as now or hereafter amended. The disability board and the department shall be entitled to appear in all such proceedings and introduce testimony in support of the decision. Judicial review of any final decision by the director shall be governed by the provisions of chapter 34.05 RCW as now law or hereafter amended. [1984 c 184 § 17; 1981 c 294 § 7; 1969 ex.s. c 209 § 20. Formerly RCW 41.26.054, 41.26.220.]

Severability—1984 c 184: See note following RCW 41.50.150.

Severability—1981 c 294: See note following RCW 41.26.115.

41.26.240 Increases or decreases in retirement allowances to be determined by department in accordance with consumer price index. For purposes of this section:

(1) "Index" shall mean, for any calendar year, that year's average Consumer Price Index—Seattle, Washington area for urban wage earners and clerical workers, all items (1957-1959=100), compiled by the Bureau of Labor Statistics, United States Department of Labor;

(2) "Retirement allowance" shall mean the retirement allowance provided for in RCW 41.26.100 and 41.26.130, and the monthly allowance provided for in RCW 41.26.160.

Effective April 1 of 1971, and of each succeeding year, every retirement allowance which has been in effect for more than one year shall be adjusted to that dollar amount which exceeds its original dollar amount by the percentage difference which the department finds to exist between the index for the previous calendar year and the index for the calendar year prior to the effective retirement date of the person to whom, or on behalf of whom, such retirement allowance is being paid.

For the purposes of this section, basic allowance shall mean that portion of a total retirement allowance, and any cost of living adjustment thereon, attributable to a member (individually) and shall not include the increased amounts attributable to the existence of a child or children. In those cases where a child ceases to be qualified as an eligible child, so as to lessen the total allowance, the allowance shall, at that time, be reduced to the basic allowance plus the amount attributable for the appropriate number of eligible children. In those cases where a child qualifies as an eligible child subsequent to the retirement of a member so as to increase the total allowance payable, such increased allowance shall at the time of the next and appropriate subsequent cost of living adjustments, be considered the original dollar amount of the allowance. [1991 c 35 § 27; 1974 ex.s. c 120 § 13; 1970 ex.s. c 6 § 16; 1969 ex.s. c 209 § 24.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

41.26.250 Increase in presently payable benefits for service or disability authorized. All benefits presently payable pursuant to the provisions of RCW 41.20.050, 41.20.060 and 41.20.080 as such RCW sections existed prior to the effective date of the amendment of such RCW sections by sections 1, 2, 3, chapter 191, Laws of 1961 to persons who retired prior to the effective date of the said 1961 amendatory act, shall be increased annually as hereafter in this section provided. The local pension board shall meet subsequent to March 31st but prior to June 30th of each year for the purpose of adjusting benefit allowances payable pursuant to the aforementioned sections. The local board shall determine the increase in the consumer price index between January 1st and December 31st of the previous year and increase in dollar amount the benefits payable subsequent to July 1st of the year in which said board makes such determination by a dollar amount proportionate to the increase in the consumer price index: PROVIDED, That regardless of the change in the consumer price index, such increase shall be at least two percent each year such adjustment is made.

Each year effective with the July payment all benefits specified herein, shall be increased as authorized by this section. This benefit increase shall be paid monthly as part of the regular pension payment and shall be cumulative.

For the purpose of this section the term

"Consumer price index" shall mean, for any calendar year, the consumer price index for the Seattle, Washington area as compiled by the bureau of labor statistics of the United States department of labor. [1975 1st ex.s. c 178 § 3; 1974 ex.s. c 190 § 3; 1970 ex.s. c 37 § 2; 1969 ex.s. c 209 § 34.]

Construction—Severability—1975 1st ex.s. c 178: See RCW 41.16.911, 41.16.921.

Construction—1970 ex.s. c 37: See note following RCW 41.18.104.

41.26.260 Increase in certain presently payable death benefits authorized. All benefits presently payable pursuant to the provisions of RCW 41.20.085 which are not related to the amount of current salary attached to the position held by the deceased member, shall be increased

annually in the same manner and to the same extent as provided for pursuant to RCW 41.26.250. [1974 ex.s. c 190 § 4; 1969 ex.s. c 209 § 35.]

41.26.270 Declaration of policy respecting benefits for injury or death—Civil actions abolished. The legislature of the state of Washington hereby declares that the relationship between members of the law enforcement officers' and fire fighters' retirement system and their governmental employers is similar to that of workers to their employers and that the sure and certain relief granted by this chapter is desirable, and as beneficial to such law enforcement officers and fire fighters as workers' compensation coverage is to persons covered by Title 51 RCW. The legislature further declares that removal of law enforcement officers and fire fighters from workers' compensation coverage under Title 51 RCW necessitates the (1) continuance of sure and certain relief for personal injuries incurred in the course of employment or occupational disease, which the legislature finds to be accomplished by the provisions of this chapter and (2) protection for the governmental employer from actions at law; and to this end the legislature further declares that the benefits and remedies conferred by this chapter upon law enforcement officers and fire fighters covered hereunder, shall be to the exclusion of any other remedy, proceeding, or compensation for personal injuries or sickness, caused by the governmental employer except as otherwise provided by this chapter; and to that end all civil actions and civil causes of actions by such law enforcement officers and fire fighters against their governmental employers for personal injuries or sickness are hereby abolished, except as otherwise provided in this chapter. [1989 c 12 § 13; 1987 c 185 § 13; 1985 c 102 § 4; 1971 ex.s. c 257 § 14.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Purpose—Retrospective application—1985 c 102: See notes following RCW 41.26.120.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.281 Cause of action for injury or death, when. If injury or death results to a member from the intentional or negligent act or omission of a member's governmental employer, the member, the widow, widower, child, or dependent of the member shall have the privilege to benefit under this chapter and also have cause of action against the governmental employer as otherwise provided by law, for any excess of damages over the amount received or receivable under this chapter. [1991 c 35 § 28; 1971 ex.s. c 257 § 15. Formerly RCW 41.26.058, 41.26.280.]

Intent—1991 c 35: See note following RCW 41.26.005.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.3901 Severability—1969 ex.s. c 209. If any provision of *this 1969 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1969 ex.s. c 209 § 42. Formerly RCW 41.26.900.]

***Reviser's note:** "this 1969 amendatory act," see note following chapter digest.

41.26.3902 Act to control inconsistencies. To the extent that the provisions of *this 1969 amendatory act are inconsistent with the provisions of any other law, the provisions of *this 1969 amendatory act shall be controlling. [1969 ex.s. c 209 § 43. Formerly RCW 41.26.910.]

***Reviser's note:** "this 1969 amendatory act," see note following chapter digest.

41.26.3903 Effective date—1969 ex.s. c 209. *This 1969 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and shall take effect on July 1, 1969. [1969 ex.s. c 209 § 45. Formerly RCW 41.26.920.]

***Reviser's note:** "This 1969 amendatory act," see note following chapter digest.

"PLAN II"

41.26.410 Provisions applicable to plan II. RCW 41.26.420 through 41.26.550 shall apply only to plan II members. [1991 c 35 § 29; 1977 ex.s. c 294 § 2.]

Intent—1991 c 35: See note following RCW 41.26.005.

Legislative direction and placement—1977 ex.s. c 294: "Sections 1 through 16 of this 1977 amendatory act shall be added to chapter 41.26 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter." [1977 ex.s. c 294 § 25.]

Section headings—1977 ex.s. c 294: "Section headings used in this 1977 amendatory act shall not constitute any part of the law." [1977 ex.s. c 294 § 24.]

41.26.420 Computation of the retirement allowance. Except as provided in RCW 41.26.530, a member of the retirement system shall receive a retirement allowance equal to two percent of such member's final average salary for each year of service. [1993 c 517 § 2; 1979 ex.s. c 249 § 4; 1977 ex.s. c 294 § 3.]

Purpose—1993 c 517: "The legislature recognizes the demanding, physical nature of law enforcement and fire fighting, and the resulting need to allow law enforcement officers and fire fighters to make transitions into other careers when these employees feel they can no longer pursue law enforcement or fire fighting. The legislature also recognizes the challenge and cost of maintaining the viability of a retired employee's benefit over longer periods of retirement as longevity increases, and that this problem is compounded for employees who leave a career before they retire from the work force.

Therefore, the purpose of this act is to: (1) Provide full retirement benefits to law enforcement officers and fire fighters at an appropriate age that reflects the unique and physically demanding nature of their work; (2) provide a fair and reasonable value from the retirement system for those who leave the law enforcement or fire fighting profession before retirement; (3) increase flexibility for law enforcement officers and fire fighters to make transitions into other public or private sector employment; (4) increase employee options for addressing retirement needs, personal financial planning, and career transitions; and (5) continue the legislature's established policy of having employees pay a fifty percent share of the contributions toward their retirement benefits and any enhancements." [1993 c 517 § 1.]

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.425 Lump sum retirement allowance—Reentry—Conditions for reinstatement of service. (1) On [Title 41 RCW—page 110]

or after June 10, 1982, the director may pay a beneficiary, subject to the provisions of subsection (5) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.26.420 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of such monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A beneficiary, subject to the provisions of subsection (5) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to re-retiring, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) If a member fails to meet the time limitations set forth under subsection (3) of this section, the member may reinstate all previous service under RCW 41.50.165(2) prior to retirement. The sum deposited shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(5) Only persons entitled to or receiving a service retirement allowance under RCW 41.26.420 or an earned disability allowance under RCW 41.26.470 qualify for participation under this section.

(6) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system. [1994 c 197 § 9; 1982 c 144 § 1.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

41.26.430 Retirement for service. (1) **NORMAL RETIREMENT.** Any member with at least five service credit years of service who has attained at least age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.26.420.

(2) **EARLY RETIREMENT.** Any member who has completed at least twenty service credit years of service and has attained age fifty shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.26.420, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age fifty-five. [1993 c 517 § 3; 1991 c 343 § 18; 1977 ex.s. c 294 § 4.]

Purpose—1993 c 517: See note following RCW 41.26.420.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.440 Post-retirement cost-of-living. Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

- (1) The original dollar amount of the retirement allowance;
- (2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";
- (3) The index for the calendar year prior to the date of determination, to be known as "index B"; and
- (4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

- (a) Produce a retirement allowance which is lower than the original retirement allowance;
 - (b) Exceed three percent in the initial annual adjustment;
- or
- (c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. [1977 ex.s. c 294 § 5.]

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.450 Plan II employer, member, and state contributions. (1) The required contribution rates to the plan II system for members, employers, and the state of Washington shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates.

(2) Except as provided in subsection (3) of this section, the member, the employer and the state shall each contribute the following shares of the cost of the retirement system:

Member	50%
Employer	30%
State	20%

(3) Port districts established under Title 53 RCW and institutions of higher education as defined in RCW 28B.10.016 shall contribute both the employer and state shares of the cost of the retirement system for any of their employees who are law enforcement officers. Institutions of higher education shall contribute both the employer and the state shares of the cost of the retirement system for any of their employees who are fire fighters.

(4) Effective January 1, 1987, however, no member or employer contributions are required for any calendar month in which the member is not granted service credit.

(5) Any adjustments in contribution rates required from time to time for future costs shall likewise be shared proportionally by the members, employers, and the state.

(6) Any increase in the contribution rate required as the result of a failure of the state or of an employer to make any contribution required by this section shall be borne in full by the state or by that employer not making the contribution.

(7) The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

(8) Members' contributions required by this section shall be deducted from the members basic salary each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends. The state's contribution required by this section shall be transferred to the plan II fund from the total contributions transferred by the state treasurer under RCW 41.45.060 and 41.45.070. [1996 c 38 § 3; 1993 c 502 § 2; 1989 c 273 § 14; 1986 c 268 § 1; 1984 c 184 § 10; 1977 ex.s. c 294 § 6.]

Effective date—1993 c 502: See note following RCW 41.26.030.

Severability—1989 c 273: See RCW 41.45.900.

Severability—1984 c 184: See note following RCW 41.50.150.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.460 Options for payment of retirement allowances. (1) Upon retirement for service as prescribed in RCW 41.26.430 or disability retirement under RCW 41.26.470, a member shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply. [1996 c 175 § 3; 1995 c 144 § 17; 1990 c 249 § 3; 1977 ex.s. c 294 § 7.]

Findings—1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.470 Earned disability allowance—Cancellation of allowance—Reentry—Receipt of service credit while disabled—Conditions—Disposition upon death of recipient. (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the director shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-five.

(2) Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is no longer entitled to benefits under Title 51 RCW, the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the member at the time of retirement or, if unable to perform the duties of the rank, then, at the member's request, in such other like or lesser rank as may be or become open and available, the duties of which the member is then able to perform. In no event shall a member previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the member at the date of the retirement for disability. If the department determines that the member is able to return to service, the member is entitled to notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW, the Administrative Procedure Act.

(3) Those members subject to this chapter who became disabled in the line of duty on or after July 23, 1989, and

who receive benefits under RCW 41.04.500 through 41.04.530 or similar benefits under RCW 41.04.535 shall receive or continue to receive service credit subject to the following:

(a) No member may receive more than one month's service credit in a calendar month.

(b) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(c) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(d) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(e) State contributions shall be as provided in RCW 41.26.450.

(f) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred.

(g) The service and compensation credit under this section shall be granted for a period not to exceed six consecutive months.

(h) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

(4)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no such designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is neither such designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions. [1995 c 144 § 18; 1993 c 517 § 4; 1990 c 249 § 19. Prior: 1989 c 191 § 1; 1989 c 88 § 1; 1982 c 12 § 2; 1981 c 294 § 9; 1977 ex.s. c 294 § 8.]

Purpose—1993 c 517: See note following RCW 41.26.420.

Findings—1990 c 249: See note following RCW 2.10.146.

Severability—1981 c 294: See note following RCW 41.26.115.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

Disability leave supplement for law enforcement officers and fire fighters: RCW 41.04.500 through 41.04.550.

41.26.480 Industrial insurance. Notwithstanding any other provision of law, members shall be eligible for industrial insurance as provided by Title 51 RCW, as now or

hereafter amended, and shall be included in the payroll of the employer for such purpose. [1977 ex.s. c 294 § 9.]

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.490 Application for and effective date of retirement allowances. Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.26.430, 41.26.470, or 41.26.510 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.26.430 shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.26.430, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.26.470 shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.26.510 shall accrue from the first day of the calendar month immediately following the member's death. [1977 ex.s. c 294 § 10.]

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.500 Suspension of retirement allowance upon reemployment—Reinstatement. (1) No retiree under the provisions of plan II shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030. If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section. [1990 c 274 § 12; 1977 ex.s. c 294 § 11.]

Findings—Construction—1990 c 274: See notes following RCW 41.32.010.

Application—Reservation—1990 c 274 §§ 11, 12, 14, and 15: See note following RCW 41.40.690.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.510 Death benefits. (1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written

designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.26.430(1), actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.26.460 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.26.430(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies on or after July 25, 1993, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives. [1995 c 245 § 1; 1995 c

144 § 19; 1993 c 236 § 3; 1991 c 365 § 31; 1990 c 249 § 14; 1977 ex.s. c 294 § 12.]

Reviser's note: This section was amended by 1995 c 144 § 19 and by 1995 c 245 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1995 c 245: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]." [1995 c 245 § 3.]

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

Findings—1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.520 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service. (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.26.410 through 41.26.550.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The basic salary reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (6) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes the employer, member, and state contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner.

(4) If a member fails to meet the time limitations of subsection (3) of this section, the member may receive a maximum of two years of service credit during a member's working career for those periods when a member is on unpaid leave of absence authorized by an employer. This may be done by paying the amount required under RCW 41.50.165(2) prior to retirement.

(5) For the purpose of subsection (3) of this section the contribution shall not include the contribution for the unfunded supplemental present value as required by RCW 41.26.450. The contributions required shall be based on the average of the member's basic salary at both the time the authorized leave of absence was granted and the time the member resumed employment.

(6) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five

years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under RCW 41.26.450 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(iii) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2).

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall establish the member's service credit and shall bill the employer and the state for their respective contributions required under RCW 41.26.450 for the period of military service, plus interest as determined by the department.

(c) The contributions required under (a)(ii) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

(7) A member receiving benefits under Title 51 RCW who is not receiving benefits under this chapter shall be deemed to be on unpaid, authorized leave of absence. [1996 c 61 § 1; 1994 c 197 § 10; 1993 c 95 § 4; 1992 c 119 § 1; 1989 c 88 § 2; 1977 ex.s. c 294 § 13.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

Retroactive application—1992 c 119: "This act applies retroactively for retirement system service credit for military service which began on or after January 1, 1990." [1992 c 119 § 4.]

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.530 Vested membership. (1) A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.26.430 if such member maintains the member's accumulated contributions intact.

(2) The retirement allowance payable under the provisions of RCW 41.26.430 to a member who separates after having completed at least twenty years of service, and remains a member during the period of his or her absence from service by maintaining his or her accumulated contributions intact, shall be increased by twenty-five one-hundredths of one percent, compounded for each month from the date of separation to the date the retirement allowance commences.

es as provided in RCW 41.26.490. [1993 c 517 § 5; 1977 ex.s. c 294 § 14.]

Purpose—1993 c 517: See note following RCW 41.26.420.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.540 Refund of contributions on termination.

(1)(a) A member who has completed less than ten years of service, who ceases to be an employee of an employer except by service or disability retirement, may request a refund of the member's accumulated contributions.

(b) A member who has completed ten or more years of service, who ceases to be an employee of an employer except by service or disability retirement, may request a refund of one hundred fifty percent of the member's accumulated contributions. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(2) The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under RCW 41.26.410 through 41.26.550. [1995 c 245 § 2; 1993 c 517 § 6; 1982 1st ex.s. c 52 § 5; 1977 ex.s. c 294 § 15.]

Effective date—1995 c 245: See note following RCW 41.26.510.

Purpose—1993 c 517: See note following RCW 41.26.420.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.550 Reentry. (1) A member, who had left service and withdrawn the member's funds pursuant to RCW 41.26.540, shall receive service credit for such prior service if the member restores all withdrawn funds together with interest since the time of withdrawal as determined by the department.

The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first.

(2) If a member fails to meet the time limitations of subsection (1) of this section, the member may receive service credit destroyed by the withdrawn contributions if the amount required under RCW 41.50.165(2) is paid. [1994 c 197 § 11; 1993 c 517 § 7; 1977 ex.s. c 294 § 16.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Purpose—1993 c 517: See note following RCW 41.26.420.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.410.

41.26.901 Severability—1977 ex.s. c 294. If any provision of this 1977 amendatory act, or its application to

any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 294 § 26.]

41.26.921 Effective date—1977 ex.s. c 294. This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect October 1, 1977. [1977 ex.s. c 294 § 27.]

Chapter 41.28

RETIREMENT OF PERSONNEL IN CERTAIN FIRST CLASS CITIES

Sections

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41.28.910	Repeal.
41.28.920	Effective date—1939 c 207.

Portability of public retirement benefits: Chapter 41.54 RCW.

State-wide city employees' retirement system: Chapter 41.44 RCW.

41.28.005 Establishment of retirement and pension systems authorized. Any city attaining the status of a first class city after July 1, 1939, is empowered by this chapter to establish retirement and pension systems for superannuated or totally and permanently disabled officers and employees of cities of the first class. [1939 c 207 § 1; RRS § 9592-101. Formerly RCW 41.28.020, part.]

41.28.010 Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Retirement system" shall mean "employees' retirement system", provided for in RCW 41.28.020.

(2) "Employee" shall mean any regularly appointed officer or regularly appointed employee of a first class city as described in RCW 41.28.005, whose compensation in such employment is paid wholly by that city.

(3) "Member" shall mean any person included in the membership of the retirement system as provided in RCW 41.28.030.

(4) "City" shall mean any city of the first class as described in RCW 41.28.005.

(5) "Board" shall mean "board of administration" as provided in RCW 41.28.080.

(6) "Retirement fund" shall mean "employees' retirement fund" as created and established in RCW 41.28.070.

(7) "City service" shall mean service rendered to city for compensation, and for the purpose of this chapter, a member shall be considered as being in city service only while he is receiving compensation from the city for such service.

(8) "Prior service" shall mean the service of a member for compensation rendered to the city prior to July 1, 1939, and shall also include military or naval service of a member to the extent specified in RCW 41.28.050.

(9) "Continuous service" shall mean uninterrupted employment by that city, except that discontinuance of city service of a member caused by layoff, leave of absence, suspension, or dismissal, followed by reentrance into city service within one year, shall not count as a break in the continuity of service: PROVIDED, That for the purpose of establishing membership in the retirement system continuous service shall mean six months' service in any one year.

(10) "Beneficiary" shall mean any person in receipt of a pension, annuity, retirement allowance, disability allowance, or any other benefit provided in this chapter.

(11) "Compensation" shall mean the compensation payable in cash, plus the monetary value, as determined by the board of administration, of any allowance in lieu thereof.

(12) "Compensation earnable" by a member shall mean the average compensation as determined by the board of administration upon the basis of the average period of employment of members in the same group or class of employment and at the same rate of pay.

(13) "Final compensation" means the annual average of the greatest compensation earnable by a member during any consecutive five-year period of service for which service credit is allowed.

(14) "Normal contributions" shall mean contributions at the rate provided for in RCW 41.28.040(1).

(15) "Additional contributions" shall mean the contributions provided for in RCW 41.28.040(4).

(16) "Regular interest", unless changed by the board of administration as provided in RCW 41.28.060, shall mean interest at four percent per annum, compounded annually.

(17) "Accumulated normal contribution" shall mean the sum of all normal contributions, deducted from the compensation of a member, standing to the credit of his individual account, together with regular interest thereon.

(18) "Accumulated additional contributions" shall mean the sum of all the additional contributions, deducted from the compensation of a member, standing to the credit of his individual account, together with regular interest thereon.

(19) "Accumulated contributions" shall mean accumulated normal contributions plus accumulated additional contributions.

(20) "Pension" shall mean payments derived from contributions made by the city as provided for in RCW 41.28.130 and 41.28.150.

(21) "Annuity" shall mean payments derived from contributions made by a member as provided in RCW 41.28.130 and 41.28.150.

(22) "Retirement allowance" shall mean the pension plus the annuity.

(23) "Fiscal year" shall mean any year commencing with January 1st, and ending with December 31st, next following.

(24) "Creditable service" shall mean such service as is evidenced by the record of normal contributions received from the employee plus prior service if credit for same is still intact or not lost through withdrawal of accumulated normal contributions as provided in RCW 41.28.110. [1967 c 185 § 1; 1963 c 91 § 1; 1939 c 207 § 2; RRS § 9592-102.]

41.28.020 Retirement system created—Adoption by cities. A retirement system is hereby created and established in each city of the first class in each county with a population of one hundred twenty-five thousand or more to be known as the "employees' retirement system". This chapter shall become effective as to any such city when by ordinance of the city duly enacted its terms are expressly accepted and made applicable thereto. This section shall not be construed as preventing performance before July 1, 1939, of any preliminary work which any city council, city commission or board of administration shall deem necessary. [1991 c 363 § 118; 1939 c 207 § 3; RRS § 9592-103. FORMER PART OF SECTION: 1939 c 207 § 1; RRS § 9592-101 now codified as RCW 41.28.005.]

~~Purpose—Captions not law—1991 c 363:~~ See notes following RCW 2.32.180.

41.28.030 Employees within or excluded from system. (1) With the exception of those employees who are excluded from membership as herein provided, all employees shall become members of the retirement system as follows:

(a) Every employee in city service as defined in this chapter, on July 1, 1939, shall become a member of the retirement system on that date.

(b) Every employee who enters or reenters city service after July 1, 1939, shall become a member of the retirement system upon the completion of six months of continuous service.

(2) The following shall be specifically exempted from the provisions of this chapter:

(a) Members of the police departments who are entitled to the benefits of the police relief and pension fund as established by state law.

(b) Members of the fire departments who are entitled to the benefits of the firemen's relief and pension fund as established by state law.

(3) It shall be the duty of the head of each office or department to give immediate notice in writing to the board of administration of the change in status of any member of his office or department, resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal or death. The head of each office or department shall furnish

such other information concerning any member as the board may require.

(4) Each member shall be subject to all the provisions of this chapter and to all the rules and regulations adopted by the board of administration. Should the service of any member, in any period of ten consecutive years, amount to less than five years, or should he withdraw more than one quarter of his accumulated contributions, or should he die or be retired, he shall thereupon cease to be a member. [1939 c 207 § 4; RRS § 9592-104.]

41.28.040 Rates of contribution—Deduction and payment into fund. (1) The normal rate of contribution of members shall be those adopted by the board of administration, subject to the approval of the city council or city commission, and for the first five-year period such rates shall be based on sex and on age of entry into the retirement system, which age shall be the age at the birthday nearest the time of entry into the system. The rates so adopted shall remain in full force and effect until revised or changed by the board of administration in the manner provided in RCW 41.28.060. The normal rates of contribution shall be so fixed as to provide an annuity which, together with the pension provided by the city, shall give as nearly as may be a retirement allowance at the age of sixty-two years of one and one-third percent of the final compensation multiplied by the number of years of service of the retiring employee. The normal rate established for age sixty-one shall be the rate for any member who has attained a greater age before entry into the retirement system. The normal rate of contribution for age twenty shall be the rate for any member who enters the retirement system at an earlier age.

(2) Subject to the provision of this chapter, the board of administration shall adopt rules and regulations governing the making of deductions from the compensation of employees and shall certify to the head of each office or department the normal rate of contribution for each member provided for in subdivision (1) of this section. The head of the department shall apply such rate of contribution, and shall certify to the city comptroller on each and every payroll the amount to be contributed and shall furnish immediately to the board a copy of each and every payroll; and each of said amounts shall be deducted by the city comptroller and shall be paid into the retirement fund, hereinafter provided for, and shall be credited by the board together with regular interest to an individual account of the member for whom the contribution was made.

Every member shall be deemed to consent and agree to the contribution made and provided for herein, and shall receipt in full for his salary or compensation. Payment less said contribution shall be a full and complete discharge of all claims and demands whatsoever for the service rendered by such person during the period covered by such payment, except his claim to the benefits to which he may be entitled under the provisions of this chapter.

(3) At the end of each payroll period, the board shall determine the aggregate amount of the normal contributions for such period, and shall certify such aggregate to the city comptroller, who shall thereupon transfer to the retirement fund, hereinafter provided for, from the money appropriated for that purpose in the budget for the fiscal year, an amount

equal to the aggregate normal contributions for the period received from members.

(4) Any member may elect to contribute at rates in excess of those provided for in subdivision (1) of this section, for the purpose of providing additional benefits, but the exercise of this privilege by a member shall not place on the city any additional financial obligation. The board of administration, upon application, shall furnish to such member information concerning the nature and amount of additional benefits to be provided by such additional contribution. [1967 c 185 § 2; 1939 c 207 § 5; RRS § 9592-105.]

41.28.050 Allowance of service credit. (1) Subject to the following and all other provisions of this chapter, including such rules and regulations as the board shall adopt in pursuance thereof, the board, subject to the approval of the city council or city commission, shall determine and may modify allowance for service.

Time during which a member is absent on leave without pay shall not be allowed in computing service: PROVIDED, HOWEVER, That any member shall be given credit for any period served by him in the national guard, or in the United States army, navy, or marine corps, upon the call of the president, if at the time of such service such member was a regular employee under leave of absence. Certificate of honorable discharge from and/or documentary evidence of such service shall be submitted to the board in order to obtain credit for such service.

Each member shall file with the board such information affecting his status as a member of the retirement system as the board may require.

(2) The board shall grant credit for prior service to each member entering the retirement system on July 1, 1939, and to each member entering after that date, if such entry is within one year after rendering service prior to July 1, 1939: PROVIDED, HOWEVER, That the board may grant credit for prior service to those entering the retirement system after July 1, 1939, where the employee, because of sickness or other disability, has been on leave of absence, regularly granted, since discontinuance of city service, regardless of the length of such leave. No prior service credit shall be used as a basis for retirement or other benefit unless the membership continues until retirement on a retirement allowance or until the granting of other benefits. [1939 c 207 § 6; RRS § 9592-106.]

41.28.060 Board of administration to administer system—Powers and duties—Actuarial investigations and valuations—Reports, records, and accounts. The administration of the retirement system is hereby vested in the board of administration created in RCW 41.28.080. The board shall exercise the powers and duties conferred upon it by said section, and in addition thereto:

(1) The board shall keep in convenient form such data as shall be necessary for the actuarial valuation of the retirement fund created by this chapter. At the end of the five-year period beginning with the year 1939, and at the end of every five-year period thereafter, the board shall cause to be made an actuarial investigation into the mortality, service and compensation experience of the members, and beneficiaries as defined by this chapter; and shall further cause to be

made an actuarial valuation of the assets and liabilities of the retirement fund, and upon the basis of such investigation and valuation and subject to the approval of the city council or city commission, shall:

- (a) Make any necessary changes in the rate of interest;
- (b) Adopt for the retirement system such mortality, service and other tables as shall be necessary;
- (c) Revise or change the rates of contribution by members on the basis of such mortality, service and other tables.

(2) The board shall promptly transmit to the city council or city commission a report covering the actuarial investigation and actuarial valuation provided for in subdivision (1) of this section.

(3) In addition to other records and accounts, the board shall keep such detailed reports and accounts as shall be necessary to show the financial condition of the retirement fund at all times.

(4) The board shall annually transmit to the city council or city commission a report showing the financial condition of the fund established by this chapter. [1939 c 207 § 7; RRS § 9592-107.]

41.28.070 Employees' retirement fund created—Composition. A fund is hereby created and established in all cities of the first class as under this chapter provided to be known as the "employees' retirement fund" and shall consist of all the moneys paid into it in accordance with the provisions of this chapter, whether such moneys shall take the form of cash, securities, or other assets. [1939 c 207 § 8; RRS § 9592-108.]

41.28.080 Board of administration—Members—Duties—Fiscal affairs. (1) There is hereby created and established a board of administration in each city coming under this chapter, which shall, under the provisions of this chapter and the direction of the city council or city commission, administer the retirement system and the retirement fund created by this chapter. Under and pursuant to the direction of the city council or city commission, the board shall provide for the proper investment of the moneys in the said retirement fund.

(2) The board of administration shall consist of seven members, as follows: Three members appointed by the regular appointing authority of the city, and three employees who are eligible to membership in the retirement system, to be elected by the employees. The above six members shall appoint the seventh member.

(3) The investment of all or any part of the retirement fund shall be subject to chapter 35.39 RCW.

(4) Subject to such provisions as may be prescribed by law for the deposit of municipal funds in banks, cash belonging to the retirement fund may be deposited in any licensed national bank or in any bank, banks or corporations authorized or licensed to do a banking business and organized under the laws of the state of Washington.

(5) The city treasurer shall be the custodian of the retirement fund. All payments from said fund shall be made by the city treasurer but only upon warrant duly executed by the city comptroller.

(6) Except as herein provided, no member and no employee of the board of administration shall have any interest, direct or indirect, in the making of any investments from the retirement fund, or in the gains or profits accruing therefrom. And no member or employee of said board, directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by said board; nor shall any member or employee of said board become an endorser or surety or become in any manner an obligor for moneys invested by the board. [1983 c 3 § 93; 1969 ex.s. c 211 § 2; 1939 c 207 § 9; RRS § 9592-109.]

41.28.085 Legislative intent—Investments. In order that the intent of the legislature may be made clear with respect to investments, but without restricting the necessary flexibility that must exist for successful investing of the retirement and pension funds, the legislature makes this declaration of its desire that the investment authority shall give primary consideration to dealing with brokerage firms which maintain offices in the state of Washington so that the investment programs may make a meaningful contribution to the economy of the state. It is further the desire of the legislature that the retirement and pension funds shall be used as much as reasonably possible to benefit and expand the business and economic climate within the state of Washington so long as such use would be consistent with sound investment policy. [1969 ex.s. c 211 § 3.]

41.28.090 Contributions by city. (1) There shall be paid into the retirement fund by contributions of the city, the amounts necessary to pay all pensions and all other benefits allowable under this chapter to members on account of prior service, and minimum allowances provided for in RCW 41.28.130. Until the amount accumulated in the retirement fund becomes at least as large as the present value of all amounts thereafter payable from said fund the amount annually due to the said fund under this section shall be the amount payable from said fund in the ensuing fiscal year on account of prior service and minimum allowances. [1939 c 207 § 10; RRS § 9592-110.]

41.28.100 City obligated to contribute. The payments of the city due the retirement fund as provided for in this chapter are hereby made obligations of the city as defined in this chapter. The board shall annually, on or before the tenth day of July each year, prepare and submit to the city council or city commission an estimate of the amounts necessary to meet such obligations, and the city council or city commission shall provide for the raising of such amounts as are necessary to make such payments. [1939 c 207 § 11; RRS § 9592-111.]

41.28.110 Payments on discontinuance of service—Reemployment—Redeposit. (1) Should the service of a member be discontinued, except by death or retirement, he shall be paid not later than six months after the day of discontinuance such part of his accumulated contributions as he shall demand: PROVIDED, HOWEVER, That a member may appeal to the board and by unanimous vote, the board

may grant a request for immediate withdrawal of contributions. If in the opinion of the board said member is permanently separated from service by reason of such discontinuance he shall be paid forthwith all of his accumulated contributions with interest: AND PROVIDED ALSO, That the board may, in its discretion, withhold for not more than one year after a member last rendered service all or part of his accumulated normal contributions if after a previous discontinuance of service he withdrew all or part of his accumulated normal contributions and failed to redeposit such withdrawn amount in the retirement fund as provided in this section: PROVIDED FURTHER, That the city shall receive credit for the full amount deposited by the city in the retirement fund for such member's benefit plus interest. Any member may redeposit in the retirement fund an amount equal to that which he previously withdrew therefrom at the last termination of his membership, such redeposit to be paid into the retirement fund in accordance with rules established by the board. If a member upon reentering the retirement system after a termination of his membership shall not make such a redeposit as hereinabove provided, the rate of his contributions for future years shall be the normal rate provided for in RCW 41.28.040(1) at his age of reentrance; otherwise his rate of contribution for future years shall be the same as his rate prior to the termination of his membership. In the event such redeposit is made by a member, an amount equal to the accumulated normal contributions so redeposited shall again be held for the benefit of said member, and shall no longer be included in the amounts available to meet the obligations of the city on account of benefits that have been granted or liabilities that have been assumed on account of prior service of members, and the city shall reinstate the prior service credit for such member. [1939 c 207 § 12; RRS § 9592-112.]

41.28.120 Retirement for service. Retirement of member for service shall be made by the board of administration as follows:

(1) Each member in the city service on June 8, 1967, who, on or before such effective date, has attained the age of sixty-five years or over, shall be forthwith retired on the first day of the calendar month next succeeding the month in which the employee shall have attained the age of sixty-five: PROVIDED, That none of such members shall be subject to compulsory retirement for a period of five years following said effective date, but during such period any member having attained the age of sixty-five may voluntarily retire after attaining such age. Members attaining the age of sixty-five after June 8, 1967 shall be retired on the first day of the calendar month next succeeding the month in which the member shall have attained the age of sixty-five, but none of such members shall be subject to compulsory retirement until five years after said effective date: PROVIDED, FURTHER, That any member attaining the age of seventy years during said five year period shall be forthwith retired on the first day of the calendar month next succeeding the month in which the employee shall have attained the age of seventy years, except as otherwise provided in this chapter. The board shall extend the time of retirement for any member hired prior to June 8, 1967 so as to enable said member to qualify for retirement benefits under this chapter, but in no

event should such extension extend beyond the age of seventy years.

(2) Any member in the city service may retire by filing with the board a written application, stating when he desires to be retired, such application to be made at least thirty days prior to date of retirement: PROVIDED, HOWEVER, That said member, at the time specified for his retirement, shall have completed ten years of city service as defined in this chapter, and shall have attained the age of fifty-seven years, or shall have completed thirty years of city service as defined in this chapter. Permanent discontinuance of city service after age of fifty-seven shall entitle the member to his retirement allowance: PROVIDED, That such employee has had at least ten years of city service to his credit: AND PROVIDED FURTHER, That permanent discontinuance of city service after the completion of thirty years of city service shall entitle the member to his retirement allowance. [1967 c 185 § 3; 1939 c 207 § 13; RRS § 9592-113.]

41.28.130 Service retirement allowances. (1) A member, upon retirement from service, shall receive a retirement allowance subject to the provisions of paragraph (2) of this section, which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

(b) A pension purchased by the contributions of the city, equal to the annuity purchased by the accumulated normal contributions of the member.

(c) For any member having credit for prior service an additional pension, purchased by the contributions of the city equal to one and one-third percent of the final compensation, multiplied by the number of years of prior service credited to said member, except that if a member shall retire before attaining the age of sixty-two years, the additional pension shall be reduced to an amount which shall be equal to a lesser percentage of final compensation, multiplied by the number of years of prior service credited to said member, which lesser percentage shall be applied to the respective ages of retirement in accordance with the following tabulation:

Retirement age	Percentage
62	1.333
61	1.242
60	1.158
59	1.081
58	1.010
57	0.945
56	0.885
55	0.829
54	0.778
53	0.731
52	0.687
51	0.646
50	0.608

(2) If the retirement allowance of the member as provided in this section, exclusive of any annuity purchased by his accumulated additional contributions, is in excess of two-thirds of his final salary, the pension of the member, purchased by the contributions of the city, shall be reduced to such an amount as shall make the member's retirement

allowance, exclusive of any annuity purchased by his accumulated additional contributions, equal to two-thirds of his final salary, and the actuarial equivalent of such reduction shall remain in the retirement fund to the credit of the city: PROVIDED, That the retired member will be granted a cost of living increase, in addition to the allowance provided in this section, of one percent commencing January 1, 1968 and an additional one percent on the first day of each even-numbered year thereafter if the U.S. Bureau of Labor Statistics' Cost of Living Index has increased one percent or more since the last cost of living increase in the member's retirement allowance; such increases shall apply only to retirement allowances approved on or after January 1, 1967.

(3) Any member, who enters the retirement system on July 1, 1939, or who enters after that date and who is given the credit for prior service, and who is retired by reason of attaining the age of seventy years, shall receive such additional pension on account of prior service, purchased by the contributions of the city, as will make his total retirement allowance not less than four hundred twenty dollars per year.

(4) Any member who, at the time of his retirement, has at least ten years of creditable service, as defined in this chapter, and who has attained the age of sixty-five years or over, shall receive such additional pension, purchased by the contributions of the city, as will make his total retirement allowance not less than nine hundred sixty dollars per year. [1969 c 31 § 1; 1967 c 185 § 4; 1961 c 260 § 1; 1939 c 207 § 14; RRS § 9592-114.]

Validation—1969 c 31: "Any action effected in accordance with the provisions of the last two paragraphs of section 1 of this 1969 amendatory act during the period of from June 8, 1967 until the effective date of this 1969 amendatory act is hereby declared valid." [1969 c 31 § 2.] "Section 1 of this 1969 amendatory act" refers to RCW 41.28.130 above; "the effective date of this 1969 amendatory act" is March 18, 1969.

41.28.140 Retirement for disability. Any member while in city service may be retired by the board of administration for permanent and total disability, either ordinary or accidental, upon examination, as follows:

(1) Any member who has not attained the age of sixty-five years and who has at least ten years of city service as defined in this chapter, to his credit: PROVIDED, That the required ten years of city service shall have been credited to the member over a period of not to exceed fifteen years immediately preceding retirement, within three months after the discontinuance of city service, or while physically or mentally incapacitated for the performance of duty, if such incapacity has been continuous from discontinuance of city service, shall be examined by a physician or surgeon, appointed by the board of administration upon the application of the head of the office or department in which said member is employed, or upon application of said member, or a person acting in his behalf, stating that said member is permanently and totally incapacitated, either physically or mentally, for the performance of duty and ought to be retired. If such medical examination shows, to the satisfaction of the board, that the said member is permanently and totally incapacitated either physically or mentally for the performance of duty and ought to be retired, the board shall retire the said member for disability forthwith.

(2) The board shall secure such medical services and advice as it may deem necessary to carry out the purpose of

this section and of RCW 41.28.160, and shall pay for such medical services and advice such compensation as the board shall deem reasonable. [1939 c 207 § 15; RRS § 9592-115.]

41.28.150 Disability retirement allowances—Grounds for denial. (1) Upon retirement for disability, as hereinabove provided: PROVIDED, The disability is not due to intemperance, wilful misconduct or violation of law, of which the board shall be the judge, a member shall receive a retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

(b) A pension purchased by the contributions of the city, which, together with his annuity provided by his accumulated normal contributions, shall make the retirement allowance, exclusive of the annuity provided by his additional contributions equal to (i) one and one-fourth percent of his final compensation multiplied by the number of years of service which would be creditable to him were his services to continue until attainment by him of age sixty-two. The minimum disability retirement allowance shall be nine hundred sixty dollars per year.

(2) If disability is due to intemperance, wilful misconduct or violation of law on the part of the member, the board of administration in its discretion may pay to said member in one lump sum, his accumulated contributions, in lieu of a retirement allowance, and such payment shall constitute full satisfaction of all obligations of the city to such member, and upon receipt of such payment he shall cease to be a member of the retirement system.

(3) Upon the death of a member while in receipt of a disability retirement allowance, his accumulated contributions, as they were at the date of his retirement, less any annuity payments made to him, shall be paid to his estate, or to such persons having an insurable interest in his life as he shall have nominated by written designation duly executed and filed with the board. [1963 c 91 § 2; 1961 c 260 § 2; 1939 c 207 § 16; RRS § 9592-116.]

41.28.160 Physical examination of disabled members—Reentry. (1) The board of administration may at its pleasure require any disability beneficiary under age sixty-two years to undergo medical examination to be made by a physician or surgeon appointed by the board, at a place to be designated by the board. Upon the basis of such examination the board shall determine whether such disability beneficiary is still totally and permanently incapacitated either mentally or physically for service in the office or department of the city where he was employed or in any other city service for which he is qualified. If the board of administration shall determine that said beneficiary is not so incapacitated, his retirement allowance shall be canceled and he shall be reinstated forthwith in the city service.

(2) Should a disability beneficiary reenter the city service and be eligible for membership in the retirement system in accordance with RCW 41.28.030(1), his retirement allowance shall be canceled and he shall immediately become a member of the retirement system, his rate of contribution for future years being that established for his age at the time of reentry. His individual account shall be credited with his accumulated contributions less the annuity

payments made to him. An amount equal to the accumulated normal contributions so credited to him shall again be held for the benefit of said member and shall no longer be included in the amounts available to meet the obligations of the city on account of benefits that have been granted and on account of prior service of members. Such member shall receive credit for prior service in the same manner as if he had never been retired for disability.

(3) Should any disability beneficiary under age sixty-two years refuse to submit to medical examination, his pension may be discontinued until his withdrawal of such refusal, and should refusal continue for one year, his retirement allowance may be canceled. Should said disability beneficiary, prior to attaining age sixty-two years, engage in a gainful occupation not in city service, or should he reenter the city service and be ineligible for membership in the retirement system in accordance with RCW 41.28.030(2), the board of administration shall reduce the amount of his retirement allowance to an amount, which when added to the compensation earned by him in such occupation shall not exceed the amount of the final compensation on the basis of which his retirement allowance was determined. Should the earning capacity of such beneficiary be further altered, the board may further alter his retirement allowance to an amount which shall not exceed the amount upon which he was originally retired, but which, subject to such limitation shall equal, when added to the compensation earned by him, the amount of his final compensation on the basis of which his retirement allowance was determined. When said disability beneficiary reaches the age of sixty-two years, his retirement allowance shall be made equal to the amount upon which he was originally retired, and shall not again be modified for any cause except as provided in RCW 41.28.220.

(4) Should the retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into the city service he shall be paid his accumulated contributions, less annuity payments made to him. [1939 c 207 § 17; RRS § 9592-117.]

41.28.170 Optional allowances. A member may elect to receive, in lieu of the retirement allowance provided for in RCW 41.28.130, its actuarial equivalent in the form of a lesser retirement allowance, payable in accordance with the terms and conditions of one of the options set forth below in this section. Election of any option must be made by written application filed with the board of administration at least thirty days in advance of retirement as provided in RCW 41.28.120, and shall not be effective unless approved by the board prior to retirement of the member.

Option A. The lesser retirement allowance shall be payable to the member throughout his life: PROVIDED, That if he die before he receive in annuity payments referred to in RCW 41.28.130(1)(a), a total amount equal to the amount of his accumulated contributions as it was at the date of his retirement, the balance of such accumulated contributions shall be paid in one sum to his estate or to such person having an insurable interest in his life as he shall nominate by written designation duly executed and filed with the board.

Option B. The lesser retirement allowance shall be payable to a member throughout his life: PROVIDED, That if he die before he receive in annuity payments referred to in RCW 41.28.130(1)(a), a total amount equal to the amount of his accumulated contributions as it was at the date of his retirement, the said annuity payments resulting from his accumulated contributions shall be continued and paid to his estate or such person, having an insurable interest in his life, as he shall nominate by written designation duly executed and filed with the board until the total amount of annuity payments shall equal the amount of his accumulated contributions as it was at the date of his retirement.

Option C. The member shall elect a "guaranteed period" of any number of years. If he dies before the lesser retirement allowance has been paid to him for the number of years elected by him as the "guaranteed period", the lesser retirement allowance shall be continued to the end of the "guaranteed period", and during such continuation shall be paid to his estate or to such person having an insurable interest in his life as he shall nominate by written designation duly executed and filed with the board.

Option D. The lesser retirement allowance shall be payable to the member throughout life, and after the death of the member, one-half of the lesser retirement allowance shall be continued throughout the life of and paid to the wife or husband of the member.

Option E. The lesser retirement allowance shall be payable to the member throughout life, and after death of the member it shall be continued throughout the life of and paid to the wife or husband of the member. [1967 c 185 § 5; 1963 c 91 § 3; 1939 c 207 § 18; RRS § 9592-118.]

41.28.180 Payments on death of unretired members. Upon the death of any person who has not been retired, pursuant to the provisions of this chapter, there shall be paid to his estate, or to such persons having an insurable interest in his life as he shall have nominated by written designation duly executed and filed with the board, his accumulated contributions less any payments therefrom already made to him, if any. [1939 c 207 § 19; RRS § 9592-119.]

41.28.190 Payments to be made monthly. A pension annuity or a retirement allowance granted under the provisions of this chapter, unless otherwise specified herein, shall be payable in monthly installments, and each installment shall cover for the current calendar month. [1939 c 207 § 20; RRS § 9592-120.]

41.28.200 Exemption from process—Rights not assignable. The right of a person to a pension, an annuity or a retirement allowance, to the return of contributions, the pension, annuity or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter shall not be subject to execution, garnishment, attachment, or any other process whatsoever and shall be unassignable except as in this chapter specifically provided. [1939 c 207 § 21; RRS § 9592-121.]

41.28.205 Benefits payable in accordance with court decree or order of dissolution or legal separation. Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation. [1979 ex.s. c 205 § 9.]

41.28.207 Payments to spouse or ex spouse pursuant to court order. (1) If the board of administration makes payments to a spouse or ex spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to a court decree of dissolution or legal separation, it shall be a sufficient answer to any claim of a beneficiary against the board of administration or the retirement system for the board of administration to show that the payments were made pursuant to a court decree.

(2) All payments made to a nonmember spouse or ex spouse pursuant to RCW 41.28.205 shall cease upon the death of such a nonmember spouse or ex spouse. Upon such a death, the board of administration shall pay to the member his or her full monthly entitlement of benefits.

(3) The provisions of RCW 41.28.205 and this section shall apply to all court decrees of dissolution or legal separation and court-approved property settlement agreements, regardless of when entered, but shall apply only to those persons who have actually retired or who have requested withdrawal of any or all of their accumulated contributions: PROVIDED, That the board of administration shall not be responsible for making court-ordered divisions of withdrawals unless the order is filed with the board at least thirty days before the withdrawal payment date. [1987 c 326 § 20.]

Effective date—1987 c 326: See RCW 41.50.901.

Mandatory assignment of retirement benefits to spouse or ex spouse: RCW 41.50.500 through 41.50.660.

41.28.210 Estimates of service, compensation, or age. If it shall be impracticable for the board of administration to determine from the records the length of service, the compensation, or the age of any member, the said board may estimate for the purpose of this chapter, such length of service, compensation or age. [1939 c 207 § 22; RRS § 9592-122.]

41.28.220 Suspension of allowances during other public aid. The payment of any retirement allowance to a member who has been retired from service shall be suspended during the time that the beneficiary is in receipt of other pension or of other compensation for state or public service paid from direct or indirect state or municipal taxes or revenues of publicly owned utilities, except as to the amount by which such retirement allowance may exceed such compensation for the same period. [1939 c 207 § 23; RRS § 9592-123.]

41.28.230 Administrative expense. The city council or city commission shall appropriate annually from the

retirement fund the amount it deems necessary for the purpose of paying the expenses of administering the retirement system. The board of administration shall annually submit to the city council or city commission its estimate of the amount necessary to pay such expenses. The preliminary cost of establishment of said retirement system, such as clerical help and actuarial survey costs, etc., shall be paid by the department or departments affected. [1939 c 207 § 24; RRS § 9592-124.]

41.28.240 Existing systems preserved. Nothing in this chapter shall repeal, supersede, alter, amend or be regarded as a substitute for any existing retirement or pension system, duly established by city ordinance. [1939 c 207 § 28; RRS § 9592-128.]

41.28.900 Severability—1939 c 207. If any one or more sections, subsections, subdivisions, sentences, clauses or phrases of this chapter are for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter, but the same shall remain in full force and effect. [1939 c 207 § 25; RRS § 9592-125.]

41.28.910 Repeal. All laws and parts of laws in conflict herewith be and the same are hereby repealed. [1939 c 207 § 26.]

41.28.920 Effective date—1939 c 207. The retirement system shall become effective on July 1, 1939, as provided in RCW 41.28.020. [1939 c 207 § 27.]

Chapter 41.32

TEACHERS' RETIREMENT

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- 41.32.875 Retirement eligibility.
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- 41.32.892 Restored, purchased service credit under plan II—Transfer to plan III.
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Prior acts relating to teachers' retirement: (1) 1943 c 116; 1941 c 97; 1939 c 86, 40; 1937 c 221 (repealed by 1947 c 80 § 70). (2) 1931 c 115; 1923 c 187; 1919 c 150; 1917 c 163 (repealed by 1937 c 221 § 14).

Employee salary or compensation—Limitations respecting: RCW 28A.400.220.

Portability of public retirement benefits: Chapter 41.54 RCW.

Teachers in state correctional facilities as members of teachers' retirement fund: RCW 72.01.200.

"PROVISIONS APPLICABLE TO PLAN I, PLAN II, AND PLAN III"

41.32.005 Provisions applicable to "plan I," "plan II," and "plan III." RCW 41.32.010 through 41.32.067 shall apply to members of plan I, plan II, and plan III. [1995 c 239 § 101; 1992 c 72 § 4; 1991 c 35 § 30; 1990 c 274 § 16. Prior: 1989 c 273 § 15; 1989 c 272 § 4; 1977 ex.s. c 293 § 19.]

Effective date—1995 c 239: "This act shall take effect July 1, 1996, except that sections 301 and 302 of this act shall take effect immediately [March 13, 1996]." [1996 c 39 § 23; 1995 c 239 § 327.]

Part and subchapter headings not law—1995 c 239: "Part headings and subchapter headings as used in this act constitute no part of the law." [1995 c 239 § 328.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Intent—1991 c 35: See note following RCW 41.26.005.

Findings—Construction—1990 c 274: See notes following RCW 41.32.010.

Severability—1989 c 273: See RCW 41.45.900.

Purpose—1989 c 272: "The legislature recognizes that inflation erodes the purchasing power of retirement benefits. Although the benefit provided to state retirees from social security is fully protected, the benefits provided by the public employees' retirement system, plan I, and the teachers' retirement system, plan I provide an automatic cost-of-living adjustment only for persons who receive the minimum benefit.

The purpose of this act is to add provisions to the teachers' retirement system and the public employees' retirement system which will help mitigate the impact of inflation on retirees of those systems. These additional provisions are intended to reflect and implement the following policies:

(1) The minimum benefit is increased in order to provide a more adequate basic standard of living to persons who retired long ago under lower salaries and less generous retirement benefit formulas; and

(2) Retirees whose benefits have lost forty percent of their purchasing power are made eligible for automatic adjustments which are provided in a manner that is consistent with the retirement age and benefit provisions of

plan II of the teachers' retirement system and the public employees' retirement system." [1989 c 272 § 1.]

Effective date—Severability—1977 ex.s. c 293: See notes following RCW 41.32.755.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.010 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

(1)(a) "Accumulated contributions" for plan I members, means the sum of all regular annuity contributions and, except for the purpose of withdrawal at the time of retirement, any amount paid under RCW 41.50.165(2) with regular interest thereon.

(b) "Accumulated contributions" for plan II members, means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan II and plan III members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6) "Contract" means any agreement for service and compensation between a member and an employer.

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan I members.

(8) "Dependent" means receiving one-half or more of support from a member.

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan I members.

(10)(a) "Earnable compensation" for plan I members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) "Earnable compensation" for plan I members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(iii) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(iv) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan II and plan III members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan II and plan III members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(13) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(14) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(15) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan I members.

(17) "Pension" means the moneys payable per year during life from the pension reserve.

(18) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan I members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan I members.

(21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan I members.

(23) "Regular interest" means such rate as the director may determine.

(24)(a) "Retirement allowance" for plan I members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan II and plan III members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(25) "Retirement system" means the Washington state teachers' retirement system.

(26)(a) "Service" for plan I members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan II and plan III members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132;

(ii) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iv) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

(v) When an individual is employed by two or more employers the individual shall only receive one month's

service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(vi) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan II and plan III "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(viii) The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan II and plan III members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member. A person is in receipt of a retirement allowance as defined in subsection (24) of this section or other benefit as provided by this chapter when the department mails, causes to be mailed, or otherwise transmits the retirement allowance warrant.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(37)(a) "Eligible position" for plan II members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan II and plan III on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(38) "Plan I" means the teachers' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(39) "Plan II" means the teachers' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and prior to July 1, 1996.

(40) "Plan III" means the teachers' retirement system, plan III providing the benefits and funding provisions covering persons who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

(41) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the bureau of labor statistics, United States department of labor.

(42) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(43) "Index B" means the index for the year prior to index A.

(44) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(45) "Adjustment ratio" means the value of index A divided by index B.

(46) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(47) "Member account" or "member's account" for purposes of plan III means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan III. [1996 c 39 § 1. Prior: 1995 c 345 § 9; 1995 c 239 § 102; prior: 1994 c 298 § 3; 1994 c 247 § 2; 1994 c 197 § 12; 1993 c 95 § 7; prior: 1992 c 212 § 1;

1992 c 3 § 3; prior: 1991 c 343 § 3; 1991 c 35 § 31; 1990 c 274 § 2; 1987 c 265 § 1; 1985 c 13 § 6; prior: 1984 c 256 § 1; 1984 c 5 § 1; 1983 c 5 § 1; 1982 1st ex.s. c 52 § 6; 1981 c 256 § 5; 1979 ex.s. c 249 § 5; 1977 ex.s. c 293 § 18; 1975 1st ex.s. c 275 § 149; 1974 ex.s. c 199 § 1; 1969 ex.s. c 176 § 95; 1967 c 50 § 11; 1965 ex.s. c 81 § 1; 1963 ex.s. c 14 § 1; 1955 c 274 § 1; 1947 c 80 § 1; Rem. Supp. 1947 § 4995-20; prior: 1941 c 97 § 1; 1939 c 86 § 1; 1937 c 221 § 1; 1931 c 115 § 1; 1923 c 187 § 1; 1917 c 163 § 1; Rem. Supp. 1941 § 4995-1.]

Effective dates—1996 c 39: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1996, with the exception of section 23 of this act, which shall take effect immediately [March 13, 1996]." [1996 c 39 § 25.]

Intent—Effective date—1995 c 345: See notes following RCW 41.32.489.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Intent—1994 c 298: See note following RCW 41.40.010.

Effective date—1994 c 247: See note following RCW 41.32.4991.

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Findings—1990 c 274: "(1) The current system for calculating service credit for school district employees is difficult and costly to administer. By changing from the current hours per month calculation to an hours per year calculation, the accumulation of service credit by school district employees will be easier to understand and to administer.

(2) The current system for granting service credit for substitute teachers is difficult and costly to administer. By notifying substitute teachers of their eligibility for service credit and allowing the substitute teacher to apply for service credit, the accumulation of service credit by substitute teachers will be easier to understand and to administer.

(3) Currently, temporary employees in eligible positions in the public employees' retirement system are exempted from membership in the system for up to six months. If the position lasts for longer than six months the employee is made a member retroactively. This conditional exemption causes tracking problems for the department of retirement systems and places a heavy financial burden for back contributions on a temporary employee who crosses the six-month barrier. Under the provisions of this act all persons, other than retirees, who are hired in an eligible position will become members immediately, thereby alleviating the problems described in this section.

(4) The legislature finds that retirees from the plan II systems of the law enforcement officers' and fire fighters' retirement system, the teachers' retirement system, and the public employees' retirement system, may not work for a nonfederal public employer without suffering a suspension of their retirement benefits. This fails to recognize the current and projected demographics indicating the decreasing work force and that the expertise possessed by retired workers can provide a substantial benefit to the state. At the same time, the legislature recognizes that a person who is working full time should have his or her pension delayed until he or she enters full or partial retirement. By allowing plan II retirees to work in ineligible positions, the competing concerns listed above are both properly addressed." [1990 c 274 § 1.]

Intent—Reservation—1990 c 274 §§ 2 and 4: "(1) The 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450 are intended by the legislature to effect administrative, rather than substantive, changes to the affected retirement plan. The legislature therefore reserves the right to revoke or amend the 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450. No member is entitled to have his or her service credit calculated under the 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450 as a matter of contractual right.

(2) The department's retroactive application of the changes made in RCW 41.32.010(27)(b) to all service rendered between October 1, 1977, and August 31, 1990, is consistent with the legislative intent of the 1990 changes to RCW 41.32.010(27)(b)." [1994 c 177 § 10; 1990 c 274 § 18.]

Effective date—1990 c 274: "Sections 1 through 8 of this act shall take effect September 1, 1990." [1990 c 274 § 21.]

Construction—1990 c 274: "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor as affecting any proceeding instituted under those sections." [1990 c 274 § 17.]

Purpose—Application—Retrospective application—1985 c 13: See notes following RCW 41.04.445.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Purpose—Severability—1981 c 256: See notes following RCW 41.26.030.

Effective date—Severability—1977 ex.s. c 293: See notes following RCW 41.32.755.

Emergency—1974 ex.s. c 199: "This 1974 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1974 ex.s. c 199 § 7.]

Severability—1974 ex.s. c 199: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 199 § 8.]

Construction—1974 ex.s. c 199: "(1) Subsection (3) of section 4 of this 1974 amendatory act relating to elected and appointed officials shall be retroactive to January 1, 1973.

(2) Amendatory language contained in subsection (11) of section 1 relating to members as members of the legislature and in provisos (2) and (3) of section 2 of this 1974 amendatory act shall only apply to those members who are serving as a state senator, state representative or state superintendent of public instruction on or after the effective date of this 1974 amendatory act.

(3) Notwithstanding any other provision of this 1974 amendatory act, RCW 41.32.497 as last amended by section 2, chapter 189, Laws of 1973 1st ex. sess. shall be applicable to any member serving as a state senator, state representative or superintendent of public instruction on the effective date of this 1974 amendatory act." [1974 ex.s. c 199 § 5.]

Reviser's note: (1) "Subsection (3) of section 4 of this 1974 amendatory act" is codified as RCW 41.32.498(3).

(2) Sections 1 and 2 of 1974 ex.s. c 199 consist of amendments to RCW 41.32.010 and 41.32.260. For amendatory language, a portion of which was vetoed, see the 1973-1974 session laws.

(3) "this 1974 amendatory act" [1974 ex.s. c 199] is codified in RCW 41.32.010, 41.32.260, 41.32.497, 41.32.498, and 41.32.4945. The effective date of 1974 ex.s. c 199 is May 6, 1974.

Effective date—1969 ex.s. c 176: The effective date of the amendments to this section and RCW 41.32.420 is April 25, 1969.

Effective date—1967 c 50: "This 1967 amendatory act shall take effect on July 1, 1967." [1967 c 50 § 12.]

Severability—1967 c 50: "If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1967 c 50 § 13.]

Severability—1965 ex.s. c 81: "If any provision of this act is held to be invalid the remainder of this act shall not be affected." [1965 ex.s. c 81 § 9.]

Effective date—1965 ex.s. c 81: "The effective date of this act is July 1, 1965." [1965 ex.s. c 81 § 10.]

Savings—1963 ex.s. c 14: "The amendment of any section by this 1963 act shall not be construed as impairing any existing right acquired or any liability incurred by any member under the provisions of the section amended; nor shall it affect any vested right of any former member who reenters public school employment or becomes reinstated as a member subsequent to the effective date of such act." [1963 ex.s. c 14 § 23.]

Severability—1963 ex.s. c 14: "If any provision of this act is held to be invalid the remainder of the act shall not be affected." [1963 ex.s. c 14 § 24.]

Effective date—1963 ex.s. c 14: "The effective date of this act is July 1, 1964." [1963 ex.s. c 14 § 26.]

41.32.013 Substitute teachers—Application for service credit—Procedures. Substitute teachers may apply to the department to receive service credit or credit for earnable compensation or both after the end of the last day of instruction of the school year during which the service was performed.

(1) The application must:

(a) Include a list of the employers the substitute teacher has worked for;

(b) Include proof of hours worked and compensation earned; and

(c) Be made prior to retirement.

(2) If the department accepts the substitute teacher's application for service credit, the substitute teacher may obtain service credit by paying the required contribution to the retirement system. The employer must pay the required employer contribution upon notice from the department that the substitute teacher has made contributions under this section.

(3) The department shall charge interest prospectively on employee contributions that are submitted under this section more than six months after the end of the school year, as defined in RCW 28A.150.040, for which the substitute teacher is seeking service credit. The interest rate charged to the employee shall take into account interest lost on employer contributions delayed for more than six months after the end of the school year.

(4) Each employer shall quarterly notify each substitute teacher it has employed during the school year of the number of hours worked by, and the compensation paid to, the substitute teacher.

(5) The department shall adopt rules implementing this section.

(6) If a substitute teacher as defined in RCW 41.32.010(36)(b)(ii) applies to the department under this section for credit for earnable compensation earned from an employer the substitute teacher must make contributions for all periods of service for that employer. [1992 c 212 § 16; 1991 c 343 § 4; 1990 c 274 § 5.]

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Findings—Effective date—Construction—1990 c 274: See notes following RCW 41.32.010.

41.32.020 Name of system. The name of the retirement system provided for in this chapter shall be the "Washington State Teachers' Retirement System" and by this name all of its business shall be transacted and all of its funds invested and all of its cash, securities and other property held. [1947 c 80 § 2; Rem. Supp. 1947 § 4995-21. Prior: 1937 c 221 § 2; Rem. Supp. 1941 § 4995-2.]

41.32.025 Department's power to determine eligibility. The department is empowered within the limits of this chapter and, with regard to restoration of service credit under RCW 41.50.165(2), to decide on all questions of eligibility covering membership, service credit, and benefits. [1994 c 197 § 13; 1991 c 35 § 35; 1955 c 274 § 3; 1947 c 80 § 16; Rem. Supp. 1947 § 4995-35. Prior: 1941 c 97 § 2, part;

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1937 c 221 § 3, part; Rem. Supp. 1941 § 4995-3, part. Formerly RCW 41.32.160.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Intent—1991 c 35: See note following RCW 41.26.005.

41.32.032 Membership in system—Service credit of educational staff associates. (1) Any teacher, as defined under RCW 41.32.010, who is first employed by a public school on or after June 7, 1984, shall become a member of the retirement system if otherwise eligible.

(2) Any person who before June 7, 1984, has established service credit under chapter 41.40 RCW while employed in an educational staff associate position and who is employed in such a position on or after June 7, 1984, has the following options:

(a) To remain a member of the public employees' retirement system notwithstanding the provisions of RCW 41.32.240 or 41.32.780; or

(b) To irrevocably elect to join the retirement system under this chapter and to receive service credit for previous periods of employment in any position included under RCW 41.32.010. This service credit and corresponding employee contribution shall be computed as though the person had then been a member of the retirement system under this chapter. All employee contributions credited to a member under chapter 41.40 RCW for service now to be credited to the retirement system under this chapter shall be transferred to the system and the member shall not receive any credit nor enjoy any rights under chapter 41.40 RCW for those periods of service. The member shall pay any difference between the employee contributions made under chapter 41.40 RCW and transferred under this subsection and what would have been required under this chapter, including interest as set by the director. The member shall be given until July 1, 1989, to make the irrevocable election permitted under this section. The election shall be made by submitting written notification as required by the department requesting credit under this section and by remitting any necessary proof of service or payments within the time set by the department.

Any person, not employed as an educational staff associate on June 7, 1984, may, before June 30 of the fifth school year after that person's return to employment as a teacher, request and establish membership and credit under this subsection. [1995 c 239 § 103; 1992 c 212 § 17; 1991 c 35 § 39; 1984 c 256 § 2. Formerly RCW 41.32.242.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.035 Employer contribution rates—Computation and payment. The amount paid by each employer shall be computed by applying the rates established under chapter 41.45 RCW to the total earnable compensation of the employer's members as shown on the current payrolls of the employer. The employer's contribution shall be paid at the end of each month in the amount due for that month, except as provided in RCW 41.32.013. [1990 c 274 § 8;

1989 c 273 § 18; 1984 c 236 § 3. Formerly RCW 41.32.403.]

Findings—Effective date—Construction—1990 c 274: See notes following RCW 41.32.010.

Severability—1989 c 273: See RCW 41.45.900.

Effective date—1984 c 236: "This act shall take effect September 1, 1985. However, rules necessary for the implementation of this act may be promulgated by appropriate state agencies prior to the effective date." [1984 c 236 § 6.]

Severability—1984 c 236: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 236 § 5.]

41.32.042 Validity of deductions—Interest. The deductions from salaries of members of the retirement system for their contributions to the system are not considered diminution of pay and every member is conclusively presumed to consent thereto as a condition of employment. All contributions to the member reserve shall be credited to the individual for whose account the deductions from salary were made. Regular interest shall be credited to each member's account at least annually. [1992 c 212 § 9; 1982 1st ex.s. c 52 § 13; 1947 c 80 § 46; Rem. Supp. 1947 § 4995-65. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; Rem. Supp. 1941 § 4995-6, part. Formerly RCW 41.32.460.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

41.32.044 Retired teacher may reenter system—Benefit limitations. A retired teacher upon returning to service in the public schools of Washington may elect to again become a member of the retirement system: PROVIDED, That if such a retired teacher elects to be restored to membership he must establish two full years of service credit before he will be eligible to retire under the provision of a formula other than the one in effect at the time of his previous retirement: PROVIDED FURTHER, That where any such right to again retire is exercised to become effective before a member has established two full years of service credit he may elect to retire only under the provisions of the formula in effect at the time of his previous retirement: AND PROVIDED FURTHER, That this section shall not apply to any individual who has returned to service and is presently in service on *the effective date of this 1973 amendatory act. [1973 2nd ex.s. c 32 § 5; 1947 c 80 § 58; Rem. Supp. 1947 § 4995-77. Formerly RCW 41.32.580.]

*Reviser's note: "the effective date of this 1973 amendatory act," because of the emergency clause footnoted to RCW 41.32.310, is September 27, 1973, the date of approval by the governor.

Emergency—Severability—1973 2nd ex.s. c 32: See notes following RCW 41.32.310.

41.32.052 Exemption from taxation and judicial process—Exceptions—Nonassignability—Deductions authorized. (1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, a retirement allowance, or disability allowance, to the return of contributions, any optional benefit or death benefit, any other right accrued or accruing to any person under the provisions of this chapter and the moneys in the various funds created by this chapter shall be unassignable, and are hereby exempt

from any state, county, municipal or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance who is eligible:

(a) Under RCW 41.05.080 from authorizing monthly deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions;

(b) Under a group health care benefit plan approved pursuant to RCW 28A.400.350 or 41.05.065 from authorizing monthly deductions therefrom, of the amount or amounts of subscription payments, premiums, or contributions to any person, firm, or corporation furnishing or providing medical, surgical, and hospital care or other health care insurance; or

(c) Under this system from authorizing monthly deductions therefrom for payment of dues and other membership fees to any retirement association composed of retired teachers and/or public employees pursuant to a written agreement between the director and the retirement association.

Deductions under (a) and (b) of this subsection shall be made in accordance with rules that may be adopted by the director.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law. [1991 c 365 § 21; 1991 c 35 § 63; 1989 c 360 § 25; 1987 c 326 § 23; 1982 c 135 § 1; 1981 c 294 § 13; 1979 ex.s. c 205 § 5; 1971 c 63 § 1; 1961 c 132 § 5; 1947 c 80 § 59; Rem. Supp. 1947 § 4995-78. Prior: 1937 c 22 § 9; 1917 c 163 § 19. Formerly RCW 41.32.590.]

Reviser's note: This section was amended by 1991 c 35 § 63 and by 1991 c 365 § 21, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

Intent—1991 c 35: See note following RCW 41.26.005.

Effective date—1987 c 326: See RCW 41.50.901.

Severability—1981 c 294: See note following RCW 41.26.115.

Effective date—1961 c 132: See note following RCW 41.32.240.

41.32.055 Falsification—Penalty. Any person who shall knowingly make false statements or shall falsify or permit to be falsified any record or records of the retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a felony. [1947 c 80 § 67; Rem. Supp. 1947 § 4995-86. Prior: 1937 c 221 § 10. Formerly RCW 41.32.670.]

41.32.062 Effect of certain accumulated vacation leave on retirement benefits. RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter. [1983 c 283 § 3. Formerly RCW 41.32.850.]

41.32.063 Benefit calculation—Limitation. (1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section. [1995 c 145 § 2.]

41.32.065 Election to use out-of-state service credit to calculate time at which the member may retire. A member may elect under this section to apply service credit earned in an out-of-state retirement system that covers teachers in public schools solely for the purpose of determining the time at which the member may retire. The benefit shall be actuarially reduced to recognize the difference between the age a member would have first been able to retire based on service in the state of Washington and the member's retirement age. [1991 c 278 § 1.]

41.32.067 Purchase of additional benefits—Conditions. A member may purchase additional benefits subject to the following:

(1) The member shall pay all reasonable administrative and clerical costs; and

(2) The member shall make a member reserve contribution to be actuarially converted to a monthly benefit at the time of retirement. [1992 c 212 § 13; 1991 c 278 § 2.]

"PLAN I"

41.32.215 Provisions applicable to plan I. RCW 41.32.240 through *41.32.575 shall apply only to members of plan I. [1992 c 72 § 5; 1991 c 35 § 103.]

*Reviser's note: RCW 41.32.575 was repealed by 1995 c 345 § 11.

Intent—1991 c 35: See note following RCW 41.26.005.

41.32.240 Membership in system. (1) All teachers employed full time in the public schools shall be members of the system except alien teachers who have been granted a temporary permit to teach as exchange teachers.

(2) A minimum of ninety days or the equivalent of ninety days of employment during a fiscal year shall be required to establish membership. A teacher shall be considered as employed full time if serving regularly for four-fifths or more of a school day or if assigned to duties which are the equivalent of four-fifths or more of a full time assignment. A teacher who is employed for less than full time service may become a member by filing an application with the retirement system, submitting satisfactory proof of teaching service and making the necessary payment before June 30 of the school year immediately following the one during which the service was rendered.

(3) After June 30th of the school year immediately following the one during which the less than full-time service was rendered, the necessary payment may be made under RCW 41.50.165(2). [1994 c 197 § 14; 1991 c 35 § 38; 1979 ex.s. c 45 § 3; 1965 ex.s. c 81 § 3; 1963 ex.s. c 14 § 4; 1961 c 132 § 1; 1955 c 274 § 7; 1947 c 80 § 24; Rem. Supp. 1947 § 4995-43. Prior: 1941 c 97 § 3, part; 1939 c 86 § 2, part; 1937 c 221 § 4, part; 1931 c 115 § 3, part; 1923 c 187 § 10, part; Rem. Supp. 1941 § 4995-4, part.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Intent—1991 c 35: See note following RCW 41.26.005.

Effective date—1979 ex.s. c 45: See note following RCW 41.26.040.

Severability—Effective date—1965 ex.s. c 81: See notes following RCW 41.32.010.

Savings—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

Effective date—1961 c 132: "The provisions of this act shall be effective July 1, 1961." [1961 c 132 § 8.] For codification of 1961 c 132, see Codification Tables, Volume 0.

Eligibility for retirement allowance: RCW 41.32.470.

41.32.260 Credit for military service or as state legislator. Any member whose public school service is interrupted by active service to the United States as a member of its military, naval or air service, or to the state of Washington, as a member of the legislature, may upon becoming reemployed in the public schools, receive credit for that service upon presenting satisfactory proof, and contributing to the member reserve, either in a lump sum or installments, amounts determined by the director. Except that no military service credit in excess of five years shall be established or reestablished after July 1, 1961, unless the service was actually rendered during time of war. [1992 c 212 § 8; 1991 c 35 § 40; 1974 ex.s. c 199 § 2; 1973 1st ex.s. c 189 § 1; 1971 ex.s. c 271 § 1; 1967 c 50 § 2; 1961 c 132 § 2; 1955 c 274 § 8; 1947 c 80 § 26; Rem. Supp. 1947 § 4995-45. Prior: 1941 c 97 § 4, part; 1939 c 86 § 4, part; 1937 c 221 § 1, part; Rem. Supp. 1941 § 4995-5, part.]

Intent—1991 c 35: See note following RCW 41.26.005.

Emergency—Severability—1974 ex.s. c 199: See notes following RCW 41.32.010.

Construction—1974 ex.s. c 199: See note following RCW 41.32.010.

Severability—1973 1st ex.s. c 189: See note following RCW 41.32.215.

Parts of sections retroactive—1973 1st ex.s. c 189: See note following RCW 41.32.498.

Severability—1971 ex.s. c 271: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 271 § 17.] For codification of 1971 ex.s. c 271, see Codification Tables, Volume 0.

Effective date—Severability—1967 c 50: See notes following RCW 41.32.010.

Effective date—1961 c 132: See note following RCW 41.32.240.

Members' retirement contributions—Payment by employer: RCW 41.04.445.

41.32.263 State legislators and state officials eligible for retirement benefits. A member of the retirement system who is a member of the state legislature or a state official eligible for the combined pension and annuity pro-

vided by RCW 41.32.497, or 41.32.498, as now or hereafter amended shall have deductions taken from his or her salary in the amount of seven and one-half percent of earnable compensation and that service credit shall be established with the retirement system while such deductions are reported to the retirement system, unless he or she has by reason of his or her employment become a contributing member of another public retirement system in the state of Washington. Such elected official who has retired or otherwise terminated his or her public school service may then elect to terminate his or her membership in the retirement system and receive retirement benefits while continuing to serve as an elected official. A member of the retirement system who had previous service as an elected or appointed official, for which he or she did not contribute to the retirement system, may receive credit for such legislative service unless he or she has received credit for that service in another state retirement system, upon making contributions in such amounts as shall be determined by the board of trustees. [1991 c 35 § 41.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.32.267 Service credit for paid leave of absence—Application to elected officials of labor organizations. (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided under the provisions of RCW 41.32.240 through *41.32.575.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The earnable compensation reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement. [1993 c 95 § 5.]

***Reviser's note:** RCW 41.32.575 was repealed by 1995 c 345 § 11.

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

41.32.270 Teaching service, how credited. Service rendered for four-fifths or more of the official school year of the school district or institution in which a teacher is employed shall be credited as a year's service regardless of the length of the school term, but in no case shall more than one year of service be creditable for service rendered in one fiscal year. Service rendered for less than four-fifths of the official school year shall be credited for that portion of the school year for which it was rendered: PROVIDED, That no service of less than twenty days in any school year shall be creditable. [1947 c 80 § 27; Rem. Supp. 1947 § 4995-46. Prior: 1941 c 97 § 4, part; 1939 c 86 § 4, part; 1937 c 221 § 5, part; Rem. Supp. 1941 § 4995-5, part.]

41.32.300 Limitation on credit for out-of-state service. (1) Henceforth a total of not more than four years of service outside of the state shall be credited to a member who establishes or reestablishes credit for out-of-state public school employment in this state subsequent to July 1, 1961. Foreign public school teaching service shall be creditable as out-of-state service.

(2) No out-of-state service credit shall be established or reestablished subsequent to July 1, 1964, except that a member who has been granted official leave of absence by his or her employer may, upon return to public school service in this state, establish out-of-state membership service credit, within the limitations of this section and conditioned upon satisfactory proof and upon contributions to the member reserve, for public school service rendered in another state or in another country.

(3) No member who establishes out-of-state service credit after July 1, 1947, shall at retirement for pension payment purposes be allowed credit for out-of-state service in excess of the number of years credit which he or she shall have earned in the public schools of the state of Washington. [1992 c 212 § 14; 1991 c 35 § 42; 1963 ex.s. c 14 § 5; 1961 c 132 § 7; 1955 c 274 § 11; 1947 c 80 § 30; Rem. Supp. 1947 § 4995-49.]

Intent—1991 c 35: See note following RCW 41.26.005.

Savings—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

Effective date—1961 c 132: See note following RCW 41.32.240.

41.32.310 Time limit for claiming service credit—Payments. (1) Any member desiring to establish credit for services previously rendered, must present proof and make the necessary payments on or before June 30 of the fifth school year of membership. Payments covering all types of membership service credit must be made in a lump sum when due, or in annual installments. The first annual installment of at least twenty percent of the amount due must be paid before the above deadline date, and the final payment must be made by June 30th of the fourth school year following that in which the first installment was made. The amount of payment and the interest thereon, whether lump sum or installments, shall be made by a method and in an amount established by the department.

(2) A member who had the opportunity under chapter 41.32 RCW prior to July 1, 1969, to establish credit for active United States military service or credit for professional preparation and failed to do so shall be permitted to establish additional credit within the provisions of RCW 41.32.260 and 41.32.330. A member who was not permitted to establish credit pursuant to section 2, chapter 32, Laws of 1973 2nd ex. sess., for Washington teaching service previously rendered, must present proof and make the necessary payment to establish such credit as membership service credit. Payment for such credit must be made in a lump sum on or before June 30, 1974. Any member desiring to establish credit under the provisions of this subsection must present proof and make the necessary payment before June 30, 1974; or, if not employed on the effective date of this amendment, before June 30th of the fifth school year upon returning to public school employment in this state.

(3) After June 30th of the fifth school year of membership, any member desiring to establish credit for services previously rendered, must present proof and make the necessary payments under RCW 41.50.165(2) but prior to retirement. [1994 c 197 § 15; 1992 c 72 § 6. Prior: 1991 c 35 § 43; 1974 ex.s. c 193 § 1; 1973 2nd ex.s. c 32 § 2; 1969 ex.s. c 150 § 9; 1965 ex.s. c 81 § 8; 1955 c 274 § 12; 1947 c 80 § 31; Rem. Supp. 1947 § 4995-50.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Intent—1991 c 35: See note following RCW 41.26.005.

Emergency—1974 ex.s. c 193: "This amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1974 ex.s. c 193 § 10.]

Severability—1974 ex.s. c 193: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 193 § 9.]

Emergency—1973 2nd ex.s. c 32: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1973 2nd ex.s. c 32 § 7.]

Severability—1973 2nd ex.s. c 32: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 2nd ex.s. c 32 § 6.]

Effective date—1969 ex.s. c 150: See note following RCW 41.50.200.

41.32.330 Credit for professional preparation subsequent to becoming teacher. The department may allow credit for professional preparation to a member for attendance at institutions of higher learning, or for a scholarship or grant under an established foundation, subsequent to becoming a public school teacher; but not more than two years of such credit may be granted to any member. [1991 c 35 § 44; 1969 ex.s. c 150 § 10; 1955 c 274 § 14; 1947 c 80 § 33; Rem. Supp. 1947 § 4995-52.]

Intent—1991 c 35: See note following RCW 41.26.005.

Effective date—1969 ex.s. c 150: See note following RCW 41.50.200.

41.32.340 Creditable service, what to consist of. Creditable service of a member at retirement shall consist of the membership service rendered for which credit has been allowed, and also, if a prior service certificate is in full force and effect, the amount of the service certified on the prior service certificate. No pension payments shall be made for service credits established or reestablished after July 1, 1955, if such credits entitle the member to retirement benefits from any other public state or local retirement system or fund. No pension payments shall be made for service credits established or reestablished after July 1, 1961, if such credits entitle the member to retirement benefits from a public federal retirement system or fund for services rendered under a civilian program: **PROVIDED**, That no pension payments shall be made for service credits established or reestablished after July 1, 1969, if credit for the same service is retained for benefits under any other retirement system or fund. [1991 c 35 § 45; 1969 ex.s. c 150 § 11; 1961 c 132 § 3; 1955 c 274 § 15; 1947 c 80 § 34; Rem. Supp. 1947 § 4995-53. Prior: 1941 c 97 § 4, part; 1939 c 86 § 4, part; 1937 c 221 § 5, part; Rem. Supp. 1941 § 4995-5, part.]

Intent—1991 c 35: See note following RCW 41.26.005.

Effective date—1969 ex.s. c 150: See note following RCW 41.50.200.

41.32.345 "Earnable compensation" defined for certain part-time employees—Adoption of rules. (1) Subject to the limitations contained in this section, for the purposes of *RCW 41.32.010(10)(a)(ii), earnable compensation means the compensation the member would have received in the same position if employed on a regular full-time basis for the same contract period.

(2) In order to ensure that the benefit provided by this section is not used to unfairly inflate a member's retirement allowance, the department shall adopt rules having the force of law to govern the application of this section.

(3)(a) In adopting rules which apply to a member employed by a school district, the department may consult the district's salary schedule and related workload provisions, if any, adopted pursuant to RCW 28A.405.200. The rules may require that, in order to be eligible for this benefit, a member's position must either be included on the district's schedule, or the position must have duties, responsibilities, and method of pay which are similar to those found on the district's schedule.

(b) In adopting rules which apply to a member employed by a community college district, the department may consult the district's salary schedule and workload provisions contained in an agreement negotiated pursuant to chapter 28B.52 RCW, or similar documents. The rules may require that, in order to be eligible for this benefit, a member's position must either be included on the district's agreement, or the position must have duties, responsibilities, and method of pay which are similar to those found on the district's agreement. The maximum full-time work week used in calculating the benefit for community college employees paid on an hourly rate shall in no case exceed fifteen credit hours, twenty classroom contact hours, or thirty-five assigned hours.

(4) If the legislature amends or revokes the benefit provided by this section, no affected employee who thereafter retires is entitled to receive the benefit as a matter of contractual right. [1992 c 212 § 18; 1990 c 33 § 570; 1987 c 265 § 2. Formerly RCW 41.32.011.]

***Reviser's note:** RCW 41.32.010 was amended by 1994 c 298 § 3, changing subsection (10)(a)(ii) to subsection (10)(a)(iii).

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

41.32.350 Purchase of additional annuity. A member may make an additional lump sum payment at date of retirement, not to exceed the member's accumulated contributions, to purchase additional annuity. A contribution of six percent of earnable compensation is required from each member, except as provided under RCW 41.32.013. [1991 c 35 § 46; 1990 c 274 § 7; 1973 1st ex.s. c 189 § 6; 1963 ex.s. c 14 § 7; 1955 c 274 § 16; 1947 c 80 § 35; Rem. Supp. 1947 § 4995-54. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; 1931 c 115 § 4, part; 1923 c 115 § 11, part; 1917 c 163 § 10, part; Rem. Supp. 1941 § 4995-6, part.]

Intent—1991 c 35: See note following RCW 41.26.005.

Findings—Effective date—Construction—1990 c 274: See notes following RCW 41.32.010.

Severability—1973 1st ex.s. c 189: See note following RCW 41.50.215.

Savings—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

Members' retirement contributions—Payment by employer: RCW 41.04.445.

41.32.360 Basis of contributions to disability reserve fund. For each year of employment, each member who is employed on a full time basis shall have transferred from his or her contributions a sum determined by the director, in accordance with the recommendations of the state actuary, to maintain a fund sufficient, with regular interest, to provide temporary disability benefits for the members whose claims will be approved by the department in accordance with the provisions of RCW 41.32.540. These transfers shall be placed in the disability reserve fund. [1991 c 35 § 47; 1963 ex.s. c 14 § 8; 1955 c 274 § 17; 1947 c 80 § 36; Rem. Supp. 1947 § 4995-55. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; 1917 c 163 § 10, part; Rem. Supp. 1941 § 4995-6, part.]

Intent—1991 c 35: See note following RCW 41.26.005.

Savings—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

41.32.366 Basis of contributions to death benefit fund. During each fiscal year that a member is employed on a full time basis, the department shall transfer from the member's contributions a sum that will, with regular interest, maintain a fund sufficient according to actuarial rates adopted by the department to pay the death benefits as provided for in this chapter. [1991 c 35 § 48; 1963 ex.s. c 14 § 10.]

Intent—1991 c 35: See note following RCW 41.26.005.

Savings—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

41.32.380 Source of pension reserve—Contributions. There shall be placed in the pension reserve all appropriations made by the legislature for the purpose of paying pensions and survivors' benefits and of establishing and maintaining an actuarial reserve and all gifts and bequests to the pension reserve, and contributions of persons entering the retirement system who have established prior service credit. Members establishing prior service credit shall contribute to the pension reserve as follows:

For the first ten years of prior service fifteen dollars per year;

For the second ten years of prior service thirty dollars per year;

For the third ten years of prior service forty-five dollars per year. [1992 c 212 § 10; 1982 1st ex.s. c 52 § 8; 1947 c 80 § 38; Rem. Supp. 1947 § 4995-57.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

41.32.390 Contributions for prior service credits. At least twenty percent of the total amount due for prior service credit must be paid before an application for credit service be presented to the department for approval. The bal-

ance is not due until date of retirement and may be paid at that time without additional charge. Any unpaid installments at the time the member is retired for service or disability shall constitute a first, paramount, and prior lien against his or her retirement allowance. [1991 c 35 § 49; 1955 c 274 § 18; 1947 c 80 § 39; Rem. Supp. 1947 § 4995-58. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; Rem. Supp. 1941 § 4995-6, part.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.32.470 Eligibility for retirement allowance. A member who is not a dual member under RCW 41.54.010 must have established or reestablished with the retirement system at least five years of credit for public school service in this state to be entitled to a retirement allowance. [1994 c 298 § 4; 1965 ex.s. c 81 § 4; 1963 ex.s. c 14 § 15; 1947 c 80 § 47; Rem. Supp. 1947 § 4995-66. Prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; 1931 c 115 § 7, part; 1923 c 187 § 17, part; Rem. Supp. 1941 § 4995-8, part.]

Intent—1994 c 298: See note following RCW 41.40.010.

Severability—Effective date—1965 ex.s. c 81: See notes following RCW 41.32.010.

Savings—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

41.32.480 Qualifications for retirement. (1) Any member who has left public school service after having completed thirty years of creditable service may retire upon the approval by the department of an application for retirement filed on the prescribed form. Upon retirement the member shall receive a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his or her accumulated contributions at his or her age of retirement and a pension as provided in RCW 41.32.497. Effective July 1, 1967, anyone then receiving a retirement allowance or a survivor retirement allowance under this chapter, based on thirty-five years of creditable service, and who has established more than thirty-five years of service credit with the retirement system, shall thereafter receive a retirement allowance based on the total years of service credit established.

(2) Any member who has attained age sixty years, but who has completed less than thirty years of creditable service, upon leaving public school service, may retire upon the approval by the department of an application for retirement filed on the prescribed form. Upon retirement the member shall receive a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his or her accumulated contributions at his or her age of retirement and a pension as provided in RCW 41.32.497.

(3) Any member who has attained age fifty-five years and who has completed not less than twenty-five years of creditable service, upon leaving public school service, may retire upon the approval by the department of an application for retirement filed on the prescribed form. Upon retirement the member shall receive a retirement allowance which shall be the actuarial equivalent of his or her accumulated contributions at his or her age of retirement and a pension as provided in RCW 41.32.497. An individual who has retired pursuant to this subsection, on or after July 1, 1969, shall

not suffer an actuarial reduction in his or her retirement allowance, except as the allowance may be actuarially reduced pursuant to the options contained in RCW 41.32.530. *This 1974 amendment shall be retroactive to July 1, 1969. [1991 c 35 § 53; 1974 ex.s. c 193 § 2; 1972 ex.s. c 147 § 1; 1970 ex.s. c 35 § 2; 1969 ex.s. c 150 § 14; 1967 c 151 § 1; 1955 c 274 § 21; 1947 c 80 § 48; Rem. Supp. 1947 § 4995-67. Prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; 1931 c 115 § 7, part; 1923 c 187 § 17, part; Rem. Supp. 1941 § 4995-8, part.]

***Reviser's note:** "this 1974 amendment" consisted of the addition of what are now the third and fourth sentences in subsection (3) above.

Intent—1991 c 35: See note following RCW 41.26.005.

Emergency—Severability—1974 ex.s. c 193: See notes following RCW 41.32.310.

Effective date—1972 ex.s. c 147: "The effective date of this 1972 amendatory act shall be July 1, 1972." [1972 ex.s. c 147 § 9.]

Severability—1972 ex.s. c 147: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 147 § 10.]

Effective date—1970 ex.s. c 35: "The provisions of sections 1 through 5 and 7 of this 1970 amendatory act shall take effect on July 1, 1970; the provisions of section 6 of this 1970 amendatory act shall be effective on the date chapter 223, Laws of 1969 ex. sess. becomes effective [July 1, 1970], at which time section 5 of this 1970 amendatory act shall be void and of no effect." [1970 ex.s. c 35 § 8.] For codification of 1970 ex.s. c 35, see Codification Tables, Volume 0.

Severability—1970 ex.s. c 35: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 35 § 9.]

Effective date—1969 ex.s. c 150: See note following RCW 41.50.200.

Effective date—1967 c 151: "This act shall become effective on July 1, 1967." [1967 c 151 § 9.]

Severability—1967 c 151: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances shall not be affected." [1967 c 151 § 8.]

41.32.485 Minimum retirement allowance—Cost-of-living adjustment—Post-retirement adjustment—Computation. (1) Notwithstanding any provision of law to the contrary, effective July 1, 1989, as a cost-of-living adjustment, no beneficiary receiving a retirement allowance pursuant to this chapter shall receive, as the pension portion of that retirement allowance, less than fourteen dollars and eighty-two cents per month for each year of service creditable to the person whose service is the basis of the pension. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by fourteen dollars and eighty-two cents. Where the pension payable was adjusted at the time benefit payments to the beneficiary commenced, the minimum pension provided in this section shall be adjusted in a manner consistent with that adjustment.

(2) Notwithstanding any provision of law to the contrary, effective July 1, 1979, the retirement allowance of each beneficiary who either is receiving benefits pursuant to RCW 41.32.520 or 41.32.550 as of December 31, 1978, or commenced receiving a monthly retirement allowance under this chapter as of a date no later than July 1, 1974, shall be permanently increased by a post-retirement adjustment. This adjustment shall be in lieu of any adjustments provided under *RCW 41.32.499(6) as of July 1, 1979, or July 1,

1980, for the affected beneficiaries. Such adjustment shall be calculated as follows:

(a) Retirement allowances to which this subsection and subsection (1) of this section are both applicable shall be determined by first applying subsection (1) and then applying this subsection. The department shall determine the total years of creditable service and the total dollar benefit base accrued as of December 31, 1978, except that this determination shall take into account only those beneficiaries to whom this subsection applies;

(b) The department shall multiply the total benefits determined in (a) of this subsection by six percent and divide the dollar value thus determined by the total service determined in (a) of this subsection. The resultant figure shall then be a post-retirement increase factor which shall be applied as specified in (c) of this subsection;

(c) Each beneficiary to whom this subsection applies shall receive an increase which is the product of the factor determined in (b) of this subsection multiplied by the years of creditable service.

(3) The provisions of subsections (1) and (2) of this section shall not be applicable to those receiving benefits pursuant to RCW 41.32.540 or 41.32.760 through 41.32.825. [1989 c 272 § 5; 1987 c 455 § 1; 1986 c 306 § 2; 1979 ex.s. c 96 § 2.]

***Reviser's note:** RCW 41.32.499 was repealed by 1995 c 345 § 11.

Purpose—1989 c 272: See note following RCW 41.32.005.

Effective date—1987 c 455: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 455 § 9.]

Effective date—1986 c 306: "This act shall take effect on July 1, 1986." [1986 c 306 § 5.]

41.32.4851 Minimum retirement allowance—Annual adjustment—Persons who become beneficiaries after June 30, 1995. (1) No one who becomes a beneficiary after June 30, 1995, shall receive a monthly retirement allowance of less than twenty-four dollars and twenty-two cents times the number of years of service creditable to the person whose service is the basis of such retirement allowance.

(2) If the retirement allowance payable was adjusted at the time benefit payments to the beneficiary commenced, the minimum allowance provided in this section shall be adjusted in a manner consistent with that adjustment.

(3) Beginning July 1, 1996, the minimum benefit set forth in subsection (1) of this section shall be adjusted annually by the annual increase.

(4) Those receiving a temporary disability benefit under RCW 41.32.540 shall not be eligible for the benefit provided by this section. [1995 c 345 § 3.]

Intent—Effective date—1995 c 345: See notes following RCW 41.32.489.

41.32.4872 Permanent increase for specified beneficiaries age seventy or over. (1) The amount of the July 1, 1993, increase to the retirement allowance of beneficiaries under this chapter as a result of the temporary adjustment authorized by section 2, chapter 519, Laws of 1993, shall be made a permanent adjustment on July 1, 1995.

(2) Beneficiaries receiving a benefit under RCW 41.32.485 who are at least age seventy-nine shall receive on

July 1, 1995, a permanent adjustment of one dollar and eighteen cents per month per year of service.

(3) Beneficiaries under this chapter who are not subject to subsection (1) of this section and not receiving a benefit under RCW 41.32.485 shall receive the following permanent adjustment to their retirement allowance on July 1, 1995:

(a) Those who are age seventy, thirty-nine cents per month per year of service;

(b) Those who are age seventy-one, seventy-nine cents per month per year of service; and

(c) Those who are at least age seventy-two, one dollar and eighteen cents per month per year of service. [1995 c 345 § 4.]

Intent—Effective date—1995 c 345: See notes following RCW 41.32.489.

41.32.489 Retirement allowance—Annual increases—Eligibility. (1) Beginning July 1, 1995, and annually thereafter, the retirement allowance of a person meeting the requirements of this section shall be increased by the annual increase amount.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary who has received a retirement allowance for at least one year and has attained at least age sixty-six by July 1st in the calendar year in which the annual increase is given; or

(b) A beneficiary whose retirement allowance is lower than the minimum benefit provided under RCW 41.32.4851.

(3) The following persons shall also be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary receiving the minimum benefit on June 30, 1995, under RCW 41.32.485; or

(b) A recipient of a survivor benefit on June 30, 1995, which has been increased by *RCW 41.32.575.

(4) If otherwise eligible, those receiving an annual adjustment under RCW 41.32.530(1)(d) shall be eligible for the annual increase adjustment in addition to the benefit that would have been received absent this section.

(5) Those receiving a temporary disability benefit under RCW 41.32.540 shall not be eligible for the benefit provided by this section.

(6) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this postretirement adjustment not granted prior to that time. [1995 c 345 § 2.]

***Reviser's note:** RCW 41.32.575 was repealed by 1995 c 345 § 11.

Intent—1995 c 345: "The intent of this act is to:

(1) Simplify the calculation of postretirement adjustments so that they can be more easily communicated to plan I active and retired members;

(2) Provide postretirement adjustments based on years of service rather than size of benefit;

(3) Provide postretirement adjustments at an earlier age;

(4) Provide postretirement adjustments to a larger segment of plan I retirees; and

(5) Simplify administration by reducing the number of plan I postretirement adjustments to one." [1995 c 345 § 1.]

Effective date—1995 c 345: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 12, 1995]." [1995 c 345 § 14.]

41.32.4931 Additional special pension for former members not receiving social security. (1) The benefits provided under subsection (2) of this section shall be available only to former members who have reached age sixty-five or are disabled for further public school service and are not receiving federal old age, survivors or disability benefit payments (social security) and are not able to qualify for such benefits.

(2) Effective July 1, 1987, former members who receive the minimum retirement allowance provided by RCW 41.32.485(1) and who meet the requirements of subsection (1) of this section shall receive an additional special pension of ten dollars per month per year of service credit. [1987 c 455 § 6; 1973 2nd ex.s. c 32 § 3; 1967 c 151 § 6.]

Effective date—1987 c 455: See note following RCW 41.32.485.

Emergency—Severability—1973 2nd ex.s. c 32: See notes following RCW 41.32.310.

Effective date—Severability—1967 c 151: See notes following RCW 41.32.480.

41.32.4945 Limitation as to earnable compensation of member as member of the legislature. Notwithstanding any other provision of RCW 41.32.010, 41.32.260, 41.32.497, 41.32.498 and this section, when the salary of any member as a member of the legislature is increased beyond the amount provided for in Initiative Measure No. 282 then earnable compensation for the purposes of this chapter shall be based solely on the sum of (1) the compensation actually received from the salary for the job from which such leave of absence may have been taken and (2) such member's salary as a legislator during the two highest compensated consecutive years. [1991 c 35 § 54; 1974 ex.s. c 199 § 6.]

Intent—1991 c 35: See note following RCW 41.26.005.

Emergency—Severability—Construction—1974 ex.s. c 199: See notes following RCW 41.32.010.

41.32.497 Retirement allowance for members entering system before April 25, 1973—Election. Any person who became a member on or before April 25, 1973 and who qualifies for a retirement allowance shall, at time of retirement, make an irrevocable election to receive either the retirement allowance by RCW 41.32.498 as now or hereafter amended or to receive a retirement allowance pursuant to this section consisting of: (1) An annuity which shall be the actuarial equivalent of his accumulated contributions at his age of retirement, (2) A basic service pension of one hundred dollars per annum, and (3) A service pension which shall be equal to one one-hundredth of his average earnable compensation for his two highest compensated consecutive years of service times the total years of creditable service established with the retirement system: PROVIDED, That no beneficiary now receiving benefits or who receives benefits in the future, except those beneficiaries receiving reduced benefits pursuant to *RCW 41.32.520(1) or 41.32.530, shall receive a pension of less than six dollars and fifty cents per month for each year of creditable service established with the retirement system. Pension benefits payable under the provisions of this section shall be prorated on a monthly basis and paid at the end of each month. [1990 c 249 § 12; 1974 ex.s. c 199 § 3; 1973 1st ex.s. c 189

§ 2; 1970 ex.s. c 35 § 3; 1969 ex.s. c 150 § 15; 1963 ex.s. c 14 § 16.]

***Reviser's note:** RCW 41.32.520(1) was renumbered as RCW 41.32.520(1)(a) by 1990 c 249 § 15.

Findings—1990 c 249: See note following RCW 2.10.146.

Emergency—Severability—Construction—1974 ex.s. c 199: See notes following RCW 41.32.010.

Severability—1973 1st ex.s. c 189: See note following RCW 41.50.215.

Parts of sections retroactive—1973 1st ex.s. c 189: See note following RCW 41.32.498.

Effective date—Severability—1970 ex.s. c 35: See notes following RCW 41.32.480.

Effective date—1969 ex.s. c 150: See note following RCW 41.50.200.

Savings—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

41.32.498 Retirement allowance for members entering system after April 25, 1973, or in lieu of allowance under RCW 41.32.497. Any person who becomes a member subsequent to April 25, 1973 or who has made the election, provided by RCW 41.32.497, to receive the benefit provided by this section, shall receive a retirement allowance consisting of:

(1) An annuity which shall be the actuarial equivalent of his or her additional contributions on full salary as provided by chapter 274, Laws of 1955 and his or her lump sum payment in excess of the required contribution rate made at date of retirement, pursuant to RCW 41.32.350, if any; and

(2) A combined pension and annuity service retirement allowance which shall be equal to two percent of his or her average earnable compensation for his or her two highest compensated consecutive years of service times the total years of creditable service established with the retirement system, to a maximum of sixty percent of such average earnable compensation: PROVIDED, That any member may irrevocably elect, at time of retirement, to withdraw all or a part of his or her accumulated contributions, other than any amount paid under RCW 41.50.165(2), and to receive, in lieu of the full retirement allowance provided by this subsection, a reduction in the standard two percent allowance, of the actuarially determined amount of monthly annuity which would have been purchased by said contributions: PROVIDED FURTHER, That no member may withdraw an amount of accumulated contributions which would lower his or her retirement allowance below the minimum allowance provided by RCW 41.32.497 as now or hereafter amended: AND PROVIDED FURTHER, That said reduced amount may be reduced even further pursuant to the options provided in RCW 41.32.530;

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, the retirement allowance payable for service of a member who was state superintendent of public instruction on January 1, 1973 shall be equal to three percent of the average earnable compensation of his two highest consecutive years of service for each year of such service. [1994 c 197 § 16; 1991 c 35 § 55; 1990 c 249 § 4; 1988 c 116 § 1; 1987 c 143 § 1; 1974 ex.s. c 199 § 4; 1973 1st ex.s. c 189 § 3.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Intent—1991 c 35: See note following RCW 41.26.005.

Findings—1990 c 249: See note following RCW 2.10.146.

Effective date—1988 c 116: "This act shall take effect June 30, 1988." [1988 c 116 § 2.]

Emergency—Severability—Construction—1974 ex.s. c 199: See notes following RCW 41.32.010.

Parts of sections as retroactive—1973 1st ex.s. c 189: "Subsection (3) of section 3 of this 1973 amendatory act and the equivalent language contained in the last proviso in section 1 of this 1973 amendatory act, relating to elected and appointed officials, shall be retroactive to January 1, 1973." [1973 1st ex.s. c 189 § 4.]

Reviser's note: The reference to "subsection (3) of section 3" appears to be erroneous. Section 13 of the original bill (House Bill No. 419) referred to equivalent language in subsection (3) of section 12 and the last proviso in section 4, amending RCW 41.32.497. The language referred to in section 4 remains in section 2 of the final bill which amends RCW 41.32.497, but was deleted by senate committee amendment from section 3 (formerly section 12 of the original bill) of the engrossed substitute bill, codified herein as RCW 41.32.498.

Severability—1973 1st ex.s. c 189: See note following RCW 41.50.215.

41.32.4991 Permanent retirement allowance adjustment. The dollar amount of the temporary postretirement allowance adjustment granted by section 1, chapter 519, Laws of 1993 shall be provided as a permanent retirement allowance adjustment as of July 1, 1995. [1994 c 247 § 1.]

Effective date—1994 c 247: "This act shall take effect August 1, 1994." [1994 c 247 § 8.]

Temporary postretirement allowance—1993 c 519: "The benefit adjustment granted by sections 711(1) and 712(1), chapter 232, Laws of 1992 (uncodified) being received by plan I beneficiaries as of June 30, 1993, unless otherwise improper, shall be continued through June 30, 1995." [1993 c 519 § 1.]

41.32.500 Termination of membership. Membership in the retirement system is terminated when a member retires for service or disability, dies, or withdraws his or her accumulated contributions.

The prior service certificate becomes void when a member dies or withdraws the accumulated contributions, and any prior administrative interpretation of the board of trustees, consistent with this section, is hereby ratified, affirmed and approved. [1995 c 134 § 13. Prior: 1994 c 197 § 17; 1994 c 177 § 5; 1991 c 35 § 57; 1986 c 317 § 2; 1983 c 233 § 1; 1974 ex.s. c 193 § 3; 1969 ex.s. c 150 § 16; 1967 c 50 § 6; 1965 ex.s. c 81 § 5; 1955 c 274 § 23; 1947 c 80 § 50; Rem. Supp. 1947 § 4995-69.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Findings—1994 c 177: See note following RCW 41.50.125.

Intent—1991 c 35: See note following RCW 41.26.005.

Legislative findings—Intent—Severability—1986 c 317: See notes following RCW 41.40.150.

Severability—1983 c 233: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 233 § 4.]

Emergency—Severability—1974 ex.s. c 193: See notes following RCW 41.32.310.

Effective date—1969 ex.s. c 150: See note following RCW 41.50.200.

Effective date—Severability—1967 c 50: See notes following RCW 41.32.010.

Effective date—Severability—1965 ex.s. c 81: See notes following RCW 41.32.010.

41.32.510 Payment on withdrawal—Reentry. (1) Should a member cease to be employed by an employer and request upon a form provided by the department a refund of the member's accumulated contributions with interest, this amount shall be paid to the individual less any withdrawal fee which may be assessed by the director which shall be deposited in the department of retirement systems expense fund.

(2) A member who files a request for a refund and subsequently enters into employment with an employer prior to the refund being made shall not be eligible for a refund. For purposes of this section, a written or oral employment agreement shall be considered entering into employment. [1994 c 197 § 18; 1994 c 177 § 6; 1982 1st ex.s. c 52 § 15; 1969 ex.s. c 150 § 17; 1963 ex.s. c 14 § 17; 1955 c 274 § 24; 1947 c 80 § 51; Rem. Supp. 1947 § 4995-70. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part.]

Reviser's note: This section was amended by 1994 c 177 § 6 and by 1994 c 197 § 18, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Findings—1994 c 177: See note following RCW 41.50.125.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Effective date—1969 ex.s. c 150: See note following RCW 41.50.200.

Savings—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

41.32.520 Payment on death before retirement. (1) Except as specified in subsection (3) of this section, upon receipt of proper proofs of death of any member before retirement or before the first installment of his or her retirement allowance shall become due his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, and/or other benefits payable upon his or her death shall be paid to his or her estate or to such persons, trust, or organization as he or she shall have nominated by written designation duly executed and filed with the department. If a member fails to file a new beneficiary designation subsequent to marriage, divorce, or reestablishment of membership following termination by withdrawal, lapsation, or retirement, payment of his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, and/or other benefits upon death before retirement shall be made to the surviving spouse, if any; otherwise, to his or her estate. If a member had established ten or more years of Washington membership service credit or was eligible for retirement, the beneficiary or the surviving spouse if otherwise eligible may elect, in lieu of a cash refund of the member's accumulated contributions, the following survivor benefit plan actuarially reduced by the amount of any lump sum benefit identified as owing

to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670:

(a) A widow or widower, without a child or children under eighteen years of age, may elect a monthly payment of fifty dollars to become effective at age fifty, provided the member had fifteen or more years of Washington membership service credit. A benefit paid under this subsection (1)(a) shall terminate at the marriage of the beneficiary.

(b) The beneficiary, if a surviving spouse or a dependent (as that term is used in computing the dependent exemption for federal internal revenue purposes) may elect to receive a joint and one hundred percent retirement allowance under RCW 41.32.530.

(i) In the case of a dependent child the allowance shall continue until attainment of majority or so long as the department judges that the circumstances which created his or her dependent status continue to exist. In any case, if at the time dependent status ceases, an amount equal to the amount of accumulated contributions of the deceased member has not been paid to the beneficiary, the remainder shall then be paid in a lump sum to the beneficiary.

(ii) If at the time of death, the member was not then qualified for a service retirement allowance, the benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance.

(2) If no qualified beneficiary survives a member, at his or her death his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to his or her estate, or his or her dependents may qualify for survivor benefits under benefit plan (1)(b) in lieu of a cash refund of the members accumulated contributions in the following order: Widow or widower, guardian of a dependent child or children under age eighteen, or dependent parent or parents.

(3) If a member who has received a determination of disability as specified in RCW 41.32.550 and selected a retirement option under RCW 41.32.530(1)(b) dies before the first retirement allowance installment becomes due, he or she shall receive the benefit provided under the selected retirement option. [1995 c 144 § 9; 1993 c 16 § 1; 1992 c 212 § 7. Prior: 1991 c 365 § 29; 1991 c 35 § 58; 1990 c 249 § 15; 1974 ex.s. c 193 § 5; 1973 2nd ex.s. c 32 § 4; 1973 1st ex.s. c 154 § 76; 1967 c 50 § 7; 1965 ex.s. c 81 § 6; 1957 c 183 § 3; 1955 c 274 § 25; 1947 c 80 § 52; Rem. Supp. 1947 § 4995-71; prior: 1941 c 97 § 6; 1939 c 86 § 6; 1937 c 221 § 7; 1923 c 187 § 22; 1917 c 163 § 21; Rem. Supp. 1941 § 4995-7.]

Application—1993 c 16 § 1: "The provisions of section 1(3) of this act shall apply to all determinations of disability made after June 30, 1992." [1993 c 16 § 2.]

Effective date—1993 c 16: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 12, 1993]." [1993 c 16 § 3.]

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

Intent—1991 c 35: See note following RCW 41.26.005.

Findings—1990 c 249: See note following RCW 2.10.146.

Emergency—Severability—1974 ex.s. c 193: See notes following RCW 41.32.310.

Emergency—Severability—1973 2nd ex.s. c 32: See notes following RCW 41.32.310.

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

Effective date—Severability—1967 c 50: See notes following RCW 41.32.010.

Effective date—Severability—1965 ex.s. c 81: See notes following RCW 41.32.010.

Severability—1957 c 183: See RCW 41.33.900.

41.32.522 Death benefits. (1) The department shall pay a death benefit of six hundred dollars to a member's estate or to the persons, trust, or organization the member nominates by written designation duly executed and filed with the department or to the persons as may otherwise qualify as the beneficiary pursuant to RCW 41.32.520 upon receipt of proper proof of death of the member if he or she:

(a) Was employed on a full time basis during the fiscal year in which his or her death occurs;

(b) Was under contract for full time employment in a Washington public school;

(c) Submits an application for a retirement allowance to be approved by the department immediately following termination of his or her full-time Washington public school service and who dies before the first installment of his or her retirement allowance becomes due;

(d) Is receiving or is entitled to receive temporary disability payments; or

(e) Upon becoming eligible for a disability retirement allowance submits an application for an allowance to be approved by the department immediately following the date of his or her eligibility for a disability retirement allowance and dies before the first installment of such allowance becomes due.

(2) In order to receive a death benefit under this section a deceased member:

(a) Must have established at least one year of credit with the retirement system for full time Washington membership service;

(b) Who was not employed full time in Washington public school service during the fiscal year immediately preceding the year of his or her death must have been employed full time in Washington public school service for at least fifty consecutive days during the fiscal year of his or her death. [1995 c 144 § 10; 1992 c 212 § 4; 1991 c 35 § 59; 1974 ex.s. c 193 § 4; 1969 ex.s. c 150 § 18; 1967 c 50 § 8; 1963 ex.s. c 14 § 20.]

Intent—1991 c 35: See note following RCW 41.26.005.

Emergency—Severability—1974 ex.s. c 193: See notes following RCW 41.32.310.

Effective date—1969 ex.s. c 150: See note following RCW 41.50.200.

Effective date—Severability—1967 c 50: See notes following RCW 41.32.010.

Savings—Effective date—Severability—1963 ex.s. c 14: See notes following RCW 41.32.010.

41.32.523 Death benefits—Members not qualified for benefits under RCW 41.32.522 and retired former members. Upon receipt of proper proof of death of a member who does not qualify for the death benefit of six hundred dollars under RCW 41.32.522, or a former member

who was retired for age, service, or disability, a death benefit of four hundred dollars shall be paid to the member's estate or to the persons, trust, or organization as he or she shall have nominated by written designation duly executed and filed with the department or to the persons as may otherwise qualify as the beneficiary pursuant to RCW 41.32.520: PROVIDED, That the member or the retired former member had established not less than ten years of credit with the retirement system for full time Washington membership service. [1995 c 144 § 11; 1992 c 212 § 5; 1991 c 35 § 60; 1974 ex.s. c 193 § 6; 1969 ex.s. c 150 § 19; 1967 c 50 § 9; 1965 ex.s. c 81 § 7; 1963 ex.s. c 14 § 21.]

Intent—1991 c 35: See note following RCW 41.26.005.

Emergency—Severability—1974 ex.s. c 193: See notes following RCW 41.32.310.

Effective date—1969 ex.s. c 150: See note following RCW 41.50.200.

Effective date—Severability—1967 c 50: See notes following RCW 41.32.010.

Savings—Effective date—Severability—1963 ex.s. c 14: See notes following RCW 41.32.010.

41.32.530 Options available. (1) Upon an application for retirement for service under RCW 41.32.480 or retirement for disability under RCW 41.32.550, approved by the department, every member shall receive the maximum retirement allowance available to him or her throughout life unless prior to the time the first installment thereof becomes due he or she has elected, by executing the proper application therefor, to receive the actuarial equivalent of his or her retirement allowance in reduced payments throughout his or her life with the following options:

(a) Standard allowance. If he or she dies before he or she has received the present value of his or her accumulated contributions at the time of his or her retirement in annuity payments, the unpaid balance shall be paid to his or her estate or to such person, trust, or organization as he or she shall have nominated by written designation executed and filed with the department.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person who has an insurable interest in the member's life. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(c) Such other benefits shall be paid to a member receiving a retirement allowance under RCW 41.32.497 as the member may designate for himself, herself, or others equal to the actuarial value of his or her retirement annuity at the time of his retirement: PROVIDED, That the board of trustees shall limit withdrawals of accumulated contributions to such sums as will not reduce the member's retirement allowance below one hundred and twenty dollars per month.

(d) A member whose retirement allowance is calculated under RCW 41.32.498 may also elect to receive a retirement

allowance based on options available under this subsection that includes the benefit provided under RCW 41.32.770. This retirement allowance option shall also be calculated so as to be actuarially equivalent to the maximum retirement allowance and to the options available under this subsection.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply. [1996 c 175 § 4; 1995 c 144 § 12; 1990 c 249 § 5; 1955 c 274 § 26; 1947 c 80 § 53; Rem. Supp. 1947 § 4995-72. Prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; Rem. Supp. 1941 § 4995-8, part.]

Findings—1990 c 249: See note following RCW 2.10.146.

41.32.5305 Death before retirement—Eligibility of surviving spouse for retirement allowance—Conditions.

(1) If a member dies following a period of sick leave without having applied for a disability retirement under RCW 41.32.550, the member's surviving spouse is eligible to receive, from the time of the member's death, a joint and one hundred percent retirement allowance under RCW 41.32.530, without the actuarial reduction otherwise required by RCW 41.32.520(1)(b)(ii), if the following conditions are met:

(a) The member had been on sick leave due to an illness that would have qualified the member for permanent disability under RCW 41.32.550; and

(b) The illness was the cause of the member's death.

(2) This section applies to members who died between July 1, 1994, and September 1, 1994. [1996 c 227 § 1.]

41.32.540 Disability allowance—Temporary. Upon application of a member in service or of his or her employer or of his or her legal guardian or of the legal representative of a deceased member who was eligible to apply for a temporary disability allowance based on the final illness a member shall be granted a temporary disability allowance by the department if the medical director, after a medical examination of the member, certifies that the member is mentally or physically incapacitated for the further performance of duty. Any member receiving a temporary disability allowance on July 1, 1964 or who qualifies for a temporary disability allowance effective on or after July 1, 1964 shall receive a temporary disability allowance of one

hundred eighty dollars per month for a period not to exceed two years, but no payments shall be made for a disability period of less than sixty days: PROVIDED, That a member who is not employed full time in Washington public school service for consecutive fiscal years shall have been employed for at least fifty consecutive days during the fiscal year in which he or she returns to full time Washington public school service before he or she may qualify for temporary disability benefits: PROVIDED FURTHER, That no temporary disability benefits shall be paid on the basis of an application received more than four calendar years after a member became eligible to apply for such benefits. [1992 c 212 § 3; 1991 c 35 § 61; 1974 ex.s. c 193 § 7; 1963 ex.s. c 14 § 18; 1959 c 37 § 1; 1955 c 274 § 27; 1947 c 80 § 54; Rem. Supp. 1947 § 4995-73. Prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; Rem. Supp. 1941 § 4995-8, part.]

Intent—1991 c 35: See note following RCW 41.26.005.

Emergency—Severability—1974 ex.s. c 193: See notes following RCW 41.32.310.

Savings—Effective date—Severability—1963 ex.s. c 14: See notes following RCW 41.32.010.

41.32.550 Options and allowances on report that disability will be permanent—Reexamination.

(1) Should the director determine from the report of the medical director that a member employed under an annual contract with an employer has become permanently disabled for the performance of his or her duties or at any time while a member is receiving temporary disability benefits that a member's disability will be permanent, a member shall have the option of then receiving (a) all of the accumulated contributions in a lump sum payment and canceling his or her membership, or (b) of accepting a retirement allowance based on service or age, if eligible under RCW 41.32.480, or (c) if the member had five or more years of Washington membership service credit established with the retirement system, a retirement allowance because of disability.

(2) Any member applying for a retirement allowance who is eligible for benefits on the basis of service or age shall receive a retirement allowance based on the provision of law governing retirement for service or age. If the member qualifies to receive a retirement allowance because of disability he or she shall be paid the maximum annuity which shall be the actuarial equivalent of the accumulated contributions at his or her age of retirement and a pension equal to the service pension to which he or she would be entitled under RCW 41.32.497. If the member dies before he or she has received in annuity payments the present value of the accumulated contributions at the time of retirement, the unpaid balance shall be paid to the estate or to the persons, trust, or organization nominated by written designation executed and filed with the department.

(3) A member retired for disability may be required at any time to submit to reexamination. If medical findings reveal that the individual is no longer disabled for the performance of public school service, the retirement allowance granted because of disability may be terminated by action of the director or upon written request of the member. In case of termination, the individual shall be restored to full membership in the retirement system. [1995 c 144 § 13; 1991 sp.s. c 11 § 6. Prior: 1991 c 365 § 33; 1991 c 35 §

62; 1970 ex.s. c 35 § 4; 1969 ex.s. c 150 § 20; 1967 c 50 § 10; 1963 ex.s. c 14 § 19; 1961 c 132 § 4; 1959 c 37 § 2; 1955 c 274 § 28; 1947 c 80 § 55; Rem. Supp. 1947 § 4995-74; prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; 1931 c 115 § 8; 1923 c 187 § 18; 1917 c 163 § 17, part; Rem. Supp. 1941 § 4995-8, part.]

Purpose—Effective dates—1991 sp.s. c 11: See notes following RCW 41.26.090.

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

Intent—1991 c 35: See note following RCW 41.26.005.

Effective date—Severability—1970 ex.s. c 35: See notes following RCW 41.32.480.

Effective date—1969 ex.s. c 150: See note following RCW 41.50.200.

Effective date—Severability—1967 c 50: See notes following RCW 41.32.010.

Savings—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

41.32.555 Persons with annual half-time contracts—Eligibility for benefits under RCW 41.32.550. Persons who were under an annual half-time contract with an employer anytime during the period of September 1, 1986, through August 31, 1987, shall be eligible for benefits provided by RCW 41.32.550, as amended by chapter 365, Laws of 1991, effective beginning the month following when they left service due to their disability if during that period they were medically determined to be permanently disabled for the performance of their duty.

A member who qualifies for benefits under this section who has not begun receiving benefits prior to June 11, 1992, shall be permitted to select a survivor option pursuant to RCW 41.32.530. [1992 c 212 § 19; 1991 c 365 § 34.]

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

41.32.570 Suspension of pension payments—Service as substitute teacher. (1) Any retired teacher or retired administrator who enters service in any public educational institution in Washington state shall cease to receive pension payments while engaged in such service: PROVIDED, That service may be rendered up to seventy-five days per school year without reduction of pension.

(2) In addition to the seventy-five days of service permitted under subsection (1) of this section, a retired teacher or retired administrator may also serve only as a substitute teacher for up to an additional fifteen days per school year without reduction of pension if:

(a) A school district, which is not a member of a multidistrict substitute cooperative, determines that it has exhausted or can reasonably anticipate that it will exhaust its list of qualified and available substitutes and the school board of the district adopts a resolution to make its substitute teachers who are retired teachers or retired administrators eligible for the additional fifteen days of extended service once the list of qualified and available substitutes has been exhausted. The resolution by the school district shall state that the services of retired teachers and retired administrators are necessary to address the shortage of qualified and available substitutes. The resolution shall be valid only for the school year in which it is adopted. The district shall forward a copy of the resolution with a list of retired teachers and retired administrators who have been employed as

substitute teachers to the department and may notify the retired teachers and retired administrators included on the list of their right to take advantage of the provisions of this subsection; or

(b) A multidistrict substitute cooperative determines that the school districts have exhausted or can reasonably anticipate that they will exhaust their list of qualified and available substitutes and each of the school boards adopts a resolution to make their substitute teachers *or retired administrators who are retired teachers [or retired administrators] eligible for the extended service once the list of qualified and available substitutes has been exhausted. The resolutions by each of the school districts shall state that the services of retired teachers and retired administrators are necessary to address the shortage of qualified and available substitutes. The resolutions shall be valid only for the school year in which they are adopted. The cooperative shall forward a copy of the resolutions with a list of retired teachers and retired administrators who have been employed as substitute teachers to the department and may notify the retired teachers and retired administrators included on the list of their right to take advantage of the provisions of this subsection.

(3) In addition to the seventy-five days of service permitted under subsection (1) of this section, a retired administrator or retired teacher may also serve as a substitute administrator up to an additional fifteen days per school year without reduction of pension if a school district board of directors adopts a resolution declaring that the services of a retired administrator or retired teacher are necessary because it cannot find a replacement administrator to fill a vacancy. The resolution shall be valid only for the school year in which it is adopted. The district shall forward a copy of the resolution with the name of the retired administrator or retired teacher who has been employed as a substitute administrator to the department. However, a retired administrator or retired teacher may not serve more than a total of fifteen additional days per school year pursuant to subsections (2) and (3) of this section.

(4) Subsection (1) of this section shall apply to all persons governed by the provisions of plan I, regardless of the date of their retirement, but shall apply only to benefits payable after June 11, 1986.

(5) Subsection (2) of this section shall apply to all persons governed by the provisions of plan I, regardless of the date of their retirement, but shall only apply to benefits payable after September 1, 1994. [1995 c 264 § 1; 1994 c 69 § 2; 1989 c 273 § 29; 1986 c 237 § 1; 1967 c 151 § 5; 1959 c 37 § 3; 1955 c 274 § 30; 1947 c 80 § 57; Rem. Supp. 1947 § 4995-76.]

***Reviser's note:** The reference to "retired administrators" is apparently misplaced, and should have been placed after the reference to retired teachers that follows it.

Effective date—1995 c 264: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]." [1995 c 264 § 2.]

Findings—1994 c 69: "The legislature finds that there is a shortage of certificated substitute teachers in many regions of the state, and that this shortage will likely increase in the coming years. The legislature further finds that one method of reducing this shortage of substitute teachers is to encourage retired teachers to serve as substitutes by increasing the number of days they can work without affecting their retirement payments." [1994 c 69 § 1.]

Severability—1989 c 273: See RCW 41.45.900.

Effective date—Severability—1967 c 151: See notes following RCW 41.32.480.

"PLAN II"

41.32.755 Provisions applicable to plan II. RCW 41.32.760 through 41.32.825 shall apply only to plan II members. [1992 c 72 § 7; 1977 ex.s. c 293 § 2.]

Effective date—1977 ex.s. c 293: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect October 1, 1977." [1977 ex.s. c 293 § 23.]

Severability—1977 ex.s. c 293: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 293 § 22.]

Legislative direction and placement—1977 ex.s. c 293: "Sections 1 through 17 of this 1977 amendatory act shall be added to chapter 41.32 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter." [1977 ex.s. c 293 § 21.]

Section headings—1977 ex.s. c 293: "Section headings used in this 1977 amendatory act shall not constitute any part of the law." [1977 ex.s. c 293 § 20.]

41.32.760 Computation of the retirement allowance. A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each year of service. [1977 ex.s. c 293 § 3.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

41.32.762 Lump sum retirement allowance—Reentry—Conditions for reinstatement of service. (1) On or after June 10, 1982, the director may pay a beneficiary, subject to the provisions of subsection (5) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.32.760 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of such monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A beneficiary, subject to the provisions of subsection (5) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to re-retiring, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) If a member fails to meet the time limitations under subsection (3) of this section, reinstatement of all previous service will occur if the member pays the amount required under RCW 41.50.165(2). The amount, however, shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(5) Only persons entitled to or receiving a service retirement allowance under RCW 41.32.760 or an earned disability allowance under RCW 41.32.790 qualify for participation under this section.

(6) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system. [1994 c 197 § 19; 1982 c 144 § 2.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

41.32.765 Retirement for service. (1) **NORMAL RETIREMENT.** Any member with at least five service credit years of service who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760.

(2) **EARLY RETIREMENT.** Any member who has completed at least twenty service credit years of service who has attained at least age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five. [1991 c 343 § 5; 1977 ex.s. c 293 § 4.]

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

41.32.770 Post-retirement cost-of-living. Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

- (1) The original dollar amount of the retirement allowance;
- (2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";
- (3) The index for the calendar year prior to the date of determination, to be known as "index B"; and
- (4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

- (a) Produce a retirement allowance which is lower than the original retirement allowance;
- (b) Exceed three percent in the initial annual adjustment;

or

(c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. [1977 ex.s. c 293 § 5.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

41.32.780 Teachers required to be members. All teachers who become employed by an employer in an eligible position on or after October 1, 1977, shall be members of the retirement system and shall be governed by the provisions of RCW 41.32.755 through 41.32.825. [1991 c 35 § 67; 1990 c 274 § 15; 1979 ex.s. c 45 § 5; 1977 ex.s. c 293 § 7.]

Intent—1991 c 35: See note following RCW 41.26.005.

Findings—Construction—1990 c 274: See notes following RCW 41.32.010.

Application—Reservation—1990 c 274 §§ 11, 12, 14, and 15: See note following RCW 41.40.690.

Effective date—1979 ex.s. c 45: See note following RCW 41.26.040.

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

41.32.785 Options for payment of retirement allowances. (1) Upon retirement for service as prescribed in RCW 41.32.765 or retirement for disability under RCW 41.32.790, a member shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this

section, except as provided in (b) of this subsection. If a member is married and both the member and member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply. [1996 c 175 § 5; 1995 c 144 § 14; 1990 c 249 § 6; 1977 ex.s. c 293 § 8.]

Findings—1990 c 249: See note following RCW 2.10.146.

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

41.32.790 Earned disability allowance—Eligibility—Disposition upon death of recipient. (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the department shall be eligible to receive an allowance under the provisions of RCW 41.32.755 through 41.32.825. The member shall receive a monthly disability allowance computed as provided for in RCW 41.32.760 and shall have the allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is neither a designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in

equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions. [1995 c 144 § 15; 1991 c 35 § 68; 1990 c 249 § 20; 1989 c 191 § 2; 1977 ex.s. c 293 § 9.]

Intent—1991 c 35: See note following RCW 41.26.005.

Findings—1990 c 249: See note following RCW 2.10.146.

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

41.32.795 Application for and effective date of retirement allowances. Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.32.765, 41.32.790, or 41.32.805 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.32.765 shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.32.765, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.32.790 shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.32.805 shall accrue from the first day of the calendar month immediately following the member's death. [1977 ex.s. c 293 § 10.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

41.32.800 Suspension of retirement allowance upon reemployment—Reinstatement. (1) No retiree under the provisions of plan II shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030.

If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section. [1990 c 274 § 13; 1977 ex.s. c 293 § 11.]

Findings—Construction—1990 c 274: See notes following RCW 41.32.010.

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

41.32.805 Death benefits. (1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's

credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, at the time of such member's death shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.32.765(1), actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.32.785 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.32.765(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives. [1995 c 144 § 16; 1993 c 236 § 4; 1991 c 365 § 30; 1990 c 249 § 16; 1977 ex.s. c 293 § 12.]

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

Findings—1990 c 249: See note following RCW 2.10.146.

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

41.32.810 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service. (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.32.755 through 41.32.825.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The earnable compensation reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (6) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes both the employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner.

(4) If a member fails to meet the time limitations of subsection (3) of this section, the member may receive a maximum of two years of service credit during a member's working career for those periods when a member is on unpaid leave of absence authorized by an employer. This may be done by paying the amount required under RCW 41.50.165(2) prior to retirement.

(5) For the purpose of subsection (3) of this section, the contribution shall not include the contribution for the unfunded supplemental present value as required by *RCW 41.32.775. The contributions required shall be based on the average of the member's earnable compensation at both the time the authorized leave of absence was granted and the time the member resumed employment.

(6) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed

the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under *RCW 41.32.775 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(iii) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2).

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall establish the member's service credit and shall bill the employer for its contribution required under *RCW 41.32.775 for the period of military service, plus interest as determined by the department.

(c) The contributions required under (a)(ii) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave. [1996 c 61 § 2; 1994 c 197 § 20; 1993 c 95 § 6; 1992 c 119 § 2; 1977 ex.s. c 293 § 13.]

***Reviser's note:** RCW 41.32.775 was repealed by 1995 c 239 § 326, effective July 1, 1996.

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

Retroactive application—1992 c 119: See note following RCW 41.26.520.

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

41.32.812 Service credit for half-time employment from October 1, 1977, through December 31, 1986. The department of retirement systems shall credit at least one-half service credit month for each month of each school year, as defined by RCW 28A.150.040, from October 1, 1977, through December 31, 1986, to a member of the teachers' retirement system plan II who was employed by an employer, as defined by RCW 41.32.010, under a contract for half-time employment as determined by the department for such school year and from whose compensation contributions were paid by the employee or picked up by the employer. Any withdrawn contributions shall be restored under *RCW 41.32.500(1) or 41.50.165 prior to crediting any service. [1994 c 197 § 21; 1992 c 212 § 20; 1991 c 343 § 12.]

***Reviser's note:** RCW 41.32.500(1) was renumbered by 1994 c 197 § 17 and deleted in large part by 1994 c 177 § 5.

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

41.32.815 Vested membership. A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance

under the provisions of RCW 41.32.765 if such member maintains the member's accumulated contributions intact. [1977 ex.s. c 293 § 14.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

41.32.817 Transfer to plan III—Irrevocable option.

(1) Every plan II member employed by an employer in an eligible position may make an irrevocable option to transfer to plan III.

(2) Any plan II member who is a substitute teacher may make an irrevocable option to transfer to plan III at the time the member purchases substitute service credit pursuant to RCW 41.32.013, pursuant to time lines and procedures established by the department.

(3) Any plan II member, other than a substitute teacher, who wishes to transfer to plan III after December 31, 1997, may transfer during the month of January in any following year, provided that the member earns service credit for that month.

(4) All service credit in plan II shall be transferred to the defined benefit portion of plan III.

(5) The accumulated contributions in plan II less fifty percent of any contributions made pursuant to RCW 41.50.165(2) shall be transferred to the member's account in the defined contribution portion established in chapter 41.34 RCW, pursuant to procedures developed by the department and subject to RCW 41.34.090. Contributions made pursuant to RCW 41.50.165(2) that are not transferred to the member's account shall be transferred to the fund created in RCW 41.50.075(2), except that interest earned on all such contributions shall be transferred to the member's account.

(6) The legislature reserves the right to discontinue the right to transfer under this section.

(7) Anyone previously retired from plan II is prohibited from transferring to plan III. [1996 c 39 § 2; 1995 c 239 § 303.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.818 Public employees' retirement system members who previously declined membership in the teachers' retirement system—Transfer to plan III—Irrevocable option. Any member of the public employees' retirement system plan II who is employed in an eligible position as an educational staff associate and who elected pursuant to RCW 41.32.032(2)(a) to remain a member of the public employees' retirement system under chapter 41.40 RCW may make an irrevocable option before January 1, 1998, to transfer to plan III pursuant to RCW 41.32.817, PROVIDED THAT:

(1) Only service credit for previous periods of employment in a position covered by RCW 41.32.010 is transferred to plan III;

(2) Equivalent accumulated employee and employer contributions attributable to service covered by subsection (1) of this section are transferred to plan III;

(3) Employer contributions transferred under this section shall be paid into the teachers' retirement system combined plan II and III fund. [1996 c 39 § 3; 1995 c 239 § 304.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.820 Refund of contributions on termination.

A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate membership and all benefits under the provisions of RCW 41.32.755 through 41.32.825. [1988 c 117 § 1; 1982 1st ex.s. c 52 § 17; 1977 ex.s. c 293 § 15.]

Effective date—1988 c 117: "This act shall take effect July 1, 1988." [1988 c 117 § 3.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

41.32.825 Reentry. (1) A member, who had left service and withdrawn the member's accumulated contributions, shall, upon reestablishment of membership under RCW 41.32.240, receive service credit for such prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department. The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first.

(2) If a member fails to meet the time limitations of subsection (1) of this section, the member may receive service credit destroyed by the withdrawn contributions if the amount required under RCW 41.50.165(2) is paid. [1994 c 197 § 22; 1988 c 117 § 2; 1977 ex.s. c 293 § 16.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Effective date—1988 c 117: See note following RCW 41.32.820.

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

"PROVISIONS APPLICABLE TO PLAN III"

41.32.831 Provisions applicable to plan III—Plan III elements. (1) RCW 41.32.831 through 41.32.895 shall apply only to plan III members.

(2) Plan III shall consist of two separate elements: (a) A defined benefit portion covered under this subchapter; and

(b) a defined contribution portion covered under chapter 41.34 RCW.

(3) Unless otherwise specified, all references to "plan III" in this subchapter refer to the defined benefit portion of plan III. [1996 c 39 § 10; 1995 c 239 § 104.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: "The legislature recognizes that teachers, principals, and district administrators need the ability to make transitions to other public or private sector careers, and that the retirement system should not be a barrier to exercise of employee choice. The legislature also recognizes that teachers, principals, and district administrators need a secure and viable retirement benefit, not only for their own financial protection, but also that public funds are spent prudently for their intended purpose.

It is the legislative intent to create a new public retirement system that balances flexibility with stability, provides both increased employee control of investments and responsible protection of the public's investment in employee benefits, and encourages the pursuit of public sector careers without preventing employees from transitioning into other public or private sector employment.

Therefore, the purpose of chapter 239, Laws of 1995 is to continue to provide teachers, principals, and district administrators with a guaranteed pension at retirement age based on years of public service with an element of inflation protection. It is further the purpose of chapter 239, Laws of 1995 to create a parallel retirement plan where employees have options regarding the investment of their retirement contributions and have the opportunity, along with the accompanying risk, to receive a full rate of return on their investments and where employees who leave public employment prior to retirement receive a fair and reasonable value from the retirement system." [1995 c 239 § 1.]

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.835 Membership in plan III. All teachers who first become employed by an employer in an eligible position on or after July 1, 1996, shall be members of plan III. [1995 c 239 § 105.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.840 Computation of the retirement allowance.

(1) A member of the retirement system shall receive a retirement allowance equal to one percent of such member's average final compensation for each service credit year.

(2) The retirement allowance payable under RCW 41.32.875 to a member who separates after having completed at least twenty service credit years shall be increased by twenty-five one-hundredths of one percent, compounded for each month from the date of separation to the date that the retirement allowance commences. [1996 c 39 § 4; 1995 c 239 § 106.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.8401 Additional payment. (1) Anyone who requests to transfer under RCW 41.32.817 before January 1, 1998, and establishes service credit for January 1998, shall have their member account increased by twenty percent of:

(a) Plan II accumulated contributions as of January 1, 1996, less fifty percent of any payments made pursuant to RCW 41.50.165(2); or

(b) All amounts withdrawn after January 1, 1996, which are completely restored before January 1, 1998.

(2) Substitute teachers shall receive the additional payment provided in subsection (1) of this section if they:

(a) Establish service credit for January 1998; and

(b) Establish any service credit from July 1996 through December 1997; and

(c) Elect to transfer on or before March 1, 1999.

(3) If a member who requests to transfer dies before January 1, 1998, the additional payment provided by this section shall be paid to the member's estate, or the person or persons, trust, or organization the member nominated by written designation duly executed and filed with the department.

(4) The legislature reserves the right to modify or discontinue the right to an incentive payment under this section for any plan II members who have not previously transferred to plan III. [1996 c 39 § 8.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

41.32.845 Postretirement cost-of-living allowance.

Retirement allowances paid under the defined benefit portion of plan III shall have a postretirement cost-of-living allowance calculated and paid as provided in RCW 41.32.770. [1995 c 239 § 107.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.851 Options for payment of retirement allowances. (1) Upon retirement for service as prescribed in RCW 41.32.875 or retirement for disability under RCW 41.32.880, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. Upon the death of the retired member, all benefits shall cease.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to such person or persons as the retiree shall have nominated by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and joint and fifty percent survivor option.

(2) A member, if married, must provide the written consent of his or her spouse to the option selected under this section. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially

equivalent to the benefit options available under subsection (1) of this section. [1995 c 239 § 108.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.855 Application for and effective date of retirement allowances. Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.32.875, 41.32.880, or 41.32.895 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances payable to eligible members no longer in service, but qualifying for such an allowance pursuant to RCW 41.32.875 shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits shall accrue from the first day of the calendar month immediately following the member's death. [1996 c 39 § 5; 1995 c 239 § 109.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.860 Suspension of retirement allowance upon reemployment—Reinstatement. (1) No retiree shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that a plan III retiree may work in eligible positions on a temporary basis for up to five months per calendar year.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused the suspension of benefits. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department. [1995 c 239 § 110.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.865 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service. (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The earnable compensation reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if:

(a) The member makes the contribution on behalf of the employer, plus interest, as determined by the department; and

(b) The member makes the employee contribution, plus interest, as determined by the department, to the defined contribution portion.

The contributions required shall be based on the average of the member's earnable compensation at both the time the authorized leave of absence was granted and the time the member resumed employment.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service if within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

The department shall establish the member's service credit and shall bill the employer for its contribution required under chapter 239, Laws of 1995 for the period of military service, plus interest as determined by the department. Service credit under this subsection may be obtained only if the member makes the employee contribution to the defined contribution portion as determined by the department.

The contributions required shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave. [1996 c 61 § 3; 1995 c 239 § 111.]

Effective date—1996 c 61 § 3: "Section 3 of this act shall take effect July 1, 1996." [1996 c 61 § 5.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.867 Purchased service credit—Allocation. (1) Contributions on behalf of the employer paid by the employee to purchase plan III service credit shall be allocated to the defined benefit portion of plan III and shall not be refundable when paid to the fund described in RCW 41.50.075(2). Contributions on behalf of the employee shall be allocated to the member account. If the member fails to meet the statutory time limitations to purchase plan III service credit, it may be purchased under the provisions of RCW 41.50.165(2). One-half of the purchase payments under RCW 41.50.165(2), plus interest, shall be allocated to the member's account.

(2) No purchased plan III membership service will be credited until all payments required of the member are made, with interest. Upon receipt of all payments owed by the member, the department shall bill the employer for any contributions, plus interest, required to purchase membership service. [1996 c 39 § 11.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

41.32.870 Lump sum payments—Reentry. (1) The director may pay a member eligible to receive a retirement allowance or the member's beneficiary a lump sum payment in lieu of a monthly benefit if the initial monthly benefit would be less than one hundred dollars. The one hundred dollar limit shall be increased by three percent compounded annually on January 1. The lump sum payment shall be the actuarial equivalent of the monthly benefit.

(2) Persons covered under the provisions of subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to retiring again, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(3) Any member who receives a settlement under this section shall be deemed to be retired from this system. [1995 c 239 § 112.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.875 Retirement eligibility. (1) **NORMAL RETIREMENT.** Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age fifty-four; or

(c) Completed five service credit years by July 1, 1996, under plan II and who transferred to plan III under RCW 41.32.817;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840.

(2) **EARLY RETIREMENT.** Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions

of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five. [1996 c 39 § 6; 1995 c 239 § 113.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.880 Earned disability allowance—Eligibility—Disposition upon death of recipient. (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department shall be eligible to receive an allowance under the provisions of plan III. The member shall receive a monthly disability allowance computed as provided for in RCW 41.32.840 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2) If the recipient of a monthly retirement allowance under this section dies, any further benefit payments shall be conditioned by the payment option selected by the retiree as provided in RCW 41.32.851. [1995 c 239 § 114.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.32.892 Restored, purchased service credit under plan II—Transfer to plan III. (1) Any member who elects to transfer to plan III and has eligible unrestored withdrawn contributions in plan II, may restore such contributions under the provisions of RCW 41.32.825(1) with interest as determined by the department. The restored plan II service credit will be automatically transferred to plan III. Restoration payments will be transferred to the member account in plan III. If the member fails to meet the time limitations of RCW 41.32.825(1), they may restore such contributions under the provisions of RCW 41.50.165(2). The restored plan II service credit will be automatically transferred to plan III. One-half of the restoration payments under RCW 41.50.165(2) plus interest shall be allocated to the member's account.

(2) Any member who elects to transfer to plan III may purchase plan II service credit under RCW 41.32.810(3). Purchased plan II service credit will be automatically transferred to plan III. Contributions on behalf of the employer paid by the employee shall be allocated to the defined benefit portion of plan III and shall not be refundable when paid to the fund described in RCW 41.50.075(2).

Contributions on behalf of the employee shall be allocated to the member account. If the member fails to meet the time limitations of RCW 41.32.810(3), they may subsequently restore such contributions under the provisions of RCW 41.50.165(2). Purchased plan II service credit will be automatically transferred to plan III. One-half of the payments under RCW 41.50.165(2), plus interest, shall be allocated to the member's account. [1996 c 39 § 9.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

41.32.895 Death benefits. If a member dies prior to retirement, the surviving spouse or eligible child or children shall receive a retirement allowance computed as provided in RCW 41.32.851 actuarially reduced to reflect a joint and one hundred percent survivor option and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.32.875(2).

If the surviving spouse who is receiving the retirement allowance dies leaving a child or children under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority.

If there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance, share and share alike. The allowance shall be calculated with the assumption that the age of the spouse and member were equal at the time of the member's death. [1996 c 39 § 7; 1995 c 239 § 117.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

Chapter 41.33

TEACHERS' RETIREMENT—FEDERAL SOCIAL SECURITY

Sections

- 41.33.010 Plan for covering members under OASI approved.
- 41.33.020 Terms and provisions of plan.
- 41.33.030 Effective date for coverage of members.
- 41.33.900 Severability—1957 c 183.

41.33.010 Plan for covering members under OASI approved. The plan for covering the members of the teachers' retirement system under the old age and survivor insurance provisions of Title II of the federal social security act as amended, required by RCW 41.48.050 as amended by section 5, chapter 4, Laws of the Extraordinary Session of 1955, approved by the board of trustees of the teachers' retirement system on October 8, 1956, and by the governor of the state of Washington on November 19, 1956, is hereby approved. [1957 c 183 § 1.]

41.33.020 Terms and provisions of plan. The terms and provisions of the plan are as follows:

(1) Each political subdivision of the state employing members of the teachers' retirement system and the members

of the teachers' retirement system, after the approval of this plan by the legislature, and by the eligible employees through a referendum as provided in RCW 41.48.030 (3) and (4), shall be deemed to have accepted and agreed to be bound by the following terms and conditions in consideration of extension of the existing agreement between the secretary of health, education and welfare and the governor to make the protection of the federal old age and survivors insurance program available and applicable to such employees.

(2) As used in this plan the terms quoted below shall have the meanings assigned thereto in this section.

"Political subdivision" means any political subdivision, or instrumentality of one or more subdivisions, or proprietary enterprise acquired, purchased or originated by one or more such subdivisions after December, 1950, which employs members of the teachers' retirement system. The state, its agencies, instrumentalities and institutions of higher learning shall be grouped and considered as a single political subdivision.

"Employee" means any person who is a member of the teachers' retirement system and is employed by a political subdivision.

"Wages" shall have the meaning given in RCW 41.48.020(1) and section 209 of the social security act (42 U.S.C.A. Sec. 409).

"State" where not otherwise clearly indicated by the context, means the commissioner of employment security or other officer designated by the governor to administer the plan at the state level for all participating political subdivisions.

(3) The terms and conditions of this plan are intended and shall be construed to be in conformity with the requirements of the federal social security act as amended and with the requirements of chapter 41.48 RCW, and particularly RCW 41.48.050, as amended by chapter 4, Laws of 1955 extraordinary session.

(4) The rights and benefits accruing to employees from membership in the teachers' retirement system shall in no way be altered or impaired by this plan or by the additional and supplementary OASI coverage which such employees may receive hereunder, other than the elimination of (1), (2) and (3) of section 52, chapter 80, Laws of 1947 and RCW 41.32.520 as each are amended, with the exception of that part of (1) which permits a widow or widower without a child or children under age eighteen to receive a monthly payment of fifty dollars at age fifty, provided that the member had fifteen or more years of Washington membership service credit at date of death.

(5) There shall be no additional cost to or involvement of the state or a political subdivision with respect to OASI coverage of members of the teachers' retirement system until this plan has been approved by the legislature.

(6) Each employee to whom OASI coverage is made applicable under this plan pursuant to an extension or modification under RCW 41.48.030 of the existing agreement between the secretary of health, education and welfare and the governor shall be required to pay into the *OASI contribution fund established by RCW 41.48.060 during the period of such coverage contributions with respect to his wages in an amount equal to the employee tax imposed by the federal insurance contributions act (section 3101, Internal Revenue Code of 1954), in consideration of the employee's

retention in service by the political subdivision. The subdivision shall withhold such contributions from the wages paid to the employee; and shall remit the contributions so withheld in each calendar quarter to the state for deposit in the *contribution fund not later than the twentieth calendar day of the month following that quarter.

(7) Each political subdivision shall pay into the *contribution fund with respect to the wages of its employees during the period of their OASI coverage pursuant to this plan contributions in an amount equal to the employer tax imposed by the federal insurance contributions act (section 3111, Internal Revenue Code of 1954), from the fund of the subdivision from which such employees' wages are paid. The subdivision shall remit such contributions to the state for deposit in the *contribution fund on a quarterly basis, not later than the twentieth calendar day of the month following each calendar quarter.

(8) If any political subdivision other than that comprising the state, its agencies, instrumentalities and institutions of higher learning fails to remit as provided herein employer contributions or employee contributions, or any part of either, such delinquent contributions may be recovered with interest at the rate of six percent per annum by action in a court of competent jurisdiction against the political subdivision; or such delinquent contributions may at the request of the governor be deducted from any moneys payable to such subdivision by the state.

(9) Each political subdivision shall be charged with a share of the cost of administration of this plan by the state, to be computed as that proportion of the overall cost of administration which its total annual contributions bear to the total annual contributions paid by all subdivisions on behalf of employees covered by the plan. The state shall compute the share of cost allocable to each subdivision and bill the subdivision therefor at the end of each fiscal year. The subdivision shall within ninety days thereafter remit its share of the cost to the state for deposit in the general fund of the state.

(10) Each political subdivision shall submit to the state, through the employment security department, P.O. Box 367, Olympia, Washington, or such other officer or agency as the governor may subsequently designate, on forms furnished by the state, not later than the twentieth calendar day of the month following the end of each calendar quarter, the following information:

- A. The social security account number of each employee;
- B. the name of each employee;
- C. the amount of wages subject to contributions as required hereunder paid to each employee during the quarter;
- D. the total amount of wages subject to contributions paid to all employees during the quarter;
- E. the total amount of employee contributions withheld and remitted for the quarter; and
- F. the total amount of employer contributions paid by the subdivision for the quarter.

(11) Each political subdivision shall furnish in the same manner as provided in subsection (10) of this section, upon reasonable notice, such other and further reports or information as the governor may from time to time require. Each subdivision shall comply with such requirements as the secretary of health, education and welfare or the governor

may from time to time establish with respect to any or all of the reports or information which are or may be provided for under subsection (10) of this section or this subsection in order to assure the correctness and verification thereof.

(12) The governing body of each political subdivision shall designate an officer of the subdivision to administer such accounting, reporting and other functions as will be required for the effective operation of this plan within the subdivision, as provided herein. The commissioner of employment security or such other officer as the governor may designate, shall perform or supervise those functions with respect to employees of the subdivision comprising the state, its agencies, instrumentalities and institutions of higher learning; and shall serve as the representative of the participating political subdivisions in the administration of this plan with the secretary of health, education and welfare.

(13) The legislature shall designate the first day of any month beginning with January, 1956, as the effective date of OASI coverage for such employees, except that after January 1, 1958, the effective date may not be prior to the first day of the current year.

The employer's contribution for any retroactive coverage shall be transferred by the board of trustees from the teachers' retirement pension reserve to the official designated by the governor to administer the plan at the state level.

Each employee's contributions for any retroactive coverage shall be transferred by the board of trustees from his accumulated contributions in the teachers' retirement fund, to the official designated above. Each employee, if he so desires, may, within one year from the date of transfer, reimburse his accumulated contributions for the amount so transferred.

(14) The governor may terminate the operation of this plan in its entirety with respect to any political subdivision, in his discretion, if he finds that the subdivision has failed to comply substantially with any requirement or provision of this plan. The plan shall not be so terminated until reasonable notice and opportunity for hearing thereon have been given to the subdivision under such conditions, consistent with the provisions of the social security act, as shall have been established in regulations by the governor. [1992 c 212 § 12; 1973 1st ex.s. c 154 § 77; 1957 c 183 § 2.]

*Reviser's note: The "OASI contribution fund" was redesignated the "OASI contribution account" by 1991 sp.s. c 13 § 112.

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

41.33.030 Effective date for coverage of members.

The effective date of OASI coverage for members of the teachers' retirement system shall be January 1, 1956: PROVIDED, That should the agreement between the governor and the secretary of health, education and welfare be executed subsequent to December 31, 1957, the effective date of coverage shall be that specified in the agreement. [1957 c 183 § 5.]

41.33.900 Severability—1957 c 183. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1957 c 183 § 6.]

Chapter 41.34

CONTRIBUTIONS UNDER TEACHERS'
RETIREMENT SYSTEM PLAN III

Sections

41.34.010	Purpose.
41.34.020	Definitions.
41.34.030	Application of chapter—Plan III elements.
41.34.040	Contributions—Rate structures.
41.34.050	Legislature may contribute to members' accounts.
41.34.060	Members' accounts—Investment—Election.
41.34.070	Distribution options.
41.34.080	Benefits exempt from taxation, garnishment, other processes of law—Exceptions.
41.34.090	Administration of chapter—Construction—Severability.
41.34.100	Benefits not contractual right until July 1, 1996.
41.34.110	Reentry.

41.34.010 Purpose. The purpose of chapter 239, Laws of 1995 is to:

(1) Provide a fair and reasonable value from the retirement system for those who leave public employment before retirement;

(2) Increase flexibility for such employees to make transitions into other public or private sector employment;

(3) Increase employee options for addressing retirement needs, personal financial planning, and career transitions; and

(4) Continue the legislature's established policy of having employees contribute toward their retirement benefits. [1995 c 239 § 201.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

41.34.020 Definitions. As used in this chapter, the following terms have the meanings indicated:

(1) "Actuary" means the state actuary or the office of the state actuary.

(2) "Board" means the employee retirement benefits board authorized in chapter 41.50 RCW.

(3) "Department" means the department of retirement systems.

(4) "Compensation" for purposes of this chapter is the same as "earnable compensation" for plan III in chapter 41.32 RCW, except that the compensation may be reported when paid, rather than when earned.

(5) "Employer" means the same as "employer" for plan III in chapter 41.32 RCW.

(6) "Member" means any employee included in the membership of a retirement system as provided for in chapter 41.32 RCW of plan III.

(7) "Member account" or "member's account" means the sum of the contributions and earnings on behalf of the member.

(8) "Retiree" means any member in receipt of an allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member. [1996 c 39 § 13; 1995 c 239 § 202.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

41.34.030 Application of chapter—Plan III elements. (1) This chapter applies only to members of plan III retirement systems created under chapter 41.32 RCW.

(2) Plan III consists of two separate elements: (a) A defined benefit portion covered under sections 101 through 117, chapter 239, Laws of 1995; and (b) a defined contribution portion covered under this chapter. Unless specified otherwise, all references to "plan III" in this chapter refer to the defined contribution portion of plan III. [1995 c 239 § 203.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

41.34.040 Contributions—Rate structures. (1) A member shall contribute from his or her compensation according to one of the following rate structures:

<u>Option A</u>	<u>Contribution Rate</u>
All Ages	5.0% fixed
<u>Option B</u>	
Up to Age 35	5.0%
Age 35 to 44	6.0%
Age 45 and above	7.5%
<u>Option C</u>	
Up to Age 35	6.0%
Age 35 to 44	7.5%
Age 45 and above	8.5%

(2) The board shall have the right to offer contribution rate options in addition to those listed in subsection (1) of this section, provided that no significant additional administrative costs are created. All options offered by the board shall conform to the requirements stated in subsections (3) and (4) of this section.

(3) Within ninety days of the date that an employee becomes a member of plan III or changes employers, he or she has an irrevocable option to choose one of the above contribution rate structures. If the member does not select an option within this ninety-day period, he or she shall be assigned option A. Such assignment shall be irrevocable.

(4) Contributions shall begin the first day of the pay cycle in which the rate option is made, or the first day of the pay cycle in which the end of the ninety-day period occurs. [1996 c 39 § 14; 1995 c 239 § 204.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

41.34.050 Legislature may contribute to members' accounts. The legislature may authorize contributions to the members' accounts for a biennium through budget appropriation. [1995 c 239 § 205.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

41.34.060 Members' accounts—Investment—Election. (1) Except as provided in subsection (2) of this section, the member's account shall be invested by the state investment board. All contributions under this subsection

shall be invested in the same portfolio as that of the teachers' retirement system combined plan II and III fund under RCW 41.50.075(2).

(2) Members may elect to self-direct their investments as authorized by the board, other than as provided in subsection (1) of this section. Expenses caused by self-directed investment shall be paid by the member in accordance with rules established by the board under RCW 41.50.088. [1996 c 39 § 15; 1995 c 239 § 206.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

41.34.070 Distribution options. (1) If the member retires, becomes disabled, or otherwise terminates employment, the balance in the member's account may be distributed in accordance with an option selected by the member either as a lump sum or pursuant to other options authorized by the board.

(2) If the member dies while in service, the balance of the member's account may be distributed in accordance with an option selected by the member either as a lump sum or pursuant to other options authorized by the board. The distribution shall be made to such person or persons as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, the balance of the member's account in the retirement system, less any amount identified as owing to an obligee upon withdrawal of such account balance pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there is no surviving spouse, then to such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department.

(3) The distribution under subsections (1) or (2) of this section shall be less any amount identified as owing to an obligee upon withdrawal pursuant to a court order filed under RCW 41.50.670. [1995 c 239 § 207.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

41.34.080 Benefits exempt from taxation, garnishment, other processes of law—Exceptions. (1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, a retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the various funds created by chapter 239, Laws of 1995 and all moneys and investments and income thereof, is hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a

group comprised of public employees of the state of Washington or its political subdivisions and that has been approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department. This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law. [1995 c 239 § 208.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

41.34.090 Administration of chapter—Construction—Severability. (1) The retirement plan created by this chapter shall be administered so as to comply with the federal Internal Revenue Code, Title 26 U.S.C., and specifically with plan qualification requirements imposed on governmental plans by section 401(a) of the Internal Revenue Code.

(2) Any section or provision of this chapter which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy requirements imposed by section 401(a) of the Internal Revenue Code.

(3) If any section or provision of this chapter is found to be in conflict with the plan qualification requirements for governmental plans in section 401(a) of the Internal Revenue Code, the conflicting part of this chapter is hereby inoperative solely to the extent of the conflict, and such finding shall not affect the operation of the remainder of this chapter. [1995 c 239 § 209.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

41.34.100 Benefits not contractual right until July 1, 1996. The benefits provided pursuant to chapter 239, Laws of 1995 are not provided to employees as a matter of contractual right prior to July 1, 1996. The legislature retains the right to alter or abolish these benefits at any time prior to July 1, 1996. [1995 c 239 § 325.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

41.34.110 Reentry. A member who separates from service and then reestablishes membership may restore contributions to the member account. [1996 c 39 § 12.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Chapter 41.40

WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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"PROVISIONS APPLICABLE TO PLAN I AND PLAN II"

41.40.005 Provisions applicable to "plan I" and "plan II." RCW 41.40.010 through *41.40.112 shall apply to members of plan I and plan II. [1992 c 72 § 8; 1991 c 35 § 69; 1989 c 273 § 20; 1989 c 272 § 7; 1979 ex.s. c 249 § 6; 1977 ex.s. c 295 § 21.]

***Reviser's note:** RCW 41.40.112 was decodified August 1993.

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1989 c 273: See RCW 41.45.900.

Purpose—1989 c 272: See note following RCW 41.32.005.

41.40.010 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the public employees' retirement system provided for in this chapter.

(2) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4)(a) "Employer" for plan I members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan II members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of

service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8)(a) "Compensation earnable" for plan I members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer.

(i) "Compensation earnable" for plan I members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable and the individual shall receive the equivalent service credit;

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(F) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise. Standby compensation is regular salary for the purposes of RCW 41.50.150(2).

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave,

unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Compensation earnable" for plan II members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided above, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under *(b)(ii)(B) of this subsection is greater than compensation earnable under *(b)(ii)(A) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise. Standby compensation is regular salary for the purposes of RCW 41.50.150(2).

(9)(a) "Service" for plan I members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee:

PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan I "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan II members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(i) Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the teachers' retirement system or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the teachers' retirement system or law enforcement officers' and fire fighters' retirement system.

(ii) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan II "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(10) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(11) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(12) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(13) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(14)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(15) "Regular interest" means such rate as the director may determine.

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(17)(a) "Average final compensation" for plan I members, means the annual average of the greatest compensation earnable by a member during any consecutive two year

period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan II members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(18) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(19) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(20) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(21) "Retirement allowance" means the sum of the annuity and the pension.

(22) "Employee" means any person who may become eligible for membership under this chapter, as set forth in RCW 41.40.023.

(23) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(24) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(25) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor for which compensation is paid.

(26) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (25) of this section.

(27) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(28) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(29) "Retiree" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member. A person is in receipt of a retirement allowance as defined in subsection (21) of this section or other benefit as provided by this chapter when the department mails, causes to be mailed, or otherwise transmits the retirement allowance warrant.

(30) "Director" means the director of the department.

(31) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "Plan I" means the public employees' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(34) "Plan II" means the public employees' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(35) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(36) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(37) "Index B" means the index for the year prior to index A.

(38) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(39) "Adjustment ratio" means the value of index A divided by index B.

(40) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent. [1995 c 345 § 10; 1995 c 286 § 1; 1995 c 244 § 3. Prior: 1994 c 298 § 2; 1994 c 247 § 5; 1994 c 197 § 23; 1994 c 177 § 8; 1993 c 95 § 8; prior: 1991 c 343 § 6; 1991 c 35 § 70; 1990 c 274 § 3; prior: 1989 c 309 § 1; 1989 c 289 § 1; 1985 c 13 § 7; 1983 c 69 § 1; 1981 c 256 § 6; 1979 ex.s. c 249 § 7; 1977 ex.s. c 295 § 16; 1973 1st ex.s. c 190 § 2; 1972 ex.s. c 151 § 1; 1971 ex.s. c 271 § 2; 1969 c 128 § 1; 1965 c 155 § 1; 1963 c 225 § 1; 1963 c 174 § 1; 1961 c 291 § 1; 1957 c 231 § 1; 1955 c 277 § 1; 1953 c 200 § 1; 1951 c 50 § 1; 1949 c 240 § 1; 1947 c 274 § 1; Rem. Supp. 1949 § 11072-1.]

Reviser's note: *(1) This reference is apparently in error. The reference to (b)(ii)(B) should be (b)(ii)(A). The reference to (b)(ii)(A) should be (b)(ii)(B).

(2) This section was amended by 1995 c 244 § 3, 1995 c 286 § 1, and by 1995 c 345 § 10, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Effective date—1995 c 345: See notes following RCW 41.32.489.

Intent—1994 c 298: "(1) This act provides cross-references to existing statutes that affect calculation of pensions under the retirement systems authorized by chapters 41.40 and 41.32 RCW to the relevant definition sections of those chapters. Except as provided in subsection (2) of this section, this act is technical in nature and neither enhances nor diminishes existing pension rights. Except for the amendment to RCW 41.40.010(5), it is not the intent of the legislature to change the substance or effect of any statute previously enacted. Rather, this act provides cross-references to applicable statutes in order to aid with the administration of benefits authorized in chapters 41.40 and 41.32 RCW.

(2) The amendments to RCW 41.40.010 (5) and (29) contained in section 2, chapter 298, Laws of 1994, and to RCW 41.32.010(31) contained in section 3, chapter 298, Laws of 1994, clarify the status of certain persons as either members or retirees. RCW 41.04.275 and section 7, chapter 298, Laws of 1994, create the pension funding account in the state treasury and direct the transfer of moneys deposited in the budget stabilization account by the 1993-95 operating appropriations act, section 919, chapter 24, Laws

of 1993 sp. sess., for the continuing costs of state retirement system benefits in effect on July 1, 1993, consistent with section 919, chapter 24, Laws of 1993 sp. sess. to the pension funding account." [1994 c 298 § 1.]

Effective date—1994 c 247: See note following RCW 41.32.4991.

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Findings—1994 c 177: See note following RCW 41.50.125.

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Findings—Effective date—Construction—1990 c 274: See notes following RCW 41.32.010.

Purpose—Application—Retrospective application—1985 c 13: See notes following RCW 41.04.445.

Applicability—1983 c 69: "Section 1 of this 1983 act applies only to service credit accruing after July 24, 1983." [1983 c 69 § 3.]

Purpose—Severability—1981 c 256: See notes following RCW 41.26.030.

Severability—1973 1st ex.s. c 190: "If any provision of this 1973 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 190 § 16.]

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

Severability—1969 c 128: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 c 128 § 19.]

Severability—1965 c 155: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1965 c 155 § 10.]

Severability—1963 c 174: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1963 c 174 § 19.]

Severability—1961 c 291: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1961 c 291 § 18.]

41.40.020 System created—Administration. A state employees' retirement system is hereby created for the employees of the state of Washington and its political subdivisions. The administration and management of the retirement system, the responsibility for making effective the provisions of this chapter, and the authority to make all rules and regulations necessary therefor are hereby vested in the department. All such rules and regulations shall be governed by the provisions of chapter 34.05 RCW, as now or hereafter amended. The retirement system herein provided for shall be known as the Washington Public Employees' Retirement System. [1991 c 35 § 71; 1969 c 128 § 2; 1967 c 127 § 1; 1949 c 240 § 2; 1947 c 274 § 2; Rem. Supp. 1949 § 11072-2.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1969 c 128: See note following RCW 41.40.010.

41.40.023 Membership. Membership in the retirement system shall consist of all regularly compensated employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

(2) Employees of the legislature except the officers thereof elected by the members of the senate and the house and legislative committees, unless membership of such employees be authorized by the said committee;

(3)(a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file, on a form supplied by the department, a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official. A member who receives more than fifteen thousand dollars per year in compensation for his or her elective service, adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (3)(b);

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan: PROVIDED, HOWEVER, In any case where the retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide: AND PROVIDED FURTHER, That an employee shall be allowed membership if otherwise eligible while receiving survivor's benefits: AND PROVIDED FURTHER, That an employee shall not either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of: (a) Membership in the plan

created under chapter 2.14 RCW; or (b) enrollment under the relief and compensation provisions or the pension provisions of the volunteer fire fighters' relief and pension fund under chapter 41.24 RCW;

(5) Patient and inmate help in state charitable, penal, and correctional institutions;

(6) "Members" of a state veterans' home or state soldiers' home;

(7) Persons employed by an institution of higher learning or community college, primarily as an incident to and in furtherance of their education or training, or the education or training of a spouse;

(8) Employees of an institution of higher learning or community college during the period of service necessary to establish eligibility for membership in the retirement plans operated by such institutions;

(9) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession;

(10) Persons appointed after April 1, 1963, by the liquor control board as agency vendors;

(11) Employees of a labor guild, association, or organization: PROVIDED, That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership;

(12) Plan I retirees employed in eligible positions on a temporary basis for a period not to exceed five months in a calendar year: PROVIDED, That if such employees are employed for more than five months in a calendar year in an eligible position they shall become members of the system prospectively;

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system: PROVIDED, That any member elected or appointed to an elective office on or after April 1, 1971, shall have the option of continuing as a member of this system in lieu of becoming a member of the city system. A member who elects to continue as a member of this system shall pay the appropriate member contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW 41.40.010(4) as the result of an individual's election under this subsection shall not be required to have all employees covered for retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from: (a) Transferring all of its current employees to the retirement system established under this chapter, or (b) allowing newly hired employees the option of continuing coverage under the retirement system established by this chapter.

Notwithstanding any other provision of this chapter, persons transferring from employment with a first class city of over four hundred thousand population that has its own

retirement system to employment with the state department of agriculture may elect to remain within the retirement system of such city and the state shall pay the employer contributions for such persons at like rates as prescribed for employers of other members of such system;

(14) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(15) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position;

(16) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: PROVIDED, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only if payment is made for the noncredited membership service under RCW 41.50.165(2), otherwise service shall be from the date of application;

(17) The city manager or chief administrative officer of a city or town who serves at the pleasure of an appointing authority: PROVIDED, That such persons shall have the option of applying for membership within thirty days from date of their appointment to such positions. Persons serving in such positions as of April 4, 1986, shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1986, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions.

Persons serving in such positions who have not opted for membership within the specified thirty days, may do so by paying the amount required under RCW 41.50.165(2) for the period from the date of their appointment to the date of acceptance into membership;

(18) Persons enrolled in state-approved apprenticeship programs, authorized under chapter 49.04 RCW, and who are employed by local governments to earn hours to complete such apprenticeship programs, if the employee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or if the employee is a member of a Taft-Hartley retirement plan. [1994 c 298 § 8; 1994 c 197 § 24; 1993 c 319 § 1. Prior: 1990 c 274 § 10; 1990 c 192 § 4; 1988 c 109 § 25; 1987 c 379 § 1; 1986 c 317 § 5; 1984 c 184 § 13; 1984 c 121 § 1; 1982 1st ex.s. c 52 § 19; 1975 c 33 § 6; 1974 ex.s. c 195 § 2; 1973 1st ex.s. c 190 § 5; 1971 ex.s. c 271 § 4; 1969 c 128 § 5; 1967 c 127 § 3; 1965 c 155 § 2; 1963 c 225 § 2; 1963 c 210 § 1; 1957 c 231 § 2; 1955 c 277 § 2; 1953 c 200 § 5; 1951 c 50 § 2; 1949 c 240 § 7; 1947 c 274 § 13; Rem. Supp. 1949 § 11072-13. Formerly RCW 41.40.120.]

Reviser's note: This section was amended by 1994 c 197 § 24 and by 1994 c 298 § 8, each without reference to the other. Both amendments

are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—1994 c 298: See note following RCW 41.40.010.

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Findings—Construction—1990 c 274: See notes following RCW 41.32.010.

Effective date—1988 c 109: See note following RCW 2.10.030.

Legislative findings—Intent—Severability—1986 c 317: See notes following RCW 41.40.150.

Severability—1984 c 184: See note following RCW 41.50.150.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

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

Severability—1974 ex.s. c 195: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 195 § 14.]

Severability—1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

Severability—1969 c 128: See note following RCW 41.40.010.

Election authorized to establish membership under RCW 41.40.023(3): RCW 41.54.050.

Pension benefits or annuity benefits for certain classifications of school district employees: RCW 28A.400.260.

41.40.028 Nonelective position employees employed for at least nine months—Deemed in eligible position, when. Any person who has been employed in a nonelective position for at least nine months and who has made member contributions required under this chapter throughout such period, shall be deemed to have been in an eligible position during such period of employment. [1980 c 112 § 2. Formerly RCW 41.40.123.]

41.40.032 Information furnished by employees, appointive and elective officials. Within thirty days after his or her employment or his or her acceptance into membership each employee or appointive or elective official shall submit to the department a statement of his or her name, sex, title, compensation, duties, date of birth, and length of service as an employee or appointive or elective official, and such other information as the department shall require. Each employee who becomes a member shall file a detailed statement of all his or her prior service as an employee and shall furnish such other facts as the department may require for the proper operation of the retirement system. Compliance with the provisions set forth in this section shall be considered to be a condition of employment and failure by an employee to comply may result in separation from service. [1991 c 35 § 76; 1949 c 240 § 8; 1947 c 274 § 1; Rem. Supp. 1949 § 11072-14. Formerly RCW 41.40.130.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.40.035 Service credit prohibited for certain members of committees, boards, and commissions and for certain appointive and elective officials. (1) No person appointed to membership on any committee, board, or commission on or after July 1, 1976, who is compensated for service on such committee, board, or commission for fewer than ten days or seventy hours in any month, whichever

amount is less, shall receive service credit for such service for that month: PROVIDED, That on and after October 1, 1977, appointive and elective officials who receive monthly compensation earnable from an employer in an amount equal to or less than ninety times the state minimum hourly wage shall not receive any service credit for such employment.

(2) This section does not apply to any person serving on a committee, board, or commission on June 30, 1976, who continued such service until subsequently appointed by the governor to a different committee, board, or commission. [1987 c 146 § 1; 1977 ex.s. c 295 § 17; 1975-'76 2nd ex.s. c 34 § 4. Formerly RCW 41.40.165.]

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

41.40.038 Duty disability retirement recipients—Continued service credit. Those members subject to this chapter who became disabled in the line of duty on or after March 27, 1984, and who received or are receiving benefits under Title 51 RCW or a similar federal workers' compensation program shall receive or continue to receive service credit subject to the following:

(1) No member may receive more than one month's service credit in a calendar month.

(2) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(3) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(4) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(5) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred. If contribution payments are made retroactively, interest shall be charged at the rate set by the director on both employee and employer contributions. No service credit shall be granted until the employee contribution has been paid.

(6) The service and compensation credit shall not be granted for a period to exceed twelve consecutive months.

(7) Nothing in this section shall abridge service credit rights granted in RCW 41.40.220(2) and 41.40.320.

(8) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right. [1987 c 118 § 1; 1986 c 176 § 2. Formerly RCW 41.40.223.]

41.40.042 Members agree to deductions. The deductions from the compensation of members, provided for in RCW 41.40.330 or 41.40.650, shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for in this chapter and receipt in full for his or her salary or compensation, and payment less the deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the person during the period covered by the payment, except as to benefits provided for

under this chapter. [1991 c 35 § 89; 1977 ex.s. c 295 § 18; 1947 c 274 § 35; Rem. Supp. 1947 § 11072-35. Formerly RCW 41.40.340.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.40.048 Employer's contribution—Computation—Billing. (1) The director shall report to each employer the contribution rates required for the ensuing biennium or fiscal year, whichever is applicable.

(2) Beginning September 1, 1990, the amount to be collected as the employer's contribution shall be computed by applying the applicable rates established in chapter 41.45 RCW to the total compensation earnable of employer's members as shown on the current payrolls of the said employer. In addition, the director shall determine and collect the additional employer contribution rate necessary to fund the benefits granted officials holding office pursuant to Articles II and III of the Constitution of the state of Washington and RCW 48.02.010. Each said employer shall compute at the end of each month the amount due for that month and the same shall be paid as are its other obligations. Effective January 1, 1987, however, no contributions are required for any calendar month in which the member is not granted service credit.

(3) In the event of failure, for any reason, of an employer other than a political subdivision of the state to have remitted amounts due for membership service of any of the employer's members rendered during a prior biennium, the director shall bill such employer for such employer's contribution together with such charges as the director deems appropriate in accordance with RCW 41.50.120. Such billing shall be paid by the employer as, and the same shall be, a proper charge against any moneys available or appropriated to such employer for payment of current biennial payrolls. [1989 c 273 § 23; 1986 c 268 § 5; 1985 c 138 § 1; 1982 1st ex.s. c 52 § 22; 1979 c 151 § 63; 1977 ex.s. c 295 § 20; 1963 c 126 § 1; 1961 c 291 § 12; 1949 c 240 § 26; 1947 c 274 § 38; Rem. Supp. 1947 § 11072-38. Formerly RCW 41.40.370.]

Severability—1989 c 273: See RCW 41.45.900.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

41.40.052 Exemption from taxation and judicial process—Exceptions—Assignability—Deductions authorized. (1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and which has been

approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department, and this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law. [1991 c 365 § 22; 1991 c 35 § 92; 1989 c 360 § 27; 1988 c 107 § 20; 1987 c 326 § 24; 1982 c 135 § 2; 1981 c 294 § 14; 1979 ex.s. c 205 § 6; 1974 ex.s. c 195 § 4; 1967 c 127 § 6; 1947 c 274 § 39; Rem. Supp. 1947 § 11072-39. Formerly RCW 41.40.380.]

Reviser's note: This section was amended by 1991 c 35 § 92 and by 1991 c 365 § 22, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

Intent—1991 c 35: See note following RCW 41.26.005.

Implementation—Effective dates—1988 c 107: See RCW 41.05.901.

Effective date—1987 c 326: See RCW 41.50.901.

Severability—1981 c 294: See note following RCW 41.26.115.

Severability—1974 ex.s. c 195: See note following RCW 41.40.023.

41.40.055 Penalty for false statements. Any person who shall knowingly make any false statements, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud the retirement system as a result of such act, shall be guilty of a gross misdemeanor. [1947 c 274 § 41; Rem. Supp. 1947 § 11072-41. Formerly RCW 41.40.400.]

41.40.056 Establishment of service credit—Former employees—Employers admitted before July 23, 1995. Except as qualified by RCW 41.40.023, for employers that were admitted into the retirement system before July 23, 1995, membership service may be established for the employer's former employees who are active members of the system if the member or member's former employer pays an amount equal to the employer and member contributions which would have been paid to the retirement system on account of such service to the retirement system. Payment shall be made prior to the retirement of such member.

Payments submitted by the member under this section shall be placed in the member's individual account in the members' savings fund and be treated as any other contribution made by the member, with the exception that the contri-

butions submitted by the member in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall be excluded from the calculation of the member's annuity in the event the member selects a benefit with an annuity option. [1995 c 286 § 2.]

41.40.057 Establishment of service credit—Current and former employees—Employers admitted after July 23, 1995. (1) This section applies to the establishment of membership service with employers admitted to the retirement system after July 23, 1995.

(2) For current employees, membership service may be established for periods of employment with an employer prior to the employer's admission into the retirement system by making the payments required by this section.

The employer must select one of the options in this subsection and apply it uniformly, except as provided in subsection (3) of this section. The required payment shall include the total member and employer contributions that would have been required from the date of each current member's hire.

(a) Option A: The employer makes all the required payments within fifteen years from the date of the employer's admission.

(b) Option B: The employer makes a portion of the required payments and the member pays the balance. The employer shall not be required to make its payments until the member has made his or her payments. Each member shall have the option to purchase the membership service.

(c) Option C: The member makes all of the required payments. Each member shall have the option to purchase the membership service.

All payments under options B and C of this subsection must be completed within five years from the date of the employer's admission, or prior to the retirement of the member, whichever occurs sooner. A member may not receive membership service credit under option B or C of this subsection until all required payments have been made.

(3) An employer shall not be required to purchase membership service under option A or B for periods of employment for which the employer made contributions to a qualified retirement plan as defined by 26 U.S.C. Sec. 401(a), if the contributions plus interest accrued cannot be transferred to the retirement system. If the employer does not purchase the membership credit under this subsection, the member may purchase the membership service under subsection (2)(c) of this section.

(4) A former employee who is an active member of the system and is not covered by subsection (2) of this section may establish membership service by making the required payments under subsection (2)(c) of this section prior to the retirement of the member.

(5) All payments made by the member under this section shall be placed in the member's individual account in the members' savings fund. [1995 c 286 § 3.]

41.40.058 Transfer of service credit from state-wide city employees' retirement system. (1) Any person who was a member of the state-wide city employees' retirement system governed by chapter 41.44 RCW and who also

became a member of this retirement system on or before July 26, 1987, may, in a writing filed with the director, elect to:

(a) Transfer to this retirement system all service currently credited under chapter 41.44 RCW;

(b) Reestablish and transfer to this retirement system all service which was previously credited under chapter 41.44 RCW but which was canceled by discontinuance of service and withdrawal of accumulated contributions as provided in RCW 41.44.190. The service may be reestablished and transferred only upon payment by the member to the employees' savings fund of this retirement system of the amount withdrawn plus interest thereon from the date of withdrawal until the date of payment at a rate determined by the director. No additional payments are required for service credit described in this subsection if already established under this chapter; and

(c) Establish service credit for the initial period of employment not to exceed six months, prior to establishing membership under chapter 41.44 RCW, upon payment in full by the member of the total employer's contribution to the benefit account fund of this retirement system that would have been made under this chapter when the initial service was rendered. The payment shall be based on the first month's compensation earnable as a member of the state-wide city employees' retirement system and as defined in RCW 41.44.030(13). However, a person who has established service credit under RCW 41.40.010(13) (c) or (d) shall not establish additional credit under this subsection nor may anyone who establishes credit under this subsection establish any additional credit under RCW 41.40.010(13) (c) or (d). No additional payments are required for service credit described in this subsection if already established under this chapter.

(2)(a) In the case of a member of this retirement system who is employed by an employer on July 26, 1987, the written election required by subsection (1) of this section must be filed and the payments required by subsection (1)(b) and (c) of this section must be completed in full within one year after July 26, 1987.

(b) In the case of a former member of this retirement system who is not employed by an employer on July 26, 1987, the written election must be filed and the payments must be completed in full within one year after reemployment by an employer.

(c) In the case of a retiree receiving a retirement allowance from this retirement system on July 26, 1987, or any person having vested rights as described in RCW 41.40.150 (4), the written election may be filed and the payments may be completed at any time.

(3) Upon receipt of the written election and payments required by subsection (1) of this section from any retiree described in subsection (2) of this section, the department shall recompute the retiree's allowance in accordance with this section and shall pay any additional benefit resulting from such recomputation retroactively to the date of retirement from the system governed by this chapter.

(4) Any person who was a member of the state-wide city employees' retirement system under chapter 41.44 RCW and also became a member of this retirement system, and did not make the election under subsection (1) of this section because he or she was not a member of this retirement

system prior to July 27, 1987, or did not meet the time limitations of subsection (2) (a) or (b) of this section, may elect to do any of the following:

(a) Transfer to this retirement system all service currently credited under chapter 41.44 RCW;

(b) Reestablish and transfer to this retirement system all service that was previously credited under chapter 41.44 RCW but was canceled by discontinuance of service and withdrawal of accumulated contributions as provided in RCW 41.44.190; and

(c) Establish service credit for the initial period of employment not to exceed six months, prior to establishing membership under chapter 41.44 RCW.

To make the election or elections, the person must pay the amount required under RCW 41.50.165(2) prior to retirement from this retirement system. [1994 c 197 § 25; 1987 c 417 § 1; 1984 c 184 § 9. Formerly RCW 41.40.403.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Severability—1984 c 184: See note following RCW 41.50.150.

41.40.059 Credit for service in Seattle's police relief and pension fund system. Any active member of this retirement system who has previously established ten or more years' service credit in the city of Seattle's police relief and pension fund system, who withdrew his or her contributions from Seattle's police relief and pension fund system prior to July 1, 1961, and who has never been a member of the law enforcement officers' and fire fighters' pension system created in chapter 41.26 RCW, may receive credit in this retirement system for such service, subject to the terms and conditions specified in RCW 41.40.061. [1992 c 157 § 3.]

41.40.061 Credit for service in Seattle's police relief and pension fund system—Terms and conditions. (1) A member who fulfills the requirements of RCW 41.40.059 may file a written declaration no later than September 30, 1992, with the department and the Seattle police relief and pension fund system indicating the member's desire to make an irrevocable transfer of credit from the Seattle system to this retirement system. The member shall restore his or her contributions, with interest since the date of withdrawal as determined by the director, no later than December 31, 1992.

(2) Upon receipt of the written declaration, the Seattle police relief and pension fund system shall send the department a report of the member's service credit. It shall also transfer to the department the portion of such member's contributions that was retained in the Seattle police relief and pension fund pursuant to RCW 41.20.150, plus a sum equal to such member's total contributions to the Seattle police relief and pension fund, which shall be treated as matching contributions by the employer, plus the compound interest that would have been generated by such sums, as determined by the Seattle city treasurer. The Seattle police relief and pension fund system shall send the service credit report and transfer the funds within ninety days of receiving the member's written declaration. [1992 c 157 § 4.]

41.40.062 Optional entry of system by political subdivisions or associations of political subdivisions—Procedure—School districts declared employers and eligible employees members of system. (1) The members and appointive and elective officials of any political subdivision or association of political subdivisions of the state may become members of the retirement system by the approval of the local legislative authority.

(2) On and after September 1, 1965, every school district of the state of Washington shall be an employer under this chapter. Every member of each school district who is eligible for membership under RCW 41.40.023 shall be a member of the retirement system and participate on the same basis as a person who first becomes a member through the admission of any employer into the retirement system on and after April 1, 1949. [1995 c 286 § 4; 1991 c 35 § 93; 1971 ex.s. c 271 § 12; 1969 c 128 § 13; 1965 c 84 § 1; 1963 c 174 § 16; 1961 c 291 § 13; 1953 c 200 § 19; 1951 c 50 § 13; 1949 c 240 § 27; 1947 c 274 § 43; Rem. Supp. 1949 § 11072-42. Formerly RCW 41.40.410.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

Severability—1969 c 128: See note following RCW 41.40.010.

41.40.068 Hearing prior to appeal—Required—Notice. Any person aggrieved by any decision of the department affecting his or her legal rights, duties, or privileges must before he or she appeals to the courts, file with the director by mail or personally within sixty days from the day the decision was communicated to the person, a notice for a hearing before the director's designee. The notice of hearing shall set forth in full detail the grounds upon which the person considers the decision unjust or unlawful and shall include every issue to be considered by the department, and it must contain a detailed statement of facts upon which the person relies in support of the appeal. These persons shall be deemed to have waived all objections or irregularities concerning the matter on which the appeal is taken, other than those specifically set forth in the notice of hearing or appearing in the records of the retirement system. [1991 c 35 § 94; 1969 c 128 § 14; 1963 c 174 § 17; 1953 c 200 § 22. Formerly RCW 41.40.412.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1969 c 128: See note following RCW 41.40.010.

41.40.073 Hearing prior to appeal—Conduct. Following its receipt of a notice for hearing in accordance with RCW 41.40.068, a hearing shall be held by the director or a duly authorized representative, in the county of the residence of the claimant at a time and place designated by the director. Such hearing shall be conducted and governed in all respects by the provisions of chapter 34.05 RCW. [1989 c 175 § 87; 1969 c 128 § 15; 1953 c 200 § 23. Formerly RCW 41.40.414.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1969 c 128: See note following RCW 41.40.010.

41.40.078 Judicial review in accordance with administrative procedure act. Judicial review of any final decision and order by the director is governed by the provisions of chapter 34.05 RCW. [1989 c 175 § 88; 1969 c 128

§ 16; 1963 c 174 § 18; 1953 c 200 § 20; 1951 c 50 § 14. Formerly RCW 41.40.420.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1969 c 128: See note following RCW 41.40.010.

41.40.082 Appeal—No bond required. No bond of any kind shall be required of a claimant appealing to the superior court, the court of appeals, or the supreme court from a finding of the department affecting the claimant's right to retirement or disability benefits. [1991 c 35 § 95; 1971 c 81 § 105; 1951 c 50 § 16. Formerly RCW 41.40.440.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.40.088 Educational—Service credit—Computation provisions. (1) A plan I member who is employed by a school district or districts, an educational service district, the state school for the deaf, the state school for the blind, institutions of higher education, or community colleges:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for six hundred thirty hours or more during that period, and is employed during nine months of that period, except that a member may not receive credit for any period prior to the member's employment in an eligible position;

(b) If a member in an eligible position does not meet the requirements of (a) of this subsection, the member is entitled to a service credit month for each month of the period he or she earns earnable compensation for seventy or more hours; and the member is entitled to a one-quarter service credit month for those calendar months during which he or she earned compensation for less than seventy hours.

(2) Except for any period prior to the member's employment in an eligible position, a plan II member who is employed by a school district or districts, an educational service district, the state school for the blind, the state school for the deaf, institutions of higher education, or community colleges:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for eight hundred ten hours or more during that period, and is employed during nine months of that period;

(b) If a member in an eligible position for each month of the period from September through August of the following year does not meet the hours requirements of (a) of this subsection, the member is entitled to one-half service credit month for each month of the period if he or she earns earnable compensation for at least six hundred thirty hours but less than eight hundred ten hours during that period, and is employed nine months of that period.

(c) In all other instances, a member in an eligible position is entitled to service credit months as follows:

(i) One service credit month for each month in which compensation is earned for ninety or more hours;

(ii) One-half service credit month for each month in which compensation is earned for at least seventy hours but less than ninety hours; and

(iii) One-quarter service credit month for each month in which compensation is earned for less than seventy hours.

(3) The department shall adopt rules implementing this section. [1991 c 343 § 9; 1991 c 35 § 96; 1990 c 274 § 4; 1989 c 289 § 2; 1987 c 136 § 1; 1983 c 69 § 2; 1973 c 23 § 1. Formerly RCW 41.40.450.]

Reviser's note: This section was amended by 1991 c 35 § 96 and by 1991 c 343 § 9, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Findings—Intent—Reservation—Effective date—Construction—1990 c 274: See notes following RCW 41.32.010.

41.40.092 Transfer of cadet service credit to Washington state patrol retirement system. (1) Active members of the Washington state patrol retirement system who have previously established service credit in the public employees' retirement system while employed by the state patrol as a cadet as defined in RCW 43.43.120(6)(b) may have such service credit transferred to the state patrol retirement system subject to the terms and conditions specified in chapter 43.43 RCW, including reestablishment of such service for the sole purpose of transfer. Service reestablishment shall be subject to the interest requirements of RCW 41.40.150(2).

(2) Service credit established for employment other than that specified in subsection (1) of this section is not eligible for transfer. [1983 c 81 § 3. Formerly RCW 41.40.530.]

Effective date—1983 c 81: See note following RCW 43.43.120.

41.40.094 Fire fighters—Optional transfer to LEOFF plan II. (1) An employee who was a member of the public employees' retirement system on or before January 1, 1996, and, on June 6, 1996, is employed by an institution of higher education as a fire fighter as defined in RCW 41.26.030, has the following options:

(a) Remain a member of the public employees' retirement system; or

(b) Make an irrevocable choice, filed in writing with the department of retirement systems no later than January 1, 1997, to transfer to the law enforcement officers' and fire fighters' retirement system plan II as defined in RCW 41.26.030. An employee transferring membership under this subsection (1)(b) shall be a dual member as provided in RCW 41.54.010 unless the employee exercises the option to transfer service credit under subsection (2) of this section.

(2)(a) An employee who transferred membership under subsection (1)(b) of this section may choose to transfer service credit as a fire fighter previously earned under the public employees' retirement system, to the law enforcement officers' and fire fighters' retirement system plan II, by making an irrevocable choice filed in writing with the department of retirement systems within one year of the department's announcement of the ability to make such a transfer.

(b) Any fire fighter choosing to transfer under this subsection shall have transferred from the retirement system to the law enforcement officers' and fire fighters' retirement system plan II: (i) All the employee's applicable accumulated contributions and employer contributions attributed to such employee; and (ii) all applicable months of service, as defined in RCW 41.26.030(14)(b), credited to the employee under chapter 41.40 RCW, as though such service was rendered as a member of the law enforcement officers' and fire fighters' retirement system.

(c) For the applicable period of service, the employee shall pay the difference between the contributions such employee paid to the retirement system, and the contributions which would have been paid by the employee had the employee been a member of the law enforcement officers' and fire fighters' retirement system, plus interest as determined by the director. This payment shall be made no later than December 31, 1998, or the date of retirement, whichever comes first. If the payment required by this subsection is not paid in full by the deadline, the transferred service credit shall not be used to determine eligibility for benefits nor to calculate benefits under the law enforcement officers' and fire fighters' retirement system. In such case, the additional employee contributions transferred under this subsection, and any payments made under this subsection, shall be refunded to the employee and the employer shall be entitled to a credit for the payments made under (d) of this subsection.

(d) For the applicable period of service, the employer shall pay:

(i) The difference between the employer contributions paid to the public employees' retirement system, and the combined employer and state contributions which would have been payable to the law enforcement officers' and fire fighters' retirement system; and

(ii) An amount sufficient to ensure that the contribution level of current members of the law enforcement officers' and fire fighters' retirement system will not increase due to this transfer.

For the purpose of this subsection (2)(d), the state contribution shall not include the contribution related to the amortization of the costs of the law enforcement officers' and fire fighters' retirement system plan I as required by chapter 41.45 RCW.

(e) An individual who transfers service credit and contributions under this subsection shall be permanently excluded from the public employees' retirement system for all service as a fire fighter. [1996 c 38 § 1.]

41.40.095 Transfer of membership from judicial retirement system. (1) Any member of the Washington judicial retirement system who wishes to transfer such membership to the retirement system provided for in this chapter shall file a written request with the director as required by RCW 2.10.040 on or before December 31, 1989, or within one year after reentering service as a judge.

Upon receipt of such request, the director shall transfer from the judicial retirement system to this retirement system: (a) An amount equal to the employee and employer contributions the judge would have made if the judge's service under chapter 2.10 RCW had originally been earned under this

chapter, which employee contributions shall be credited to the member's account established under this chapter; and (b) a record of service credited to the member. The judge's accumulated contributions that exceed the amount credited to the judge's account under this subsection shall be deposited in the judge's retirement account created pursuant to chapter 2.14 RCW.

(2) The member shall be given year-for-year credit for years of service, as determined under RCW 2.10.030(8), earned under the judicial retirement system. Service credit granted under the judicial retirement system pursuant to RCW 2.10.220 shall not be transferred under this section. The director instead shall reverse the transfer of contributions and service credit previously made under RCW 2.10.220 and shall credit the member for such periods of service and contributions under this chapter as though no transfer had ever occurred.

(3) All employee contributions transferred pursuant to this section shall be treated the same as other employee contributions made under this chapter. [1988 c 109 § 5. Formerly RCW 41.40.540.]

Effective date—1988 c 109: See note following RCW 2.10.030.

41.40.098 Transfer of former service from judicial retirement system. A former member of the Washington judicial retirement system who: (1) Is not serving as a judge on July 1, 1988; (2) has not retired under the applicable provisions of chapter 2.10 RCW; and (3) subsequently reacquires membership in the public employees' retirement system may, by written request filed with the director of retirement systems, transfer to the public employees' retirement system all periods of time served as a judge, as defined in RCW 2.10.030(2). Upon such membership transfer being made, the department of retirement systems shall transfer the employer contributions and the employee's contributions and service from the judicial retirement system to the public employees' retirement system. The service shall be transferred and credited to the member as though the service was originally earned as a member of the public employees' retirement system. [1988 c 109 § 6. Formerly RCW 41.40.542.]

Effective date—1988 c 109: See note following RCW 2.10.030.

41.40.102 Effect of certain accumulated vacation leave on retirement benefits. RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter. [1983 c 283 § 4. Formerly RCW 41.40.800.]

41.40.103 Benefit calculation—Limitation. (1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section. [1995 c 145 § 3.]

41.40.105 Chapter not applicable to officers and employees of state convention and trade center. The

provisions of this chapter shall not be applicable to the officers and employees of the nonprofit corporation formed under chapter 67.40 RCW. [1984 c 210 § 6. Formerly RCW 41.40.810.]

Savings—Severability—1984 c 210: See notes following RCW 67.40.020.

41.40.108 Higher education classified employees—Membership in the public employees' retirement system.

(1) All classified employees employed by Washington State University on and after April 24, 1973, and otherwise eligible shall become members of the Washington public employees' retirement system to the exclusion of any other retirement benefit system at the institution unless otherwise provided by law.

(2) All classified employees employed by the University of Washington or each of the regional universities or The Evergreen State College on and after May 6, 1974, and otherwise eligible shall become members of the Washington public employees' retirement system at the institution unless otherwise provided by law: PROVIDED, That persons who, immediately prior to the date of their hiring as classified employees, have for at least two consecutive years held membership in a retirement plan underwritten by the private insurer of the retirement plan of their respective educational institution may irrevocably elect to continue their membership in the retirement plan notwithstanding the provisions of this chapter, if the election is made within thirty days from the date of their hiring as classified employees. If these persons elect to become members of the public employees' retirement system, contributions by them and their employers shall be required from their first day of employment. [1991 c 35 § 107.]

Intent—1991 c 35: See note following RCW 41.26.005.

"PLAN I"

41.40.145 Provisions applicable to plan I. RCW 41.40.150 through 41.40.363 shall apply only to members of plan I. [1992 c 72 § 9; 1991 c 35 § 105.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.40.150 Termination of membership—Restoration of service credit. Should any member die, or should the individual separate or be separated from service without leave of absence before attaining age sixty years, or should the individual become a beneficiary, except a beneficiary of an optional retirement allowance as provided by RCW 41.40.188, the individual shall thereupon cease to be a member except;

(1) As provided in RCW 41.40.170.

(2) An employee not previously retired who reenters service shall upon completion of six months of continuous service and upon the restoration, in one lump sum or in annual installments, of all withdrawn contributions: (a) With interest as computed by the director, which restoration must be completed within a total period of five years of membership service following the member's first resumption of employment or (b) paying the amount required under RCW 41.50.165(2), be returned to the status, either as an original

member or new member which the member held at time of separation.

(3) A member who separates or has separated after having completed at least five years of service shall remain a member during the period of absence from service for the exclusive purpose of receiving a retirement allowance to begin at attainment of age sixty-five, however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

(4)(a) The recipient of a retirement allowance who is employed in an eligible position other than under RCW 41.40.023(12) shall be considered to have terminated his or her retirement status and shall immediately become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended during the period of eligible employment and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: PROVIDED, That where any such right to retire is exercised to become effective before the member has rendered two uninterrupted years of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated;

(b) The recipient of a retirement allowance elected to office or appointed to office directly by the governor, and who shall apply for and be accepted in membership as provided in RCW 41.40.023(3) shall be considered to have terminated his or her retirement status and shall become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended from the date of return to membership until the date when the member again retires and the member shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: PROVIDED, That where any such right to retire is exercised to become effective before the member has rendered six uninterrupted months of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated, but no additional service credit shall be allowed: AND PROVIDED FURTHER, That if such a recipient of a retirement allowance does not elect to apply for reentry into membership as provided in RCW 41.40.023(3), the member shall be considered to remain in a retirement status and the individual's retirement benefits shall continue without interruption.

(5) Any member who leaves the employment of an employer and enters the employ of a public agency or agencies of the state of Washington, other than those within the jurisdiction of this retirement system, and who establishes membership in a retirement system or a pension fund operated by such agency or agencies and who shall continue membership therein until attaining age sixty, shall remain a

member for the exclusive purpose of receiving a retirement allowance without the limitation found in RCW 41.40.180(1) to begin on attainment of age sixty-five; however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits commencing at age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply. [1994 c 197 § 26; 1992 195 § 1; 1990 c 249 § 17. Prior: 1987 c 384 § 1; 1987 c 88 § 1; 1986 c 317 § 3; 1983 c 233 § 2; 1982 1st ex.s. c 52 § 20; 1979 ex.s. c 249 § 10; 1974 ex.s. c 195 § 3; 1973 1st ex.s. c 190 § 6; 1969 c 128 § 6; 1967 c 127 § 4; 1965 c 155 § 3; 1963 c 174 § 8; 1955 c 277 § 3; 1953 c 200 § 7; 1951 c 50 § 3; 1949 c 240 § 10; 1947 c 274 § 16; Rem. Supp. 1949 § 11072-16.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Effective date—1992 c 195 § 1: "Section 1 of this act shall take effect January 1, 1994." [1992 c 195 § 3.]

Findings—1990 c 249: See note following RCW 2.10.146.

Effective dates—1987 c 384: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1987. Section 2 of this act shall take effect July 1, 1988." [1987 c 384 § 3.]

Legislative findings—Intent—1986 c 317: "The legislature finds that in the past public employees and teachers who had terminated employment, withdrawn their retirement contributions, and subsequently returned to public employment or teaching either did not receive proper notification of the procedure to reinstate their withdrawn contributions or they did not fully understand the limitation on such reinstatement. In 1973, the legislature recognized this fact and provided an extraordinary reinstatement period for such employees. Further in 1983, the legislature established clear notification procedures for the proper notification of the reinstatement policy for all such returning employees. Therefore, it is the intent of this 1986 act to provide one last opportunity for reinstatement of withdrawn contributions to those who may have not been properly informed or misunderstood the reinstatement procedure." [1986 c 317 § 1.]

Severability—1986 c 317: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 317 § 11.]

Severability—1983 c 233: See note following RCW 41.32.500.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Severability—1974 ex.s. c 195: See note following RCW 41.40.023.

Severability—1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability—1969 c 128: See note following RCW 41.40.010.

41.40.160 Creditable service. (1) Subject to the provisions of RCW 41.40.150, at retirement the total service credited to a member shall consist of all membership service and, if he or she is an original member, all of the certified prior service.

(2) Employees of a public utility or other private enterprise all or any portion of which has been heretofore or may be hereafter acquired by a public agency as a matter of public convenience and necessity, where it is in the public interest to retain the trained personnel of such enterprise, all service to that enterprise shall, upon the acquiring public

agency becoming an employer as defined in RCW 41.40.010(4) be credited on the same basis as if rendered to the said employer: PROVIDED, That this shall apply only to those employees who were in the service of the enterprise at or prior to the time of acquisition by the public agency and who remain in the service of the acquiring agency until they attain membership in the state employees' retirement system; and to those employees who were in the service of the enterprise at the time of acquisition by the public agency and subsequently attain membership through employment with any participating agency: PROVIDED FURTHER, In the event that the acquiring agency is an employer at the time of the acquisition, employer's contributions in connection with members achieving service credit hereunder shall be made on the same basis as set forth in RCW *41.40.045 and 41.40.048 for an employer admitted after April 1, 1949, and before July 23, 1995, and on the same basis as set forth in RCW 41.40.057 for an employer admitted after July 23, 1995. [1995 c 286 § 5; 1991 c 35 § 77; 1989 c 273 § 27; 1965 c 155 § 4; 1963 c 174 § 9; 1953 c 200 § 8; 1951 c 50 § 4; 1949 c 240 § 11; 1947 c 274 § 17; Rem. Supp. 1949 § 11072-17.]

*Reviser's note: RCW 41.40.045 was repealed by 1995 c 286 § 6.

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1989 c 273: See RCW 41.45.900.

41.40.170 Credit for military service. (1) A member who has served or shall serve on active federal service in the military or naval forces of the United States and who left or shall leave an employer to enter such service shall be deemed to be on military leave of absence if he or she has resumed or shall resume employment as an employee within one year from termination thereof.

(2) If he or she has applied or shall apply for reinstatement of employment, within one year from termination of the military service, and is refused employment for reasons beyond his or her control, he or she shall, upon resumption of service within ten years have such service credited to him or her.

(3) In any event, after completing twenty-five years of creditable service, any member may have service in the armed forces credited to him or her as a member whether or not he or she left the employ of an employer to enter the armed service: PROVIDED, That in no instance, described in this section, shall military service in excess of five years be credited: AND PROVIDED FURTHER, That in each instance the member must restore all withdrawn accumulated contributions, which restoration must be completed within five years of membership service following the first resumption of employment or complete twenty-five years of creditable service: AND PROVIDED FURTHER, That this section will not apply to any individual, not a veteran within the meaning of RCW 41.04.005, as now or hereafter amended: AND PROVIDED FURTHER, That in no instance, described in this section, shall military service be credited to any member who is receiving full military retirement benefits pursuant to Title 10 United States Code. [1991 c 35 § 78; 1981 c 294 § 12; 1973 1st ex.s. c 190 § 14; 1972 ex.s. c 151 § 3; 1969 c 128 § 7; 1967 c 127 § 8; 1963 c 174 § 10; 1953 c 200 § 9; 1949 c 240 § 12; 1947 c 274 § 18; Rem. Supp. 1949 § 11072-18.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1981 c 294: See note following RCW 41.26.115.

Severability—1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability—1969 c 128: See note following RCW 41.40.010.

41.40.175 Service credit for paid leave of absence—Application to elected officials of labor organizations. (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided under the provisions of RCW 41.40.145 through 41.40.363.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The compensation earnable reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement. [1993 c 95 § 1.]

Retroactive application—1993 c 95: "This act applies on a retroactive basis to members for whom compensation and hours were reported under the circumstances described in sections 1 through 6 of this act. This act may also be applied on a retroactive basis to January 1, 1992, to members for whom compensation and hours would have been reported except for chapter 3, Laws of 1992, or explicit instructions from the department of retirement systems." [1993 c 95 § 9.]

Effective date—1993 c 95: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 21, 1993]." [1993 c 95 § 11.]

41.40.180 Retirement—Length of service. (1) Any member with five years of creditable service who has attained age sixty and any original member who has attained age sixty may retire on written application to the director, setting forth at what time the member desires to be retired: PROVIDED, That in the national interest, during time of war engaged in by the United States, the director may extend beyond age sixty, subject to the provisions of subsection (2) of this section, the age at which any member may be eligible to retire.

(2) Any member who has completed thirty years of service may retire on written application to the director setting forth at what time the member desires to be retired, subject to war measures.

(3) Any member who has completed twenty-five years of service and attained age fifty-five may retire on written application to the director setting forth at what time the member desires to be retired, subject to war measures.

(4) Any individual who is eligible to retire pursuant to subsections (1) through (3) of this section shall be allowed to retire while on any authorized leave of absence not in excess of one hundred and twenty days. [1982 1st ex.s. c 52 § 21; 1973 1st ex.s. c 190 § 7; 1972 ex.s. c 151 § 4; 1971 ex.s. c 271 § 7; 1967 c 127 § 5; 1963 c 174 § 11; 1955 c

277 § 4; 1953 c 200 § 10; 1951 c 81 § 1; 1949 c 240 § 13; 1947 c 274 § 19; Rem. Supp. 1949 § 11072-19.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Severability—1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

41.40.185 Retirement allowances—Members retiring after February 25, 1972. Upon retirement from service, as provided for in RCW 41.40.180 or 41.40.210, a member shall be eligible for a service retirement allowance computed on the basis of the law in effect at the time of retirement, together with such post-retirement pension increases as may from time to time be expressly authorized by the legislature. The service retirement allowance payable to members retiring on and after February 25, 1972 shall consist of:

(1) An annuity which shall be the actuarial equivalent of his or her additional contributions made pursuant to RCW 41.40.330(2).

(2) A membership service pension, subject to the provisions of subsection (4) of this section, which shall be equal to two percent of his or her average final compensation for each service credit year or fraction of a service credit year of membership service.

(3) A prior service pension which shall be equal to one-seventieth of his or her average final compensation for each year or fraction of a year of prior service not to exceed thirty years credited to his or her service accounts. In no event, except as provided in *this 1972 amendatory act, shall any member receive a retirement allowance pursuant to subsections (2) and (3) of this section of more than sixty percent of his or her average final compensation: **PROVIDED**, That no member shall receive a pension under this section of less than nine hundred dollars per annum if such member has twelve or more years of service credit, or less than one thousand and two hundred dollars per annum if such member has sixteen or more years of service credit, or less than one thousand five hundred and sixty dollars per annum if such member has twenty or more years of service credit.

(4) Notwithstanding the provisions of subsections (1) through (3) of this section, the retirement allowance payable for service where a member was elected or appointed pursuant to Articles II or III of the Constitution of the state of Washington or RCW 48.02.010 and the implementing statutes shall be a combined pension and annuity. Said retirement allowance shall be equal to three percent of the average final compensation for each year of such service. Any member covered by this subsection who upon retirement has served ten or more years shall receive a retirement allowance of at least one thousand two hundred dollars per annum; such member who has served fifteen or more years shall receive a retirement allowance of at least one thousand eight hundred dollars per annum; and such member who has served twenty or more years shall receive a retirement allowance of at least two thousand four hundred dollars per annum: **PROVIDED**, That the initial retirement allowance of a member retiring only under the provisions of this subsection shall not exceed the average final compensation upon which the retirement allowance is based. The minimum benefits provided in this subsection shall apply to all

retired members or to the surviving spouse of deceased members who were elected to the office of state senator or state representative. [1991 c 343 § 7; 1990 c 249 § 7; 1987 c 143 § 2; 1973 1st ex.s. c 190 § 8; 1972 ex.s. c 151 § 5.]

***Reviser's note:** "this 1972 amendatory act" [1972 ex.s. c 151] consists of the 1972 ex.s. amendments to RCW 41.40.010, 41.40.100, 41.40.170, 41.40.180, 41.40.190, 41.40.210, 41.40.220, 41.40.250, 41.40.270, 41.40.330, and 41.40.361, the repeal of RCW 41.40.240, and the enactment of RCW 41.40.185, 41.40.193, and 41.40.235.

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Findings—1990 c 249: See note following RCW 2.10.146.

Severability—1973 1st ex.s. c 190: See note following RCW 41.40.010.

41.40.188 Retirement allowance—Options. (1) Upon retirement for service as prescribed in RCW 41.40.180 or retirement for disability under RCW 41.40.210 or 41.40.230, a member shall elect to have the retirement allowance paid pursuant to one of the following options calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(c) A member may elect to include the benefit provided under RCW 41.40.640 along with the retirement options available under this section. This retirement allowance option shall be calculated so as to be actuarially equivalent to the options offered under this subsection.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply. [1996 c 175 § 6; 1995 c 144 § 1; 1990 c 249 § 9.]

Findings—1990 c 249: See note following RCW 2.10.146.

41.40.190 Retirement allowance—In lieu of allowance provided in RCW 41.40.185. In lieu of the retirement allowance provided in RCW 41.40.185, an individual employed on or before April 25, 1973 may, after complying with RCW 41.40.180 or 41.40.210, make an irrevocable election to receive the retirement allowance provided by this section which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement; and

(2) A basic service pension of one hundred dollars per annum; and

(3) A membership service pension, subject to the provisions of subdivision (4) of this section, which shall be equal to one one-hundredth of his or her average final compensation for each year or fraction of a year of membership service credited to his or her service account; and

(4) A prior service pension which shall be equal to one-seventieth of his or her average final compensation for each year or fraction of a year of prior service not to exceed thirty years credited to his or her service accounts. In no event shall any original member upon retirement at age seventy with ten or more years of service credit receive less than nine hundred dollars per annum as a retirement allowance, nor shall any member upon retirement at any age receive a retirement allowance of less than nine hundred dollars per annum if such member has twelve or more years of service credit, or less than one thousand and two hundred dollars per annum if such member has sixteen or more years of service credit, or less than one thousand five hundred and sixty dollars per annum if such member has twenty or more years of service credit. In the event that the retirement allowance as to such member provided by subdivisions (1), (2), (3), and (4) hereof shall amount to less than the aforesaid minimum retirement allowance, the basic service pension of the member shall be increased from one hundred dollars to a sum sufficient to make a retirement allowance of the applicable minimum amount.

(5) Notwithstanding the provisions of subsections (1) through (4) of this section, the retirement allowance payable for service where a member was elected or appointed pursuant to Articles II or III of the Constitution of the state of Washington or RCW 48.02.010 and the implementing statutes shall be a combined pension and annuity. Said retirement allowance shall be equal to three percent of the average final compensation for each year of such service. Any member covered by this subsection who upon retirement has served ten or more years shall receive a retirement allowance of at least one thousand two hundred dollars per

annum; such member who has served fifteen or more years shall receive a retirement allowance of at least one thousand eight hundred dollars per annum; and such member who has served twenty or more years shall receive a retirement allowance of at least two thousand four hundred dollars per annum: PROVIDED, That the initial retirement allowance of a member retiring only under the provisions of this subsection shall not exceed the average final compensation upon which the retirement allowance is based. The minimum benefits provided in this subsection shall apply to all retired members or to the surviving spouse of deceased members who were elected under the provisions of Article II of the Washington state Constitution.

(6) Unless payment shall be made under RCW 41.40.270, a joint and one hundred percent survivor benefit under RCW 41.40.188 shall automatically be given effect as if selected for the benefit of the surviving spouse upon the death in service, or while on authorized leave of absence for a period not to exceed one hundred and twenty days from the date of payroll separation, of any member who is qualified for a service retirement allowance or has completed ten years of service at the time of death, except that if the member is not then qualified for a service retirement allowance, such option II benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance. [1990 c 249 § 8; 1987 c 143 § 3; 1973 1st ex.s. c 190 § 9; 1972 ex.s. c 151 § 6; 1971 ex.s. c 271 § 5; 1969 c 128 § 8; 1967 c 127 § 7; 1961 c 291 § 6; 1953 c 200 § 11; 1951 c 50 § 5; 1949 c 240 § 14; 1947 c 274 § 20; Rem. Supp. 1949 § 11072-20.]

Findings—1990 c 249: See note following RCW 2.10.146.

Severability—1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

Severability—1969 c 128: See note following RCW 41.40.010.

41.40.193 Dates upon which retirement allowances accrue. Retirement allowances paid to members eligible to retire under the provisions of RCW 41.40.180, 41.40.200, 41.40.210, 41.40.220, 41.40.230, and 41.40.250 shall accrue from the first day of the calendar month immediately following the calendar month during which the member is separated from service. Retirement allowance paid to members eligible to retire under any other provisions of *this 1972 amendatory act shall accrue from the first day of a calendar month but in no event earlier than the first day of the calendar month immediately following the calendar month during which the member is separated from service. [1983 c 3 § 94; 1973 1st ex.s. c 190 § 10; 1972 ex.s. c 151 § 7.]

*Reviser's note: "this 1972 amendatory act," see note following RCW 41.40.185.

Severability—1973 1st ex.s. c 190: See note following RCW 41.40.010.

41.40.197 Retirement allowance—Annual increases—Eligibility. (1) Beginning July 1, 1995, and annually thereafter, the retirement allowance of a person meeting the requirements of this section shall be increased by the annual increase amount.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary who has received a retirement allowance for at least one year and has attained at least age sixty-six by July 1st in the calendar year in which the annual increase is given; or

(b) A beneficiary whose retirement allowance is lower than the minimum benefit provided under RCW 41.40.1984.

(3) The following persons shall also be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary receiving the minimum benefit on June 30, 1995, under *RCW 41.40.198; or

(b) A recipient of a survivor benefit on June 30, 1995, which has been increased by **RCW 41.40.325.

(4) If otherwise eligible, those receiving an annual adjustment under RCW 41.40.188(1)(c) shall be eligible for the annual increase adjustment in addition to the benefit that would have been received absent this section.

(5) Those receiving a benefit under RCW 41.40.220(1), or a survivor of a disabled member under RCW 41.44.170(5) shall be eligible for the benefit provided by this section.

(6) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this postretirement adjustment not granted prior to that time. [1995 c 345 § 5.]

Reviser's note: *(1) RCW 41.40.198 was repealed by 1995 c 345 § 11.

***(2) RCW 41.40.325 was repealed by 1995 c 345 § 11.

Intent—Effective date—1995 c 345: See notes following RCW 41.32.489.

41.40.1971 Definition—"Beneficiary." For the purposes of RCW 41.40.197, 41.40.1984, and 41.40.1986, "beneficiary" means a beneficiary under RCW 41.40.010 or 41.44.030, or both RCW 41.40.010 and 41.44.030. [1995 c 345 § 6.]

Intent—Effective date—1995 c 345: See notes following RCW 41.32.489.

41.40.1984 Minimum retirement allowance—Annual adjustment—Persons who become beneficiaries after June 30, 1995. (1) Except as provided in subsections (4) and (5) of this section, no one who becomes a beneficiary after June 30, 1995, shall receive a monthly retirement allowance of less than twenty-four dollars and twenty-two cents times the number of years of service creditable to the person whose service is the basis of such retirement allowance.

(2) Where the retirement allowance payable was adjusted at the time benefit payments to the beneficiary commenced, the minimum allowance provided in this section shall be adjusted in a manner consistent with that adjustment.

(3) Beginning July 1, 1996, the minimum benefit set forth in subsection (1) of this section shall be adjusted annually by the annual increase.

(4) Those receiving a benefit under RCW 41.40.220(1) or under RCW 41.44.170 (3) and (5) shall not be eligible for the benefit provided by this section.

(5) For persons who served as elected officials and whose accumulated employee contributions and credited interest was less than seven hundred fifty dollars at the time of retirement, the minimum benefit under subsection (1) of

this section shall be ten dollars per month per each year of creditable service. [1995 c 345 § 7.]

Intent—Effective date—1995 c 345: See notes following RCW 41.32.489.

41.40.1985 Permanent retirement allowance adjustment. The dollar amount of the temporary postretirement allowance adjustment granted by section 1, chapter 519, Laws of 1993 shall be provided as a permanent retirement allowance adjustment as of July 1, 1995. [1994 c 247 § 4.]

Effective date—1994 c 247: See note following RCW 41.32.4991.

Temporary postretirement allowance—1993 c 519: See note following RCW 41.32.4991.

41.40.1986 Permanent increase for specified beneficiaries age seventy or over. (1) The amount of the July 1, 1993, increase to the retirement allowance of beneficiaries under this chapter as a result of the temporary adjustment authorized by section 3, chapter 519, Laws of 1993, shall be made a permanent adjustment on July 1, 1995.

(2) Beneficiaries receiving a benefit under *RCW 41.40.198 who are at least age seventy-nine shall receive on July 1, 1995, a permanent adjustment of one dollar and eighteen cents per month per year of service.

(3) Beneficiaries under this chapter who are not subject to subsection (1) of this section and are not receiving a benefit under *RCW 41.40.198 shall receive the following permanent adjustment to their retirement allowance on July 1, 1995:

(a) Those who are age seventy, thirty-nine cents per month per year of service;

(b) Those who are age seventy-one, seventy-nine cents per month per year of service; and

(c) Those who are at least age seventy-two, one dollar and eighteen cents per month per year of service. [1995 c 345 § 8.]

***Reviser's note:** RCW 41.40.198 was repealed by 1995 c 345 § 11.

Intent—Effective date—1995 c 345: See notes following RCW 41.32.489.

41.40.200 Retirement for disability in line of duty—Applicability to certain judges. (1) Subject to the provisions of RCW 41.40.310 and 41.40.320, upon application of a member, or his or her employer, a member who becomes totally incapacitated for duty as the natural and proximate result of an accident occurring in the actual performance of duty or who becomes totally incapacitated for duty and qualifies to receive benefits under Title 51 RCW as a result of an occupational disease, as now or hereafter defined in RCW 51.08.140, while in the service of an employer, without willful negligence on his or her part, shall be retired subject to the following conditions:

(a) That the medical adviser, after a medical examination of such member made by or under the direction of the medical adviser, shall certify in writing that the member is mentally or physically totally incapacitated for the further performance of his or her duty and that such member should be retired;

(b) That the director concurs in the recommendation of the medical adviser;

(c) That no application shall be valid or a claim thereunder enforceable unless, in the case of an accident, the claim is filed within two years after the date upon which the injury occurred or, in the case of an occupational disease, the claim is filed within two years after the member separated from service with the employer; and

(d) That the coverage provided for occupational disease under this section may be restricted in the future by the legislature for all current and future members.

(2) The retirement for disability of a judge, who is a member of the retirement system, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (Amendment 71), with the concurrence of the director, shall be considered a retirement under subsection (1) of this section. [1991 c 35 § 80; 1986 c 207 § 1; 1982 c 18 § 3; 1955 c 277 § 5; 1951 c 50 § 6; 1949 c 240 § 15; 1947 c 274 § 21; Rem. Supp. 1949 § 11072-21.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.40.210 Duty disability retirement allowance for disability after age sixty. Upon retirement for disability, as provided in RCW 41.40.200, a member who has attained age sixty, regardless of his creditable service shall receive a service retirement allowance. [1972 ex.s. c 151 § 8; 1947 c 274 § 22; Rem. Supp. 1947 § 11072-22.]

41.40.220 Allowance on retirement for duty disability—Before sixty. Upon retirement for disability, as provided in RCW 41.40.200, a member who has not attained age sixty shall receive the following benefits, subject to the provisions of RCW 41.40.310 and 41.40.320:

(1) A disability retirement pension of two-thirds of his or her average final compensation to his or her attainment of age sixty, subject to the provisions of RCW 41.40.310. The disability retirement pension provided by the employer shall not exceed forty-two hundred dollars per annum, and

(2) Upon attainment of age sixty, the disabled member shall receive a service retirement allowance as provided in RCW 41.40.210. The department shall grant the disabled member membership service for the period of time prior to age sixty he or she was out of such service due to disability.

(3) During the period a disabled member is receiving a disability pension, as provided for in subsection (1) of this section, his or her contributions to the employees' savings fund shall be suspended and his or her balance in the employees' savings fund, standing to his or her credit as of the date his or her disability pension is to begin, shall remain in the employees' savings fund. If the disabled member should die before attaining age sixty, while a disability beneficiary, upon receipt by the department of proper proof of death, the member's accumulated contributions standing to his or her credit in the employees' savings fund, shall be paid to the member's estate, or such person or persons, trust, or organization as he or she shall have nominated by written designation duly executed and filed with the department. If there is no designated person or persons still living at the time of the member's death, the accumulated contributions standing to the member's credit in the employees' savings fund shall be paid to his or her surviving spouse, or if there is no surviving spouse, then to the member's legal representative. [1995 c 144 § 2; 1991 c 35 § 81; 1972 ex.s. c 151

§ 9; 1971 ex.s. c 271 § 8; 1961 c 291 § 7; 1953 c 200 § 12; 1949 c 240 § 16; 1947 c 274 § 23; Rem. Supp. 1949 § 11072-23.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

41.40.230 Nonduty disability—Applicability to certain judges. (1) Subject to the provisions of RCW 41.40.310 and 41.40.320, upon application of a member, or his or her employer, a member who has been an employee at least five years, and who becomes totally and permanently incapacitated for duty as the result of causes occurring not in the performance of his or her duty, may be retired by the department, subject to the following conditions:

(a) That the medical adviser, after a medical examination of the member made by or under the direction of the medical adviser, shall certify in writing that the member is mentally or physically incapacitated for the further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired; and

(b) That the department concurs in the recommendation of the medical adviser.

(2) The retirement for disability of a judge, who is a member of the retirement system and who has been an employee at least five years, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (Amendment 71), with the concurrence of the department, shall be considered a retirement under subsection (1) of this section. [1991 c 35 § 82; 1982 c 18 § 4; 1969 c 128 § 9; 1951 c 50 § 7; 1949 c 240 § 17; 1947 c 274 § 24; Rem. Supp. 1949 § 11072-24.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1969 c 128: See note following RCW 41.40.010.

41.40.235 Nonduty disability retirement allowance—Amount—Maximum—Death benefit. (1) Upon retirement, a member shall receive a nonduty disability retirement allowance equal to two percent of average final compensation for each service credit year of service: PROVIDED, That this allowance shall be reduced by two percent of itself for each year or fraction thereof that his or her age is less than fifty-five years: PROVIDED FURTHER, That in no case may the allowance provided by this section exceed sixty percent of average final compensation.

(2) If the recipient of a retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director or, if there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse or, if there is neither a designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative. [1995 c 144 § 3. Prior: 1991 c 343 § 8; 1991 c 35 § 83; 1986 c 176 § 4; 1972 ex.s. c 151 § 10.]

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Intent—1991 c 35: See note following RCW 41.26.005.

41.40.250 Allowance on retirement for nonduty disability—Election. An individual who was a member on February 25, 1972, may upon qualifying pursuant to RCW 41.40.230, make an irrevocable election to receive the nonduty disability retirement allowance provided in subsections (1) and (2) of this section subject to the provisions of RCW 41.40.310 and 41.40.320. Upon attaining or becoming disabled after age sixty the member shall receive a service retirement allowance as provided for in RCW 41.40.190 except that the annuity portion thereof shall consist of a continuation of the cash refund annuity previously provided to him or her. The disability retirement allowance prior to age sixty shall consist of:

(1) A cash refund annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of his or her retirement; and

(2) A pension, in addition to the annuity, equal to one one-hundredth of the member's average final compensation for each year of service. If the recipient of a retirement allowance under this section dies before the total of the annuity portions of the retirement allowance paid to him or her equals the amount of his or her accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization as he or she shall have nominated by written designation duly executed and filed with the department, or if there is no designated person or persons, still living at the time of his or her death, then to his or her surviving spouse, or if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representatives. [1995 c 144 § 4; 1991 c 35 § 84; 1972 ex.s. c 151 § 11; 1969 c 128 § 10; 1961 c 291 § 8; 1953 c 200 § 13; 1947 c 274 § 26; Rem. Supp. 1947 § 11072-26.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1969 c 128: See note following RCW 41.40.010.

Nonduty disability retirement allowance—1972 act: See RCW 41.40.235.

41.40.260 Withdrawal from system—Refund of contributions—Waiver of allowance, when. Subject to the provisions of RCW 41.40.280, should a member cease to be an employee, he or she may request upon a form provided by the department a refund of all or part of the funds standing to his or her credit in the employees' savings fund and this amount shall be paid to him or her. Withdrawal of all or part of the funds, other than additional contributions under RCW 41.40.330(2) by a member who is eligible for a service retirement allowance in RCW 41.40.180 or a disability retirement allowance in RCW 41.40.200, 41.40.210, 41.40.220, 41.40.230, or 41.40.250 shall constitute a waiver of any service or disability retirement allowance. [1991 c 35 § 85; 1983 c 3 § 95; 1971 ex.s. c 271 § 9; 1963 c 174 § 12; 1949 c 240 § 18; 1947 c 274 § 27; Rem. Supp. 1949 § 11072-27.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

41.40.262 Elected officials—Restoration of withdrawn contributions. Any active member or separated member who was not eligible to restore contributions under section 3, chapter 317, Laws of 1986, solely because he or

she was an elected official, other than an elected official under Articles II or III of the Constitution of the state of Washington, shall be permitted to restore withdrawn contributions for periods of nonelected service no later than June 30, 1994, with interest as determined by the director. [1993 c 506 § 2.]

41.40.270 Death before retirement—Payment of contributions to nominee, surviving spouse, or legal representative—Waiver of payment, effect—Benefits. (1) Should a member die before the date of retirement the amount of the accumulated contributions standing to the member's credit in the employees' savings fund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, at the time of death:

(a) Shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there be no such designated person or persons still living at the time of the member's death, or if a member fails to file a new beneficiary designation subsequent to marriage, remarriage, dissolution of marriage, divorce, or reestablishment of membership following termination by withdrawal or retirement, such accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the surviving spouse as if in fact such spouse had been nominated by written designation as aforesaid, or if there be no such surviving spouse, then to the member's legal representatives.

(2) Upon the death in service, or while on authorized leave of absence for a period not to exceed one hundred and twenty days from the date of payroll separation, of any member who is qualified but has not applied for a service retirement allowance or has completed ten years of service at the time of death, the designated beneficiary, or the surviving spouse as provided in subsection (1) of this section, may elect to waive the payment provided by subsection (1) of this section. Upon such an election, a joint and one hundred percent survivor option under RCW 41.40.188, calculated under the retirement allowance described in RCW 41.40.185 or 41.40.190, whichever is greater, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 shall automatically be given effect as if selected for the benefit of the designated beneficiary. If the member is not then qualified for a service retirement allowance, such benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance.

(3) Subsection (1) of this section, unless elected, shall not apply to any member who has applied for service retirement in RCW 41.40.180, as now or hereafter amended, and thereafter dies between the date of separation from service and the member's effective retirement date, where the member has selected a survivorship option under RCW

41.40.188. In those cases the beneficiary named in the member's final application for service retirement may elect to receive either a cash refund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, or monthly payments according to the option selected by the member.

(4) For deaths occurring between July 1, 1995, and June 30, 1997, if a member who: (a) Has applied for nonduty disability under RCW 41.40.230; (b) has submitted adequate evidence to support a disability determination; and (c) has selected a retirement under RCW 41.40.188, dies before receiving the first retirement payment, the beneficiary named in the member's final application for disability retirement may elect to receive either a cash refund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, or monthly payments according to the option selected by the member. [1996 c 227 § 2; 1995 c 144 § 5; 1991 c 365 § 27; 1990 c 249 § 11; 1979 ex.s. c 249 § 11; 1972 ex.s. c 151 § 12; 1969 c 128 § 11; 1965 c 155 § 5; 1963 c 174 § 13; 1961 c 291 § 9; 1953 c 201 § 1; 1953 c 200 § 14; 1951 c 141 § 1; 1949 c 240 § 19; 1947 c 274 § 28; Rem. Supp. 1949 § 11072-28.]

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

Findings—1990 c 249: See note following RCW 2.10.146.

Severability—1969 c 128: See note following RCW 41.40.010.

41.40.280 Department may withhold refunds of contributions. The department may, in its discretion, withhold payment of all or part of a member's contributions for not more than six months after a member has ceased to be an employee. A member who files a request for a refund and subsequently enters into employment with an employer prior to the refund being made shall not be eligible for a refund. For purposes of this section, a written or oral employment agreement shall be considered entering into employment. [1994 c 177 § 7; 1991 c 35 § 86; 1973 2nd ex.s. c 14 § 2; 1947 c 274 § 29; Rem. Supp. 1947 § 11072-29.]

Findings—1994 c 177: See note following RCW 41.50.125.

Intent—1991 c 35: See note following RCW 41.26.005.

41.40.300 Benefits offset by workers' compensation or similar benefits. Any amounts which may be paid or payable under the provisions of any workers' compensation, or pension, or similar law on account of any disability shall be offset against and payable in lieu of any benefits payable from funds provided by the employer under the provisions of this chapter on account of the same disability. [1987 c 185 § 14; 1949 c 240 § 21; 1947 c 274 § 31; Rem. Supp. 1949 § 11072-31.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

41.40.310 Periodical examination of disability beneficiaries—Benefits upon resumption of gainful employment. Once each year during the first five years following the retirement of a member on a disability pension or retirement allowance, and at least once in every three year period thereafter the department may, and upon the

member's application shall, require any disability beneficiary, who has not attained age sixty years, to undergo a medical examination; such examination to be made by or under the direction of the medical adviser at the place of residence of the beneficiary, or other place mutually agreed upon. Should any disability beneficiary, who has not attained age sixty years, refuse to submit to a medical examination in any period, his or her disability pension or retirement allowance may be discontinued until his or her withdrawal of the refusal, and should the refusal continue for one year, all his or her rights in and to his or her disability pension, or retirement allowance, may be revoked by the department. If upon a medical examination of a disability beneficiary, the medical adviser reports and his or her report is concurred in by the department, that the disability beneficiary is no longer totally incapacitated for duty as the result of the injury or illness for which the disability was granted, or that he or she is engaged in a gainful occupation, his or her disability pension or retirement allowance shall cease.

If the disability beneficiary resumes a gainful occupation and his or her compensation is less than his or her compensation earnable at the date of disability, the department shall continue the disability benefits in an amount which when added to his or her compensation does not exceed his or her compensation earnable at the date of separation, but the disability benefit shall in no event exceed the disability benefit originally awarded. The compensation earnable at the date of separation shall be adjusted July 1 of each year by the ratio of the average consumer price index (Seattle, Washington area) for urban consumers, compiled by the United States department of labor, bureau of labor statistics, for the calendar year prior to the adjustment to the average consumer price index for the calendar year in which separation from service occurred but in no event shall the adjustment result in an amount lower than the original compensation earnable at the date of separation. [1991 c 35 § 87; 1984 c 184 § 14; 1965 c 155 § 7; 1963 c 174 § 14; 1955 c 277 § 7; 1951 c 50 § 9; 1949 c 240 § 22; 1947 c 274 § 32; Rem. Supp. 1949 § 11072-32.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1984 c 184: See note following RCW 41.50.150.

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

41.40.320 Disability beneficiary—Restoration to service. A disability beneficiary who has been or shall be reinstated to active service shall from the date of restoration again become a member of the retirement system; and shall contribute to the retirement system in the same manner as prior to the disability retirement. Any prior service and membership service, on the basis of which retirement allowances were computed at the time of retirement, shall be restored to full force and effect, and, except in the case of retirement for nonduty disability as provided in RCW 41.40.230, he or she shall be given membership service for the period of time out of service due to the disability. [1991 c 35 § 88; 1953 c 200 § 16; 1951 c 50 § 10; 1949 c 240 § 23; 1947 c 274 § 33; Rem. Supp. 1949 § 11072-33.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.40.330 Contributions. (1) Each employee who is a member of the retirement system shall contribute six percent of his or her total compensation earnable. Effective January 1, 1987, however, no contributions are required for any calendar month in which the member is not granted service credit. The officer responsible for making up the payroll shall deduct from the compensation of each member, on each and every payroll of such member for each and every payroll period subsequent to the date on which he or she became a member of the retirement system the contribution as provided by this section.

(2) Any member may, pursuant to regulations formulated from time to time by the department, provide for himself or herself, by means of an increased rate of contribution to his or her account in the employees' savings fund, an increased prospective retirement allowance pursuant to RCW 41.40.190 and 41.40.185.

(3) The officer responsible for making up the payroll shall deduct from the compensation of each member covered by the provisions of RCW 41.40.190(5) and 41.40.185(4) on each and every payroll of such member for each and every payroll period subsequent to the date on which he or she thereafter becomes a member of the retirement system, an amount equal to seven and one-half percent of such member's compensation earnable. [1990 c 8 § 4; 1986 c 268 § 3; 1973 1st ex.s. c 190 § 12; 1972 ex.s. c 151 § 13; 1971 ex.s. c 271 § 10; 1969 c 128 § 12; 1953 c 200 § 17; 1951 c 50 § 11; 1949 c 240 § 24; 1947 c 274 § 34; Rem. Supp. 1949 § 11072-34.]

Findings—1990 c 8: See note following RCW 41.50.065.

Severability—1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

Severability—1969 c 128: See note following RCW 41.40.010.

Members' retirement contributions—Payment by employer: RCW 41.04.445.

41.40.363 Employer's contributions—Labor guild, association or organization. Any labor guild, association, or organization qualifying as an employer under this chapter and which is required to make contributions for an elective official qualifying for membership under RCW 41.40.023(11) shall make contributions as any other employer within this chapter: PROVIDED, That the department shall cause an actuarial computation to be made of all prior service liability for which contributions are required from the employer to be computed on an actual dollar basis, and if the department determines that the contributions being made therefor under this chapter are insufficient to defray any cost to the state, the department shall require additional contributions from the employer in amounts and at times as will defray all costs to the state, the additional contributions to be completed within ten years from the date the elective official is accepted by the department. [1991 c 35 § 91; 1963 c 225 § 3.]

Intent—1991 c 35: See note following RCW 41.26.005.

"PLAN II"

41.40.610 Provisions applicable to plan II. RCW 41.40.620 through 41.40.740 shall apply only to plan II members. [1991 c 35 § 97; 1977 ex.s. c 295 § 2.]

Intent—1991 c 35: See note following RCW 41.26.005.

Legislative direction and placement—1977 ex.s. c 295: "Sections 1 through 15 of this 1977 amendatory act shall be added to chapter 41.40 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter." [1977 ex.s. c 295 § 23.]

Section headings—1977 ex.s. c 295: "Section headings used in this 1977 amendatory act shall not constitute any part of the law." [1977 ex.s. c 295 § 22.]

41.40.620 Computation of the retirement allowance. A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each service credit year of service. [1991 c 343 § 10; 1977 ex.s. c 295 § 3.]

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.610.

41.40.625 Lump sum retirement allowance—Reentry—Conditions for reinstatement of service. (1) On or after June 10, 1982, the director may pay a member eligible to receive a retirement allowance or the member's beneficiary, subject to the provisions of subsection (5) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.40.620 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of the monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A retiree or a beneficiary, subject to the provisions of subsection (5) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to re-retiring, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) If a member fails to meet the time limitations under subsection (3) of this section, reinstatement of all previous service will occur if the member pays the amount required under RCW 41.50.165(2). The amount, however, shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(5) Only persons entitled to or receiving a service retirement allowance under RCW 41.40.620 or an earned disability allowance under RCW 41.40.670 qualify for participation under this section.

(6) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system. [1994 c 197 § 27; 1991 c 35 § 98; 1982 c 144 § 3.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Intent—1991 c 35: See note following RCW 41.26.005.

41.40.630 Retirement for service. (1) **NORMAL RETIREMENT.** Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620.

(2) **EARLY RETIREMENT.** Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five. [1991 c 343 § 11; 1977 ex.s. c 295 § 4.]

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.600.

41.40.640 Post-retirement cost-of-living. Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

- (1) The original dollar amount of the retirement allowance;
- (2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";
- (3) The index for the calendar year prior to the date of determination, to be known as "index B"; and
- (4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

- (a) Produce a retirement allowance which is lower than the original retirement allowance;
- (b) Exceed three percent in the initial annual adjustment; or
- (c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. [1977 ex.s. c 295 § 5.]

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.610.

41.40.650 Employer and member contributions.

The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates. The employer contribution rate calculated under this section shall be used only for the purpose of determining the amount of employer contributions to be deposited in the plan II fund from the total employer contributions collected under RCW 41.40.048.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except as herein provided. Effective January 1, 1987, however, no member or employer contributions are required for any calendar month in which the member is not granted service credit. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

Members contributions required by this section shall be deducted from the members compensation earnable each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends. [1989 c 273 § 24; 1986 c 268 § 6; 1984 c 184 § 12; 1977 ex.s. c 295 § 6.]

Severability—1989 c 273: See RCW 41.45.900.

Severability—1984 c 184: See note following RCW 41.50.150.

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.610.

Members' retirement contributions—Payment by employer: RCW 41.04.445.

41.40.660 Options for payment of retirement allowances. (1) Upon retirement for service as prescribed in RCW 41.40.630 or retirement for disability under RCW 41.40.670, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) **Standard allowance.** A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still

living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply. [1996 c 175 § 7; 1995 c 144 § 6; 1990 c 249 § 10; 1977 ex.s. c 295 § 7.]

Findings—1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.610.

41.40.670 Earned disability allowance—Applicability to certain judges—Disposition upon death of recipient. (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the department shall be eligible to receive an allowance under the provisions of RCW 41.40.610 through 41.40.740. The member shall receive a monthly disability allowance computed as provided for in RCW 41.40.620 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2) The retirement for disability of a judge, who is a member of the retirement system, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (Amendment 71), with the concurrence of the

department, shall be considered a retirement under subsection (1) of this section.

(3)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions. [1995 c 144 § 7; 1991 c 35 § 99; 1990 c 249 § 21; 1989 c 191 § 3; 1982 c 18 § 5; 1977 ex.s. c 295 § 8.]

Intent—1991 c 35: See note following RCW 41.26.005.

Findings—1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.610.

41.40.680 Application for and effective date of retirement allowances. Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.40.630, 41.40.670, or 41.40.700 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.40.630 shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.40.630, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.40.670 shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.40.700 shall accrue from the first day of the calendar month immediately following the member's death. [1977 ex.s. c 295 § 9.]

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.610.

41.40.690 Suspension of retirement allowance upon reemployment—Exceptions—Reinstatement. (1) No retiree under the provisions of plan II shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW

41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that:

(a) A retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject to this section if the retiree's only employment is as an elective official of a city or town; and

(b) A plan II retiree may work in eligible positions on a temporary basis for up to five months in a calendar year.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section. [1990 c 274 § 11; 1988 c 109 § 11; 1987 c 379 § 2; 1977 ex.s. c 295 § 10.]

Application—Reservation—1991 c 35; 1990 c 274 §§ 11, 12, 14, and 15: "Beginning on June 7, 1990, the 1990 amendments to RCW 41.40.690, 41.26.500, 41.32.800, and 2.10.155 regarding postretirement employment are available prospectively to all members of the retirement systems defined in RCW 2.10.040, 41.26.005(2), 41.32.005(2), and 41.40.005(2), regardless of the member's date of retirement. The legislature reserves the right to revoke or amend the 1990 amendments to RCW 41.40.690, 41.26.500, 41.32.800, and 2.10.155. The 1990 amendments to RCW 41.40.690, 41.26.500, 41.32.800, and 2.10.155 do not grant a contractual right to the members or retirees of the affected systems." [1991 c 35 § 11; 1990 c 274 § 19.]

Findings—Construction—1990 c 274: See notes following RCW 41.32.010.

Effective date—1988 c 109: See note following RCW 2.10.030.

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.610.

41.40.700 Death benefits. (1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.40.630(1), actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court

order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.40.660 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.40.630(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To a person or persons, estate, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives. [1995 c 144 § 8; 1993 c 236 § 5; 1991 c 365 § 28; 1990 c 249 § 18; 1977 ex.s. c 295 § 11.]

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

Findings—1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.610.

41.40.710 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service. (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.40.610 through 41.40.740.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The compensation earnable reported for a member who establishes service credit under this subsection may not be greater

than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if:

(a) The member makes both the plan II employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner; or

(b) If not within five years of resumption of service but prior to retirement, pay the amount required under RCW 41.50.165(2).

The contributions required under (a) of this subsection shall be based on the average of the member's compensation earnable at both the time the authorized leave of absence was granted and the time the member resumed employment.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under RCW 41.40.650 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(iii) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2).

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall establish the member's service credit and shall bill the employer for its contribution required under RCW 41.40.650 for the period of military service, plus interest as determined by the department.

(c) The contributions required under (a)(ii) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave. [1996 c 61 § 4; 1994 c 197 § 28; 1993 c 95 § 2; 1992 c 119 § 3; 1991 c 35 § 100; 1977 ex.s. c 295 § 12.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Retroactive application—Effective date—1993 c 95: See notes following RCW 41.40.175.

Retroactive application—1992 c 119: See note following RCW 41.26.520.

Intent—1991 c 35: See note following RCW 41.26.005.

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.610.

41.40.720 Vested membership. A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.40.630 if such member maintains the member's accumulated contributions intact. [1977 ex.s. c 295 § 13.]

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.610.

41.40.730 Refund of contributions. A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under RCW 41.40.610 through 41.40.740. [1982 1st ex.s. c 52 § 23; 1977 ex.s. c 295 § 14.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.610.

41.40.740 Reentry. (1) A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for such prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department.

The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first.

(2) If a member fails to meet the time limitations of subsection (1) of this section, the member may receive service credit destroyed by the withdrawn contributions if the amount required under RCW 41.50.165(2) is paid. [1994 c 197 § 29; 1977 ex.s. c 295 § 15.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.610.

41.40.900 Severability—1977 ex.s. c 295. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 295 § 24.]

41.40.920 Effective date—1977 ex.s. c 295. This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect October 1, 1977. [1977 ex.s. c 295 § 25.]

Chapter 41.41

STATE EMPLOYEES' RETIREMENT—FEDERAL SOCIAL SECURITY

Sections

41.41.010	Plan for covering members under OASI approved.
41.41.020	Terms and provisions of plan.
41.41.030	Effective date for coverage of members.
41.41.900	Severability—1957 c 222.

41.41.010 Plan for covering members under OASI approved. The plan for covering the state employee members of the state employees' retirement system under the old age and survivorship provisions of Title II of the federal social security act as amended, required by RCW 41.48.050 as amended by section 5, chapter 4, Laws of the extraordinary session of 1955, approved by the state employees' retirement board of the state employees' retirement system on the 1st day of August, 1955, and approved by the governor of the state of Washington on the 16th day of August, 1955, is hereby approved. [1957 c 222 § 1.]

41.41.020 Terms and provisions of plan. The terms and provisions of the plan are as follows:

(1) Each political subdivision of the state employing members of the state employees' retirement system, and such employees, after approval of this plan by its governing body as provided in RCW 41.48.030(4)(f) and after approval by its eligible employees through referendum as provided in RCW 41.48.030 (3) and (4), and the state itself as such a subdivision, and its employees, after approval of this plan by the legislature as provided in RCW 41.48.050(d) and RCW 41.48.030(4)(f) and after approval by its eligible employees through referendum as provided in RCW 41.48.030 (3) and (4), shall be deemed to have accepted and agreed to be bound by the following terms and conditions in consideration of extension of the existing agreement between the secretary of health, education and welfare and the governor to make the protection of the federal old age and survivors insurance program available and applicable to such employees.

(2) As used in this plan the terms quoted below shall have the meanings assigned thereto in this subsection.

"Political subdivision" means any political subdivision, or instrumentality of one or more such subdivisions, or proprietary enterprise acquired, purchased or originated by one or more such subdivisions after December, 1950, which employs members of the state employees' retirement system. The state, its agencies, instrumentalities and institutions of higher learning shall be grouped and considered as a single political subdivision.

"Employee" means any person who is a member of the state employees' retirement system and is employed by a political subdivision, except persons serving in policeman's or fireman's positions and officials compensated on a fee basis.

"Wages" shall have the meaning given in RCW 41.48.020(1) and section 209 of the social security act (42 U.S.C.A. Sec. 409); and refers to the first four thousand two hundred dollars paid to any employee in any calendar year.

"State", where not otherwise clearly indicated by the context, means the commissioner of employment security or other officer designated by the governor to administer the plan at the state level for all participating political subdivisions.

(3) The terms and conditions of this plan are intended and shall be construed to be in conformity with the requirements of the federal social security act as amended and with the requirements of chapter 41.48 RCW, and particularly RCW 41.48.050, as amended by chapter 4, Laws of the extraordinary session of 1955.

(4) The rights and benefits accruing to employees from membership in the state employees' retirement system shall in no way be altered or impaired by this plan or by the additional and supplementary OASI coverage which such employees may receive hereunder. Nothing herein shall be construed to alter in any way the obligations of any political subdivision or its employees to the retirement system.

(5) There shall be no additional cost to or involvement of the state with respect to OASI coverage for state employee members of the state employees' retirement system until this plan has been approved by the legislature.

(6) OASI coverage shall be applicable to all services performed by its employees for a political subdivision which has approved this plan.

(7) Each employee to whom OASI coverage is made applicable under this plan pursuant to an extension or modification under RCW 41.48.030 of the existing agreement between the secretary of health, education and welfare and the governor shall be required to pay into the *OASI contribution fund established by RCW 41.48.060 during the period of such coverage contributions with respect to his wages in an amount equal to the employee tax imposed by the federal insurance contributions act (section 3101, Internal Revenue Code of 1954), in consideration of the employee's retention in service by the political subdivision. The subdivision shall withhold such contributions from the wages paid to the employee; and shall remit the contributions so withheld in each calendar quarter to the state for deposit in the *contribution fund not later than the twentieth calendar day of the month following that quarter.

(8) Each political subdivision shall pay into the *contribution fund with respect to the wages of its employees during the period of their OASI coverage pursuant to this plan contributions in an amount equal to the employer tax imposed by the federal insurance contributions act (section 3111, Internal Revenue Code of 1954), from the fund of the subdivision from which such employees' wages are paid. The subdivision shall remit such contributions to the state for deposit in the *contribution fund on a quarterly basis, not later than the twentieth calendar day of the month following each calendar quarter.

(9) If any political subdivision other than that comprising the state, its agencies, instrumentalities and institutions of higher learning fails to remit as provided herein employer contributions or employee contributions, or any part of either, such delinquent contributions may be recovered with interest at the rate of six percent per annum by action in a

court of competent jurisdiction against the political subdivision; or such delinquent contributions may at the request of the governor be deducted from any moneys payable to such subdivision by the state.

(10) Each political subdivision shall be charged with a share of the cost of administration of this plan by the state, to be computed as that proportion of the overall cost of administration which its total annual contributions bear to the total annual contributions paid by all subdivisions on behalf of employees covered by the plan. The state shall compute the share of cost allocable to each subdivision and bill the subdivision therefor at the end of each fiscal year. The subdivision shall within ninety days thereafter remit its share of the cost to the state for deposit in the general fund of the state.

(11) Each political subdivision shall submit to the state, through the employment security department, P.O. Box 367, Olympia, Washington, or such other officer or agency as the governor may subsequently designate, on forms furnished by the state, not later than the twentieth calendar day of the month following the end of each calendar quarter, the following information:

- A. The social security account number of each employee;
- B. the name of each employee;
- C. the amount of wages subject to contributions as required hereunder paid to each employee during the quarter;
- D. the total amount of wages subject to contributions paid to all employees during the quarter;
- E. the total amount of employee contributions withheld and remitted for the quarter; and
- F. the total amount of employer contributions paid by the subdivision for the quarter.

(12) Each political subdivision shall furnish in the same manner as provided in subsection (11), upon reasonable notice, such other and further reports or information as the governor may from time to time require. Each subdivision shall comply with such requirements as the secretary of health, education and welfare or the governor may from time to time establish with respect to any or all of the reports or information which are or may be provided for under subsection (11) or this subsection in order to assure the correctness and verification thereof.

(13) The governing body of each political subdivision shall designate an officer of the subdivision to administer such accounting, reporting and other functions as will be required for the effective operation of this plan within the subdivision, as provided herein. The commissioner of employment security, or such other officer as the governor may designate, shall perform or supervise those functions with respect to employees of the subdivision comprising the state, its agencies, instrumentalities and institutions of higher learning; and shall serve as the representative of the participating political subdivisions in the administration of this plan with the secretary of health, education and welfare.

(14) OASI coverage may be made applicable as provided herein to employees of any political subdivision regardless of the approval or disapproval of this plan by any other subdivision.

(15) Each political subdivision, with the approval of a majority of its employees as indicated by vote thereon in conjunction with the referendum to be held pursuant to RCW

41.48.030 (3) and (4), may designate the first day of any month beginning with January of 1955 as the effective date of OASI coverage for such employees; except that after January 1, 1958, a subdivision may not so designate an effective date prior to the first day of the current calendar year.

(16) The governor may terminate the operation of this plan in its entirety with respect to any political subdivision, in his discretion, if he finds that the subdivision has failed to comply substantially with any requirement or provision of this plan. The plan shall not be so terminated until reasonable notice and opportunity for hearing thereon have been given to the subdivision under such conditions, consistent with the provisions of the social security act, as shall have been established in regulations by the governor. [1957 c 222 § 2.]

***Reviser's note:** The "OASI contribution fund" was redesignated the "OASI contribution account" by 1991 sp.s. c 13 § 112.

41.41.030 Effective date for coverage of members.

The effective date of OASI coverage for state employee members of the state employees' retirement system shall be the 1st day of July, 1957; provided the terms and conditions set forth in RCW 41.48.030(3) have been fulfilled. [1957 c 222 § 3.]

41.41.900 Severability—1957 c 222. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1957 c 222 § 4.]

Chapter 41.44

STATE-WIDE CITY EMPLOYEES' RETIREMENT

Sections

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- 41.44.270 Agreements between board and cities which accept social security act benefits.
- 41.44.300 System abolished—Date—Transfer of assets, liabilities and responsibilities.

Portability of public retirement benefits: Chapter 41.54 RCW.

41.44.010 Title of chapter. This chapter shall be known and may be cited as the "State-wide City Employees' Retirement System Law". [1947 c 71 § 1; Rem. Supp. 1947 § 9592-130.]

Severability—1947 c 71: "If any provision of this act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the provision or application so held invalid, and for such purposes the provisions of this act are declared to be severable." [1947 c 71 § 26.] This applies to RCW 41.44.010 through 41.44.250.

41.44.020 Purpose of chapter. The purpose of this chapter is to provide for an actuarially sound system for the payment of annuities and other benefits to officers and employees and to beneficiaries of officers and employees of cities and towns thereby enabling such employees to provide for themselves and their dependents in case of old age, disability and death, and effecting economy and efficiency in the public service by furnishing an orderly means whereby such employees who have become aged or otherwise incapacitated may, without hardship or prejudice, be retired from active service. [1947 c 71 § 2; Rem. Supp. 1947 § 9592-131.]

41.44.030 Terms defined. As used in this chapter, unless a different meaning is plainly required by the context:

- (1) "Retirement system" means the state-wide city employees retirement system provided for herein.
- (2) "City" or "cities" includes town or towns.
- (3) "Employee" means any appointive officer or employee and shall include elective officials to the extent specified herein.
- (4) "Member" means any person included in the membership of the retirement system as provided herein.
- (5) "Board" means the "board of trustees" provided for herein.
- (6) "Retirement fund" means "state-wide city employees retirement fund" provided for herein.
- (7) "Service" means service rendered to a city for compensation; and for the purpose of this chapter a member shall be considered as being in service only while he is receiving compensation from the city for such service or is on leave granted for service in the armed forces of the United States as contemplated in RCW 41.44.120.
- (8) "Prior service" means the service of a member for compensation rendered a city prior to the effective date and shall include service in the armed forces of the United States to the extent specified herein and service specified in RCW 41.44.120(5).
- (9) "Current service" means service after the employee has become a member of the system.
- (10) "Creditable service" means such service as is evidenced by the record of normal contributions, plus prior service as evidenced by prior service certificate.
- (11) "Beneficiary" means any person in receipt of a pension, annuity, retirement allowance, disability allowance, or any other benefit herein.

(12) "Compensation" means the compensation payable in cash, plus the monetary value, as determined by the board of trustees, of any allowance in lieu thereof (but for the purposes of this chapter such "compensation" shall not exceed three hundred dollars per month, except as to those employees of any member city the legislative body of which shall not later than July 1, 1953, have irrevocably elected by resolution or ordinance to increase the limitation herein contained, effective as to all of its employees, from three hundred dollars to four hundred dollars, commencing on said date, or which shall so elect prior to January 1st of any succeeding year, effective as of January 1st of any such succeeding year, and as to such employees shall, commencing on the specified date, not exceed four hundred dollars or an amount equal to such increased limitation established by such ordinance or resolution per month): PROVIDED HOWEVER, That the foregoing limitation shall not apply to uniformed personnel.

(13) "Compensation earnable" means the full rate of compensation that would be payable to an employee if he worked the full normal working time (but for the purposes of this chapter, such "compensation earnable" shall not exceed three hundred dollars per month, except as to those employees of any member city the legislative body of which shall not later than July 1, 1953, have irrevocably elected by resolution or ordinance to increase the limitation herein contained, effective as to all of its employees, from three hundred dollars to four hundred dollars, commencing on said date, or which shall so elect prior to January 1st of any succeeding year, effective as of January 1st of any such succeeding year, and as to such employees shall, commencing on the specified date, not exceed four hundred dollars or an amount equal to such increased limitation established by such ordinance or resolution per month): PROVIDED, HOWEVER, That the foregoing limitation shall not apply to uniformed personnel: PROVIDED FURTHER, That after January 1, 1968 this term shall mean the full rate of compensation payable to an employee if he worked the full normal working time.

(14) "Final compensation" means the highest average annual compensation earnable in any five consecutive years of actual service rendered during the ten years immediately preceding retirement, or where the employee has less than five consecutive years of actual service, the earnable compensation for the last five years preceding his retirement.

(15) "Matching contribution" means the contribution of the city deposited in an amount equal to the normal contributions of the employee.

(16) "Normal contributions" means the contributions at the rate provided for in RCW 41.44.130, excluding those referred to in subsection (6).

(17) "Released matching contributions" means such "matching contributions" as are no longer held for the benefit of the employee.

(18) "Regular interest" means interest compounded annually at such rate as shall have been adopted by the board of trustees in accordance with the provisions of this chapter.

(19) "Accumulated normal contributions" means the sum of all normal contributions, deducted from the compensation of a member, standing to the credit of his individual account, together with regular interest thereon.

(20) "Pension" means payments derived from contributions made by the city as provided herein.

(21) "Annuity" means payments derived from contributions made by a member as provided herein.

(22) "Retirement allowance" means the pension plus annuity.

(23) "Fiscal year" means any year commencing with January 1st and ending with December 31st next following.

(24) "Miscellaneous personnel" means officers and employees other than those in the uniformed police or fire service: PROVIDED, Those members of the fire department who are ineligible to the benefits of a firemen's pension system established by or pursuant to any other state law, are also included in the miscellaneous personnel.

(25) "Uniformed personnel" means any employee who is a policeman in service or who is subject to call to active service or duty as such.

(26) "Effective date" when used with regard to employees means the date on which any individual or group of employees became members of any retirement system and when used with regard to any city or town shall mean the date on which it became a participant.

(27) "Actuarial equivalent" means a benefit of equal value when computed at regular interest upon the basis of such mortality tables as shall be adopted by the board of trustees.

(28) "Persons having an insurable interest in his life" means and includes only such persons who, because of relationship from ties of blood or marriage, have reason to expect some benefit from the continuation of the life of the member.

(29) "Additional contributions" means contributions made pursuant to subsection (6) of RCW 41.44.130.

(30) "Accumulated additional contributions" means the sum of all "additional contributions" made by a member standing to the credit of the individual account, together with regular interest thereon.

(31) "Part time employees" means those employees who, although regularly and continuously employed, do not regularly perform their duties the full number of hours required of other regular employees, including but not confined to such employees as police judges, city attorneys and other officers and employees who are also engaged in outside employment or occupations.

(32) "Excess interest income" means that interest income earned and received from investments in excess of the interest income on investments required to meet actuarial funding requirements. [1967 ex.s. c 28 § 6; 1961 c 227 § 1; 1959 c 70 § 1; 1953 c 228 § 1; 1951 c 275 § 2; 1947 c 71 § 3; Rem. Supp. 1947 § 9592-132.]

Purpose—1967 ex.s. c 28: "It is the purpose of this act to provide amendments to existing legislation relating to the state-wide city employees retirement system to provide for an increase of investment earnings to be used for costs in purchasing, safekeeping, servicing and handling of securities, to amend the mandatory retirement age of uniformed personnel from attained age fifty-five to the minimum age for social security benefits, to change the time required for vested rights from ten years to five years in accordance with the recommendation of the federal committee on intergovernmental relations and to help meet competition with private industry by providing additional fringe benefits or an incentive program for city employees to attract and retain competent employees in public service." [1967 ex.s. c 28 § 1.]

Severability—1967 ex.s. c 28: "If any provision of this 1967 amendatory act, or its application to any person or circumstance is held

invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1967 ex.s. c 28 § 8.]

The foregoing annotations apply to 1967 ex.s. c 28. For codification of that act, see Codification Tables, Volume 0.

41.44.040 System created—Operative date. A retirement system is hereby authorized for employees of cities, same to become operative after the requisite city or cities or combination thereof, have signified their intention to participate in the retirement system and the board has been appointed and qualified as herein provided. The board may begin to function, establish an office, employ an actuary and such other personnel as necessary and undertake the work of establishing the retirement system but it shall not be required to undertake such work unless necessary moneys are made available through negotiated loans or advances from cities or otherwise.

Whenever cities have notified the governor of election to join the retirement system to an extent which would place three hundred or more employees under the system, the governor shall appoint board members as provided herein and the system so created and established shall be forthwith constituted. The date when the system shall become operative as to any city shall be fixed by the board. [1947 c 71 § 4; Rem. Supp. 1947 § 9592-133.]

Reviser's note: Caption for 1947 c 71 § 4 reads as follows: "Sec. 4. AUTHORIZATION AND CREATION."

41.44.050 Election to participate. Any city or town may elect to participate in the retirement system established by this chapter: PROVIDED, That a first class city may establish or maintain any other retirement system authorized by any other law or its charter. The manner of election to participate in a retirement system under this chapter shall be as follows:

(1) The legislative body therein by ordinance making such election;

(2) Approval by vote of the people of an ordinance initiated by the voters making such election;

(3) Approval by vote of the people of an ordinance making such election referended to the people by the legislative body.

Any ordinance providing for participation therein may on petition of the voters be referended to the voters for approval or disapproval.

The referendum or initiative herein provided for shall be exercised under the law relating to legislative initiative or referendum of the particular city or town; and if the city or town be one for which the law does not now provide such initiative or referendum, it shall be exercised in the manner provided for legislative initiative and referendum of cities having a commission form of government under chapter 35.17 RCW, the city or town council performing the duties and functions under that law devolving on the commission. A majority vote in the legislative body or by the electorate shall be sufficient to carry or reject. Whenever any city or town has elected to join the retirement system proper authorities in such city [or town] shall immediately file with the board an application for participation under the conditions included in this chapter on a form approved by the board. In such application the city or town shall agree to

make the contributions required of participating cities [or towns] in the manner prescribed herein and shall state which employee group or groups are to originally have membership in the system.

In the case of a state association of cities and towns, election to participate shall be by majority vote of the board of directors of the association. [1994 c 81 § 76; 1971 ex.s. c 271 § 13; 1947 c 71 § 5; Rem. Supp. 1947 § 9592-134.]

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

41.44.060 Persons excluded. Policemen in first class cities and all city firemen shall be excluded from the provisions of this chapter, except those employees of the fire department who are not eligible to the benefits of any firemen's pension system established by or pursuant to state law, and who shall be included in the miscellaneous personnel. [1951 c 275 § 3; 1947 c 71 § 6; Rem. Supp. 1947 § 9592-135.]

Firemen's relief and pensions: Chapters 41.16, 41.18 RCW.

Police relief and pensions in first class cities: Chapter 41.20 RCW.

Volunteer fire fighters' relief and pensions: Chapter 41.24 RCW.

41.44.070 Board of trustees. (1) The board of trustees shall consist of seven members, one of whom shall be the state insurance commissioner, ex officio; three elective city officials eligible to the benefits of the system who shall be appointed by the governor from a list of six city officials submitted by the executive committee of the association of Washington cities as the official representative of cities and towns in the state. Original terms of office of the appointees shall be one, two and three years as designated by the governor; thereafter terms shall be for three years duration. Appointments to fill vacancies other than those caused by expiration of a term, shall be for the unexpired term. Appointees shall serve until successors have been appointed and qualified.

In addition to these four members, there shall be three city employees who shall be elected by a secret ballot vote of the city employees who are members of the system. The method and details of such election shall be determined by the board of trustees. The first such election shall be held in June of 1968. The original terms of office for the elected city employee members shall be one, two and three years as designated by the board of trustees, and such terms shall begin July 1, 1968; thereafter terms shall be for three years' duration. In the case of vacancies of elected city employee positions the board of trustees shall appoint city employees to serve for the unexpired terms. Such appointees shall serve until successors have been elected.

(2) The board shall annually, dating from the first officially recorded meeting, elect a chairman and secretary. Four members shall constitute a quorum.

(3) Each member of the board shall take an oath of office that he will diligently and honestly administer the affairs of the board, and that he will not knowingly violate or wilfully permit to be violated any of the provisions of this chapter. [1967 ex.s. c 28 § 7; 1947 c 71 § 7; Rem. Supp. 1947 § 9592-136.]

Purpose—Severability—1967 ex.s. c 28: See notes following RCW 41.44.030.

41.44.080 Powers and duties of board— Compensation—Liability. The administration of the system is hereby vested in the board of trustees created in RCW 41.44.070 of this chapter and the board shall:

(1) Keep in convenient form such data as shall be deemed necessary for actuarial valuation purposes;

(2) From time to time, through its actuary, make an actuarial investigation into the mortality and service experience of the beneficiaries under this chapter and the various accounts created for the purpose of showing the financial status of the retirement fund;

(3) Adopt for the retirement system the mortality tables and such other tables as shall be deemed necessary;

(4) Certify annually the amount of appropriation which each city shall pay into the retirement fund in the next fiscal year, at such a time that the local authorities shall have ample opportunity for including such expense in the budget;

(5) Keep a record of all its proceedings, which shall be open to inspection by the public;

(6) From time to time adopt such rules and regulations not inconsistent with this chapter, for the administration of the provisions of this chapter, for the administration of the fund created by this chapter and the several accounts thereof, and for the transaction of the business of the board;

(7) Provide for investment, reinvestment, deposit and withdrawal of funds;

(8) Prepare and publish annually a financial statement showing the condition of the fund and the various accounts thereof, and setting forth such other facts, recommendations and data as may be of use in the advancement of knowledge concerning the state-wide city employees retirement system, and furnish a copy thereof to each city which has joined the retirement system, and to such members as may request copies thereof;

(9) Serve without compensation but shall be reimbursed for expense incident to service as individual members thereof;

(10) Determine equitable amount of administrative expense and death-in-line-of-duty benefit expense to be borne by each city;

(11) Make available to any city considering participation in the system, the services of the actuary employed by the board for the purpose of ascertaining the probable cost of such participation. The cost of any such calculation or valuation shall be paid by the city requesting same to the retirement system;

(12) Perform such other functions as are required for the execution of the provisions of this chapter;

(13) No member of the board shall be liable for the negligence, default or failure of any employee or of any other member of the board to perform the duties of his office and no member of the board shall be considered or held to be an insurer of the funds or assets of the retirement system but shall be liable only for his own personal default or individual failure to perform his duties as such member and to exercise reasonable diligence to provide for the safeguarding of the funds and assets of the system.

(14) Fix the amount of interest to be credited at a rate which shall be based upon the net annual earnings of the fund for the preceding twelve-month period and from time to time make any necessary changes in such rate.

(15) Distribute excess interest income to retired members on a cost of living index basis, as published by the United States department of health, education and welfare, applied only to the annuity and current service portion of the retired members' retirement allowance: PROVIDED, That such distribution shall not exceed the income earned and received on open end investments. [1961 c 227 § 2; 1951 c 275 § 4; 1949 c 171 § 1; 1947 c 71 § 8; Rem. Supp. 1949 § 9592-137.]

41.44.090 Contributions by cities—Withdrawal from system. (1) There shall be paid into the retirement fund by contributions of each city the amounts necessary to pay the following:

- (a) Contributions equal to those deposited by employees;
- (b) Prior service credits at such rate as may be selected;
- (c) That part of a retirement allowance necessary to write it to a specified minimum;
- (d) An equitable share of the administrative costs, all of which costs are to be paid by the cities;
- (e) An equitable share of the cost of the death-in-the-line-of-duty benefit, all of which costs are to be paid by the cities.

Any city having in its employ ten or more employees who are members of the system may elect to contribute, in lieu of its contributions set forth in item (a) above, an amount estimated actuarially necessary to match at retirement the accumulated normal contributions of those of its members who will ultimately retire for service or disability; provided that such election shall be made by resolution or ordinance of the legislative body of such city and, in order to become effective for the remainder of the year 1953, shall be made on or before July 1, 1953, and thereafter any election so made shall be made prior to January 1, 1954, to become then effective or prior to January 1st of any succeeding year to become effective on January 1st of such succeeding year.

Any city may, with the approval of the board, further elect to contribute in lieu of its contributions set forth in items (b) and (c) above, an amount estimated actuarially, necessary to amortize over a period of not to exceed thirty years, all liabilities on account of the participation of such a city, which are not covered by the contributions of its employees, its funds on hand and its contributions provided for in item (a) above or the contributions elected to be made in lieu thereof in cases where such city shall have elected to make said contribution in lieu of the contributions required in said item (a); provided that such election shall be made by resolution or ordinance of the legislative body of such city and, in order to become effective for the remainder of the year 1953, shall be made on or before July 1, 1953, and thereafter any election so made shall be made prior to January 1, 1954, to become then effective or prior to January 1st of any succeeding year to become effective on January 1st of such succeeding year.

In the event that any city shall be making either of the lieu contributions as hereinabove set forth, the resulting contributions shall be adjusted to conform with facts and conditions disclosed by each succeeding actuarial valuation.

(2) Payment of the obligation set forth in subsection (1) of this section may be made in advance or may be paid

currently as contributions are received from employees and pensions are paid to retired members: PROVIDED, That the share of administrative expense and expense of the death-in-the-line-of-duty benefits shall be paid as soon as funds are available to make such payment and the board shall have the right to require any city that has withdrawn from the system, to annually, at the beginning of each calendar year, deposit and pay in cash an amount estimated by the board to be sufficient to meet the obligation of such city for the ensuing year to those of its members receiving a retirement allowance. From time to time each city may apply reserves in payment of the obligations set forth above as contemplated in RCW 41.44.200.

(3) The board shall furnish each city with an estimate of the amount necessary to pay the obligations of the city in the ensuing fiscal year and the city shall provide therefor in its budget. The board shall cause to be kept an account with each city, crediting the account with such advances and payments as are made by the city and debiting the account with such charges as properly accrue against the city. The board shall furnish each city with a monthly statement of the amount of matching contributions, prior service charges and charges for minimum retirement allowances properly accruing by reason of payment of retirement allowances and deposit of contributions of members.

(4) Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any retirement allowances or other benefits on account of the employees or retired members of any city under this chapter, for which reserves or guarantees have not been properly set up by such city or its employees to pay such retirement allowances or other benefits: PROVIDED, That nothing herein contained shall be so construed to prevent the establishment of a reserve account for annuities and pensions in which shall be placed at the time of retirement of any member the balances of the retiring member's contribution and the city's matching funds for such member and from which account all annuities and current service pensions shall be paid.

(5) Any city may, by majority vote of its electors, withdraw from participation in the retirement system two years after giving written notice to the board of such action by the electorate. It is hereby specifically provided, however, that the city's obligation to those members receiving or eligible to a retirement allowance prior to such termination of participation shall continue in full force and effect as provided in this chapter. Members not receiving or being eligible to a retirement allowance at time of such termination shall be paid their accumulated contributions on demand. Should it develop that any such city is entitled to a refund such refund shall be made within one year following demand of city entitled thereto. [1953 c 228 § 2; 1951 c 275 § 5; 1949 c 171 § 2; 1947 c 71 § 9; Rem. Supp. 1949 § 9592-138.]

41.44.100 Retirement fund—Deposit—Investment—Cost. (1) A fund is hereby created and established to be known as the "state-wide city employees retirement fund," and shall consist of all moneys paid into it in accordance with the provisions of this chapter, whether such moneys shall take the form of cash, securities, or other assets:

PROVIDED, That such assets shall be public funds to the extent necessary to authorize any bank to deposit such collateral security necessary and required under the laws of the state to secure the deposit of public funds belonging to a city.

(2) The board of trustees shall be the custodian of the retirement fund and shall arrange for the safekeeping thereof. Subject to such provisions as may be prescribed by law for the deposit of city funds in banks, cash belonging to the retirement fund may be deposited in any licensed national bank or banks in the state, or in any bank, banks or corporations authorized or licensed to do a banking business and organized under the laws of the state of Washington; and may be withdrawn on order of the board for the purpose of making such payments as are authorized and required by this chapter.

(3) The board may invest pension fund moneys in such securities of the United States, states, Dominion of Canada, public housing authorities, municipal corporations and other public bodies, as are designated by the laws of the state as lawful investments for the funds of mutual savings banks, and to invest not to exceed twenty-five percent of the system's total investments in the securities of any corporations or public utility bodies as are designated by the laws of the state as lawful investments for the funds of mutual savings banks: PROVIDED, That not more than five percent of the system's total investments may be made in the securities of any one of such corporations or public utility bodies.

(4) Subject to the limitations hereinafter provided, investment of pension funds may also be made in amounts not to exceed twenty-five percent of the system's total investments in the shares of certain open-end investment companies: PROVIDED, That not more than five percent of the system's total investments may be made in the shares of any one such open-end investment company. The total amount invested in any one company shall not exceed five percent of the assets of such company, and shall only be made in the shares of such companies as are registered as "open-end companies" under the federal investment company act of 1940, as amended. Such company must be at least ten years old and have net assets of at least five million dollars. It must have no outstanding bonds, debentures, notes, or other evidences of indebtedness, or any stock having priority over the shares being purchased, either as to distribution of assets or payment of dividends. It must have paid dividends from investment income in each of the ten years next preceding purchase. The maximum selling commission on its shares may not exceed seven and one-half percent of the sum of the asset value plus such commission.

(5) Investment of pension funds may also be made in the bonds of any municipal corporation or other public body of the state; and in any of the bonds or warrants, including local improvement bonds or warrants within the protection of the local improvement guaranty fund law, issued by any city or town which is a member of the system. Investment of pension funds may also be made in the bonds or other obligations of any other state or territory of the United States or of any political subdivision, agency or instrumentality of any such state, territory, or political subdivision thereof.

Investment of pension funds may also be made in bonds or other obligations insured or guaranteed or which are covered by a repurchase agreement in whole or in part by

the federal government or through any corporation, administrator, agency or instrumentality which is or hereafter may be created by the federal government.

(6) In order to provide for an equitable apportionment of the cost of the making and handling of the system's investments, the board may charge against the annual earnings from the system's investments, including income from the same and gains realized from the purchase and sale of its securities, a portion of such earnings computed on the book value of the investments held by the system at the end of its fiscal year, for the purpose of paying the cost of purchasing, safekeeping, servicing and handling its securities: PROVIDED, That such portion shall not exceed one-half of one percent of such value and shall not exceed the net gain from the operations for the year: PROVIDED FURTHER, That such charge shall not be considered as an administrative expense payable solely by the cities. [1967 ex.s. c 28 § 3; 1965 ex.s. c 99 § 1; 1957 c 158 § 1; 1953 c 228 § 3; 1951 c 275 § 6; 1949 c 171 § 3; 1947 c 71 § 10; Rem. Supp. 1949 § 9592-139.]

Purpose—Severability—1967 ex.s. c 28: See notes following RCW 41.44.030.

41.44.105 Supplemental benefits fund. (1) The board of trustees shall establish, in addition to the several benefits provided for, an additional and separate fund to be known as the "supplemental benefits fund" to provide for the payment of supplemental benefits, as hereinafter provided for employees of municipalities electing to participate in said fund.

(2) Any municipality which has elected to participate in this retirement system may elect to have the employees of the municipality participate in and be covered by the supplemental benefits fund. Such election is authorized to be made in any manner authorized by RCW 41.44.050, as now or hereafter amended, as it relates to participation in the system.

(3) A municipality which once elects to participate in the supplemental benefits fund shall never discontinue participation in the fund as to members who are covered in the fund.

(4) Membership in the fund shall be terminated by cessation of membership in the system.

(5) Each municipality which elects to participate in the supplemental benefits fund shall contribute to that fund, in addition to normal contributions and prior service contributions as required, such additional percentage of each payment of earnings as may be fixed by the board, on recommendation of the actuary, as necessary to accumulate the reserves needed to pay the anticipated benefit: PROVIDED, That the rate of contribution to the supplemental benefits fund shall be on the full compensation of the member.

(6) The supplemental benefit for covered employees shall be an allowance not to exceed fifteen percent of average final compensation payable at the time of retirement.

(7) Should the service of a member be discontinued by other than death or retirement, the benefits and privileges as provided by RCW 41.44.190 as now or hereafter amended, shall apply.

(8) A municipality which elects to participate in the supplemental benefits fund shall provide such benefits for all members employed by such city. [1967 ex.s. c 28 § 2.]

Purpose—Severability—1967 ex.s. c 28: See notes following RCW 41.44.030.

41.44.110 Membership. (1) Subject to subsection (2) of this section, membership of this retirement system shall be composed of the following groups of employees in any participating city or cities:

- (a) Miscellaneous personnel as defined in this chapter;
- (b) Uniformed personnel as defined in this chapter;
- (c) Elective officials, who shall have the right to membership in this retirement system upon filing written notice of such election with the board of trustees;
- (d) Employees of the retirement system itself shall be entitled to membership and any costs in connection with such membership shall be a part of the cost of administration.
- (e) Employees of any state association of cities and towns shall be entitled to membership, upon election to participate made by the board of directors pursuant to RCW 41.44.050, and any costs in connection with such membership which would be borne by a city in the case of employees of a city shall be borne by the association.

(2) Any city may, when electing to participate in this retirement system in the manner set forth in RCW 41.44.050, include any one group or combination of the groups mentioned in subsection (1) of this section. For an initial period not to exceed one year from the effective date of any city's entry into this system, if so provided at the time of its election to participate, only a majority of the employees of any group or combination of groups must be members of the system.

At all times subsequent to the effective date of the city's entry into this system, or at all times after expiration of such initial period, if such initial period is established at the time of the city's election to participate, all employees of any group or combination of groups must be included or excluded as members of this system. Groups (c) and (d) shall be considered as being composed of miscellaneous personnel as far as benefits and obligations are concerned except when the contrary is clearly indicated.

(3) Subject to subsection (2) of this section, membership in the retirement system shall be compulsory for all employees in groups (a) and (b), after qualification as provided in subsection (4) of this section.

(4) Subject to subsection (2) of this section, all employees in city service, on the effective date, or on June 9, 1949, or on expiration of the initial period therein provided if they have completed six consecutive months' service or six months' service in any calendar year prior to the expiration of such initial period, shall be members of the system, provided that such employees who are not regular full time employees and are earning less than one hundred dollars per month, or are part time employees serving in an official or special capacity may with the acquiescence of the legislative body of the city or town in which they are employed, elect on or before January 1, 1950, to discontinue membership by giving written notice of such election to the board. All other regular employees earning more than one hundred dollars per month shall become members upon the completion of six consecutive months' service or six months' service in any calendar year. Any employee otherwise eligible, employed in a permanent position, may elect in writing to become a

member of the system at any time during the initial period, or at any time prior to completing such six months' service. Such individual employees other than regular employees, who are earning less than one hundred dollars per month or who are serving in an official or special capacity may elect to become members with the acquiescence of the legislative body of the city or town in which they are employed upon the completion of six months of consecutive service or six months' service in any calendar year.

(5) It shall be the duty of the proper persons in each city to immediately report to the board routine changes in the status of personnel and to immediately furnish such other information regarding the employment of members as the board may from time to time require.

(6) Should any member withdraw more than one-quarter of his accumulated contributions, or should he die or be retired, he shall thereupon cease to be a member.

(7) Transfer of any employee from one city to another shall not cause the employee to lose membership in the system providing the city to which he transfers participates in the retirement system created herein. [1971 ex.s. c 271 § 14; 1965 ex.s. c 99 § 2; 1961 c 227 § 3; 1953 c 228 § 4; 1951 c 275 § 7; 1949 c 171 § 4; 1947 c 71 § 11; Rem. Supp. 1949 § 9592-140.]

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

41.44.120 Prior service credit. (1) Subject to subsections (4) and (5) of this section the following members shall be entitled to prior service credit:

- (a) Each member in service on the effective date.
- (b) Each member entering after the effective date if such entry is within one year after rendering service prior to the effective date.
- (c) Each member entering in accordance with the provisions and subject to the conditions and limitations prescribed in subsection (5) of this section.

As soon as practicable, the board shall issue to each member entitled to prior service credit a certificate certifying the aggregate length of service rendered prior to the effective date. Such certificate shall be final and conclusive as to his prior service unless hereafter modified by the board, upon application of the member.

(2) Each city joining the system shall have the privilege of selecting the rate at which prior service pensions shall be calculated for its employees and may select any one of the three rates set forth below:

- (a) 1.33% of final compensation multiplied by the number of years of prior service credited to the member. This rate may be referred to as "full prior service credit."
- (b) 1.00% of final compensation multiplied by the number of years of prior service credited to the member. This rate may be referred to as "full [*three-fourths*] prior service credit."
- (c) .667% of final compensation multiplied by the number of years of prior service credited to the member. This rate may be referred to as "one-half prior service credit."

(3) The above rates shall apply at the age of sixty-two or over for members included in the miscellaneous personnel and at age sixty or over for members in the uniformed personnel: PROVIDED, That if a member shall retire before

attaining either of the ages above referred to, the total prior service pension shall be reduced to the percentages computed and established in accordance with the following tables, to wit:

Miscellaneous Personnel
Percent of Full Prior Service Allowable

Male		Female	
Age	Factor	Age	Factor
45	65.48	45	66.78
46	66.86	46	67.91
47	68.29	47	69.09
48	69.77	48	70.34
49	71.28	49	71.67
50	72.82	50	73.10
51	74.43	51	74.71
52	76.13	52	76.41
53	77.93	53	78.21
54	79.84	54	80.11
55	81.86	55	82.12
56	84.00	56	84.24
57	86.28	57	86.50
58	88.69	58	88.89
59	91.26	59	91.42
60	94.00	60	94.11
61	96.90	61	96.96
62	100.00	62	100.00

Percent of Full Prior Service Allowable
Uniformed Personnel

Age	Factor
45	69.66
46	71.13
47	72.65
48	74.22
49	75.83
50	77.47
51	79.18
52	80.99
53	82.91
54	84.93
55	87.09
56	89.37
57	91.79
58	94.36
59	97.09
60	100.00

(4) If sickness, injury or service in the armed forces of the United States during the national emergency identified with World War I or World War II and/or service in the armed forces of the United States of America for extended active duty by any employee who shall have been regularly granted a leave of absence from the city service by reason thereof, prevents any regular employee from being in service on the effective date, the board shall grant prior service credit to such person when he is again employed. The legislative authority in each participating city shall specify the amount of prior service to be granted or current service credit to be made available to such employees: PROVIDED, That in no case shall such service credit exceed five years. Certificate of honorable discharge from or documentary

evidence of such service shall be submitted to the board before any such credit may be granted or made available. Prior or current service rates, or both, for such employees shall not exceed the rates established for fellow employees.

(5) There shall be granted to any person who was an employee of a private enterprise or a portion thereof which shall be hereafter acquired by a city as a matter of public convenience or necessity, where it is in the public interest to retain the trained personnel of such enterprise or portion thereof, credit for prior service for the period such person was actually employed by such private enterprise, except that this shall apply only to those persons who shall be employees of such enterprise or portion thereof at the time of its acquisition by the city and who remain in the service of such city until the effective date of membership of such person under this chapter.

There shall be granted to any person who was an employee of any state association of cities and towns, which association elects to participate in the retirement system established by this chapter, credit for prior service for the period such person was actually employed by such association, except that this shall apply only to those persons who shall be employees of such association on May 21, 1971.

Credit for such prior service shall be given only if payment for the additional cost of including such service has been made or if payment of such additional cost or reimbursement therefor has been otherwise provided for to the satisfaction of the board or if such person be entitled to any private pension or retirement benefits as a result of such service with such private enterprise, credit will be given only if he agrees at the time of his employment by the municipality to accept a reduction in the payment of any benefits payable under this chapter that are based in whole or in part on such added and accredited service by the amount of these private pension or retirement benefits received. The conditions and limitations provided for in this subsection (5) shall be embodied in any certificate of prior service issued or granted by the board where any portion of the prior service credited under this subsection is included therein.

The city may receive payments for these purposes from a third party and shall make from such payments contributions with respect to such prior service as may be necessary to enable the fund to assume its obligations. [1971 ex.s. c 271 § 15; 1959 c 70 § 2; 1957 c 158 § 2; 1951 c 275 § 8; 1947 c 71 § 12; Rem. Supp. 1947 § 9592-141.]

Reviser's note: In subsection (2)(b), the word "full" was substituted for "three-fourths" in the 1971 amendatory act [1971 ex.s. c 271], but the change was not indicated by deletion and addition marks.

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

41.44.130 Contributions by employees. (1) The normal rates of contribution of members shall be based on sex and age at time of entry into the system, which age shall be the age at the birthday nearest the date of such entry.

(2) The normal rates of contribution for miscellaneous personnel shall be so fixed as to provide an annuity which, together with the pension provided by the city, shall produce as nearly as may be, a retirement allowance at the age of sixty-two years, of one and one-third percent of the final compensation multiplied by the number of years of service of the retiring employee. The normal rate established for age sixty shall be the rate for any member who has attained

a greater age before entrance into the retirement system and the normal contribution established for age twenty-four shall be the rate for any member who enters the system at an earlier age.

(3) The normal rates of contribution for uniformed personnel shall be so fixed as to provide an annuity which, together with the pension that would be derived from equal contributions by the city, shall produce as nearly as may be for members who enter service at age thirty-seven or below, a retirement allowance, at age fifty-five with twenty-five or more years of service, or at an age greater than fifty-five after twenty-five years of service, equal to fifty percent of final compensation; and for members entering service at ages over thirty-seven, a retirement allowance at age sixty-two which shall be the same proportion of fifty percent of final compensation as the member's actual years credited bear to twenty-five years. The normal rate established for age fifty shall be the rate for any member who has attained a greater age before entrance into the retirement system.

(4) Subject to the provisions of this chapter, the board shall adopt rules and regulations governing the making of deductions from the compensation of employees and shall certify to the proper officials in each city the normal rate of contribution for each member provided for in subsections (2) and (3) of this section. The proper officials in each city shall apply such rate of contribution to the full compensation of uniformed personnel and to so much of the compensation of miscellaneous personnel as does not exceed three hundred dollars per month, or four hundred dollars per month, or to any increased amount of such compensation as to members whose member cities have duly elected to increase the limitation provided for in subsection (12) of RCW 41.44.030 and shall certify to the board on each and every payroll the total amount to be contributed and shall furnish immediately to the board a copy of each and every payroll; and each of said amounts shall be forwarded immediately to the board and the board shall credit the deduction shown on such payroll to individual accounts of the members represented on such payrolls.

(5) Every member shall be deemed to consent and agree to the contribution made and provided for herein, and shall receipt in full for his salary or compensation. Payment less said contributions shall be a full and complete discharge of all claims and demands whatsoever for the service rendered by such person during the period covered by such payment, except his claim to the benefits to which he may be entitled under the provisions of this chapter.

(6) Any member may elect to contribute in excess of the contributions provided for in this section in accordance with rules to be established by the board for the purpose of providing additional benefits, but the exercise of this privilege shall not place on the member city or cities any additional financial obligation. The board shall have authority to fix the rate of interest to be paid or allowed upon the additional contributions and from time to time make any necessary changes in said rate. Refunds of additional contributions shall be governed by the same rules as those covering normal contributions unless the board shall establish separate rules therefor. [1965 ex.s. c 99 § 3; 1961 c 227 § 4; 1957 c 158 § 3; 1951 c 275 § 9; 1947 c 71 § 13; Rem. Supp. 1947 § 9592-142.]

41.44.140 Retirement for service. Retirement of a member for service shall be made by the board as follows:

(1) Each member included in the miscellaneous personnel in service on the effective date, who, on or before such effective date, has attained the age of sixty-five years or over shall be compulsorily retired forthwith: PROVIDED, That there shall be no compulsory retirements for a period of two years immediately following the effective date, but any member having attained the age of sixty-five may voluntarily retire at any time after attaining such age. Members included in the miscellaneous personnel attaining age sixty-five after effective date shall be retired on the first day of the calendar month next succeeding the month in which the member shall have attained sixty-five, but none of such members shall be subject to compulsory retirement until two years after the effective date. The legislative authority of the city shall have the privilege at all times of extending time for retirement of any such member to his attainment of any age not exceeding age seventy: PROVIDED, That any such extension shall not increase the retirement age of such member in excess of one year at a time.

(2) Any member included in the miscellaneous personnel may retire by filing with the board a written application duly attested, setting forth on what date he desires to be retired, such application to be made at least thirty days prior to date of retirement: PROVIDED, That said member, at the time specified for his retirement, shall have attained the age of sixty years, or shall have thirty years of creditable service regardless of attained age: PROVIDED FURTHER, That during the two years immediately following the effective date voluntary service retirement of such members under sixty-two years of age shall not be granted.

(3) Each member included in the uniformed personnel in service on the effective date who on or before such effective date has attained the minimum age for social security benefits shall be compulsorily retired forthwith: PROVIDED, That there shall be no compulsory service retirements for a period of two years immediately following the effective date, but any such member having attained the minimum age for social security benefits may voluntarily retire at any time after attaining such age. Members included in the uniformed personnel attaining the minimum age for social security benefits after the effective date shall be retired on the first day of the calendar month next succeeding the month in which the members shall have attained the minimum age for social security benefits, but none of such members shall be subject to compulsory retirement until two years after the effective date. The legislative authority shall have the privilege at all times of extending time for retirement of any such member: PROVIDED, That any such extension shall not increase the retirement age of such member in excess of one year at a time.

(4) Any member included in the uniformed personnel may retire by filing with the board a written application duly attested, setting forth on what date he desires to be retired, such application to be made at least thirty days prior to date of retirement: PROVIDED, That said members, at the time specified for retirement, shall have twenty-five years of creditable service regardless of age, or shall have attained the age of fifty-five years regardless of years of creditable

service: PROVIDED FURTHER, That during the two years immediately following the effective date voluntary service retirement of such members under the minimum age for social security benefits shall not be granted.

(5) After the retirement of any employee, any member city, by unanimous vote of its legislative body and with the consent of the board, may reemploy or retain such employee in its service to fill a supervisory or key position. [1967 ex.s. c 28 § 4; 1965 ex.s. c 99 § 4; 1961 c 227 § 5; 1953 c 228 § 5; 1951 c 275 § 10; 1947 c 71 § 14; Rem. Supp. 1947 § 9592-143.]

~~Purpose—Severability—1967 ex.s. c 28:~~ See notes following RCW 41.44.030.

41.44.150 Allowance on retirement for service. (1) A member upon retirement for service, shall receive a retirement allowance subject to the provisions of subsection (2) of this section, which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated normal contributions at the time of his retirement; and

(b) A pension provided by the contributions of the city, equal to the annuity purchased by the accumulated normal contributions of the member;

(c) For any member having credit for prior service an additional pension, provided by the contributions of the city, as set forth in RCW 41.44.120 at the rate selected by the city employing the member;

(d) Any member, excepting a part time employee, who has ten or more years of creditable service and who is retired by reason of attaining the age of sixty-five or over if included in the miscellaneous personnel or the age of fifty-five or over if included in the uniformed personnel, and whose retirement allowance is calculated to be less than sixty dollars per month, shall receive such additional pension, provided by the contributions of the city, as will make his total retirement allowance equal to sixty dollars per month. An annuity purchased by accumulated additional contributions in such case shall be paid in addition to the minimum guaranteed as herein provided. A part time employee having ten or more years of creditable service, retired by reason of attaining the ages in this subdivision specified and whose retirement allowance is calculated to be less than forty dollars per month, shall receive such additional pension, provided by the contributions of the city, as will make the total retirement allowance equal to forty dollars per month, together with an annuity purchased by his accumulated additional contributions, if any, in addition to the minimum guaranteed.

Nothing herein contained shall be construed in a manner to increase or to decrease any pension being paid or to be paid to a member retired prior to June 11, 1953.

(e) Any member, excepting a part time employee, who has been or is retired by reason of attaining the age of sixty-five or over if included in the miscellaneous personnel or the age of fifty-five or over if included in the uniformed personnel, and whose retirement allowance is calculated to be less than sixty dollars per month, shall receive such additional pension, provided by the contributions of the city, as will make his total retirement allowance equal to six dollars per month for each year of his creditable service: PROVIDED, That the total additional retirement allowance

shall be limited to an amount equal to such amount as will make his total retirement allowance not more than sixty dollars per month. An annuity purchased by accumulated additional contributions, if any, in such case shall be paid in addition to the minimum guaranteed, as herein provided.

Nothing herein contained shall be construed in a manner to increase or to decrease any pension being paid or to be paid to a member retired prior to June 11, 1953.

(f) The normal retirement age for uniformed personnel shall be age fifty-five with twenty-five years of creditable service, or shall be at an age greater than age fifty-five upon the completion of twenty-five years or more of creditable service. Upon retirement at the normal age, the retirement allowance shall be equal to fifty percent of final compensation. If retirement occurs at an age other than the normal age, the retirement allowance shall be the same proportion of fifty percent of final compensation as the member's actual years of service bears to the years of service that were or would have been served up to the normal retirement age: PROVIDED, That if retirement occurs prior to the normal age of retirement, said allowance shall be the actuarial equivalent of said allowance at the normal age of retirement.

Nothing herein contained shall be construed in a manner to increase or to decrease any pension being paid or to be paid to a member retired prior to August 6, 1965.

(2) If the retirement allowance of the member as provided in this section, is in excess of three-fourths of his final compensation, the pension of the member, purchased by the contributions of the city, shall be reduced to such an amount as shall make the member's retirement allowance equal to three-fourths of his final compensation, except as provided in subdivision (3) of this section.

(3) A member, upon retirement from service, shall receive in addition to the retirement allowance provided in this section, an additional annuity which shall be the actuarial equivalent of any accumulated additional contributions which he has to his credit at the time of his retirement. [1965 ex.s. c 99 § 5; 1961 c 227 § 6; 1957 c 158 § 4; 1953 c 228 § 6; 1951 c 275 § 11; 1949 c 171 § 5; 1947 c 71 § 15; Rem. Supp. 1949 § 9592-144.]

41.44.160 Retirement for disability. Any member who has at least ten years of creditable service within the fifteen years immediately preceding retirement and has not attained the age of sixty-five years, or who attains or has attained the age of sixty-five years prior to two years after the effective date, may be retired by the board for permanent and total disability, either ordinary or accidental not incurred in line of duty, and any member, regardless of his age or years of service, may be retired by the board for any permanent and total disability incurred in line of duty, upon examination as follows:

Any member while in service, or while physically or mentally incapacitated for the performance of duty, if such incapacity has been continuous from discontinuance of city service, shall be examined by such medical authority as the board shall employ, upon the application of the head of the office or department in which the member is employed with approval of the legislative body, or upon application of said member, or a person acting in his behalf, stating that said member is permanently and totally incapacitated, either

physically or mentally, for the performance of duty and ought to be retired. If examination shows, to the satisfaction of the board, that the member should be retired, he shall be retired forthwith: PROVIDED, That no such application shall be considered or granted upon the application of a member unless said member or someone in his behalf, in case of the incapacity of a member, shall have filed the application within a period of one year from and after the discontinuance of service of said member: PROVIDED, The board shall retire the said member for disability forthwith: PROVIDED, That the disability retirement allowance shall be effective on the first of the month following that in which the member last received salary or wages in city service.

The board shall secure such medical services and advice as it may deem necessary to carry out the purpose of this section and RCW 41.44.180. [1965 ex.s. c 99 § 6; 1951 c 275 § 12; 1949 c 171 § 6; 1947 c 71 § 16; Rem. Supp. 1947 § 9592-145.]

41.44.170 Allowance on retirement for disability.

On retirement for permanent and total disability not incurred in line of duty a member shall receive a retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his accumulated normal contributions; and

(2) A pension provided by the contributions of the city which, together with his annuity provided by his accumulated normal contributions, shall make his retirement allowance equal to thirty percent of his final compensation for the first ten years of service, which allowance shall be increased by one and one-half percent for each year of service in excess of ten years to a maximum of fifty percent of his final compensation; otherwise he shall receive a retirement allowance of forty dollars per month or, except as to a part time employee, such sum, monthly, not in excess of sixty dollars per month, as is equal to six dollars per month for each year of his creditable service, whichever is greater. If the retirement allowance of a part time employee, based upon the pension hereinabove provided, does not exceed forty dollars per month, then such part time employee shall receive a retirement allowance of forty dollars per month and no more.

Nothing herein contained shall be construed in a manner to increase or to decrease any pension being paid or to be paid to a member retired prior to August 6, 1965.

(3) If it appears to the satisfaction of the board that permanent and total disability was incurred in line of duty, a member shall receive in lieu of the retirement allowance provided under subdivisions (1) and (2) of this section full pay from, and be furnished all hospital and medical care by, the city for a period of six months from the date of his disability, and commencing at the expiration of such six month period, shall receive a retirement allowance, regardless of his age or years of service, equal to fifty percent of his final compensation exclusive of any other benefit he may receive.

(4) No disability retirement allowance shall exceed seventy-five percent of final compensation, anything herein to the contrary notwithstanding, except as provided in subdivision (7) of this section.

(5) Upon the death of a member while in receipt of a disability retirement allowance, his accumulated contributions, as they were at the date of his retirement, less any annuity payments made to him, shall be paid to his estate, or to such persons having an insurable interest in his life as he shall have nominated by written designation duly executed and filed with the board. In the alternative, if there be a surviving spouse, or if no surviving spouse, there are surviving a child or children under the age of eighteen years, upon written notice to the board by such spouse, or if there be no such spouse, by the duly appointed, qualified and acting guardian of such child or children, within sixty days of the date of such member's death, there shall be paid to such spouse during his or her lifetime, or, if there be no such spouse, to such child or children, until they shall reach the age of eighteen years, a monthly pension equal to one-half of the monthly final compensation of such deceased member. If any such spouse or child or children shall marry, then such person so marrying shall thereafter receive no further pension herein provided.

(6) If disability is due to intemperance, wilful misconduct, or violation of law, on the part of the member, the board, in its discretion, may pay to said member, in one lump sum his accumulated contribution, in lieu of a retirement allowance, and such payment shall constitute full satisfaction of all obligations of the city to such member.

(7) In addition to the annuity and pension provided for in subdivisions (1) and (2) of this section, a member shall receive an annuity which shall be the actuarial equivalent of his accumulated additional contributions. [1973 1st ex.s. c 154 § 78; 1965 ex.s. c 99 § 7; 1961 c 227 § 7; 1957 c 158 § 5; 1953 c 228 § 7; 1951 c 275 § 13; 1947 c 71 § 17; Rem. Supp. 1947 § 9592-146.]

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

41.44.180 Examination of disability beneficiary—

Reentry. (1) The board may, at its pleasure, require any disability beneficiary under age sixty-two in the miscellaneous personnel and under age fifty-five in the uniformed personnel to undergo medical examination by medical authority designated by the board. Upon the basis of such examination the board shall determine whether such disability beneficiary is still totally and permanently incapacitated, either physically or mentally, for service in the office or department of the city where he was employed or in any other position in that city, the duties of which he might reasonably be expected to carry out.

(2) If the board shall determine that the beneficiary is not so incapacitated his retirement allowance shall be canceled and he shall be reinstated forthwith in city service. If the city is unable to find employment for a disability beneficiary found to be no longer totally and permanently disabled, the board shall continue the disability retirement allowance of the beneficiary until such time as employment is available, except as provided in paragraph (4) of this section.

(3) Should a disability beneficiary reenter city service and be eligible for membership in the retirement system, his retirement allowance shall be canceled and he shall immediately become a member of the retirement system, his rate of contribution for future years being that established for his

age at the time of such reentry. His individual account shall be credited with his accumulated contributions less the annuity payments made to him. An amount equal to the accumulated normal contributions so credited to him shall again be held for the benefit of said member and shall no longer be included in the amounts available to meet the obligations of the city on account of benefits that have been granted. Such member shall receive credit for prior service in the same manner as if he had never been retired for disability.

(4) Should any disability beneficiary under age sixty-two in the miscellaneous personnel or under age fifty-five in the uniformed personnel, refuse to submit to medical examination, his retirement allowance may be discontinued until his withdrawal of such refusal, and should refusal continue for one year, his retirement allowance may be canceled. Should said disability beneficiary, prior to attaining age sixty-two or age fifty-five, as the case may be, engage in a gainful occupation the board shall reduce the amount of his retirement allowance to an amount, which when added to the compensation earned by him in such occupation, shall not exceed the amount of the final compensation on the basis of which his retirement allowance was determined. Should the earning capacity of such beneficiary be further altered, the board may further alter his retirement allowance as indicated above. When said disability beneficiary reaches age sixty-two, if included in the miscellaneous personnel, or age fifty-five, in the uniformed personnel, his retirement allowance shall be made equal to the amount upon which he was originally retired, and shall not again be modified for any cause except as provided in RCW 41.44.250.

(5) Should the retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into city service, he shall be paid his accumulated contributions, less annuity payments made to him. [1961 c 227 § 8; 1947 c 71 § 18; Rem. Supp. 1947 § 9592-147.]

41.44.190 Withdrawal from system—Reentry—Payment on death of member. (1) Should service of a member of the miscellaneous personnel be discontinued except by death or retirement, he shall be paid six months after the day of discontinuance such part of his accumulated contributions as he shall demand. Six months after the date of such discontinuance, unless on leave of absence regularly granted, or unless he has exercised the option hereinafter provided, his rights to all benefits as a member shall cease, without notice, and his accumulated contributions shall be returned to him in any event or held for his account if for any reason the return of the same is prevented. Should service of a member of the uniformed personnel be discontinued except by death or retirement, he shall be paid six months after the day of discontinuance such part of his accumulated contributions as he shall demand, and six months after the date of such discontinuance, unless on leave of absence regularly granted, his rights to all benefits as a member shall cease, without notice, and his accumulated contributions shall be returned to him in any event, or held for his account if for any reason the same is prevented: PROVIDED, That the board may in its discretion, grant the privilege of withdrawal in the amounts above specified at

any time following such discontinuance. Any member whose service is discontinued except by death or retirement, and who has five or more years of creditable service when such discontinuance occurs, may, at his option, leave his accumulated contributions in the fund and thereby be entitled to receive a deferred retirement allowance commencing at retirement age sixty for miscellaneous personnel and at age fifty-five for uniformed personnel, such retirement allowance to be computed in the same manner provided in subsection (1) of RCW 41.44.150: PROVIDED, That this option may be revoked at any time prior to commencement of annuity payments by filing a written notice of such intention with the board together with a written application for a refund of such accumulated contributions. The board may establish rules and regulations to govern withdrawal and redeposit of contributions.

(2) Should a former member, within five years after discontinuance of service, return to service in the same city in which he was employed he may restore to the fund in such manner as may be agreed upon by such person and the board, his withdrawn normal accumulated contributions as they were at the time of his separation from service and upon completion of such redeposit all his rights and privileges existing at the time of discontinuance of service shall be restored and his obligations as a member shall begin again. The rate of contribution of such returning member shall be the same as it was at the time he separated from service.

(3) Upon the death of any person who has not been retired, pursuant to the provisions hereof, there shall be paid to his estate, or to such persons having an insurable interest in his life as he shall have nominated by written designation duly executed and filed with the board, his accumulated contributions less any payments therefrom already made to him. Such payment may be made in one lump sum or may be paid in installments over a period of not to exceed five years, as may be designated by the member or his beneficiary, with such rate of interest as may be determined by the board.

(4) In lieu of the death benefit otherwise payable under subsection (3) of this section, there shall be paid a total allowance equal to one-fourth average final compensation per month to the surviving spouse of a member with at least twenty years service as such, at the time of death and who has not been retired and who, by reason of membership in the system, is covered by the Old Age and Survivors Insurance provisions of the Federal Social Security Act, but not at the time of death qualified to receive the benefits thereof. Said allowance shall become payable upon the death of said member or upon the date the surviving spouse becomes ineligible for any benefit payment from the Federal OASI, if later, and shall cease upon death or remarriage, or upon the date the surviving spouse would become entitled, upon application therefor; to any insurance benefit from the Federal OASI system, whichever event shall first occur: PROVIDED, That said benefit shall cease upon the beneficiary becoming employed by any member city of said system: PROVIDED FURTHER, That this allowance shall consist of:

(a) An amount which shall be the actuarial equivalent of the normal contributions at the time specified for retirement;

(b) An amount provided by the contributions of the city, equal to the annuity purchased by the accumulated normal contributions of the member;

(c) Such additional amount, provided by the contributions of the city, as will make the total allowance equal to one-fourth average final compensation per month;

(d) An annuity purchased by the accumulated additional contributions, if any, in addition to the minimum guaranteed.

(5) In lieu of the death benefit otherwise payable under subsection (3) of this section, the surviving spouse of a member who dies after having attained the minimum requirements for his service retirement as required by RCW 41.44.140 may elect to receive the allowance which would have been paid to such surviving spouse had the member been retired on the date of his death and had he elected to receive the lesser retirement allowances provided for in option C of RCW 41.44.220.

(6) If a former member shall, within one year from date of discontinuance of service, be employed by another city participating in this retirement system he shall have the privilege of redepositing and the matching contributions deposited by the city or cities in which he was formerly employed shall again be held for the benefit of such member. If such redepositing member possessed a prior service certificate the city employing him at time of retirement shall accept the liability evidenced by such certificate.

Reinstatement of a prior service certificate shall be effective only upon a showing that normal contributions are on deposit in the retirement fund, to the credit of the member, covering all current service. [1967 ex.s. c 28 § 5; 1965 ex.s. c 99 § 8; 1961 c 227 § 9; 1951 c 275 § 14; 1947 c 71 § 19; Rem. Supp. 1947 § 9592-148.]

Purpose—Severability—1967 ex.s. c 28: See notes following RCW 41.44.030.

41.44.200 Withdrawal—Procedure as to city's contribution. Whenever a member withdraws his accumulated normal contributions the matching contributions of the city so released shall be transferred to a reserve account created for the purpose of showing the amount of credits due each city through such operation. Such credits may be used by the city to apply on any charges made against the city but only so much thereof as will insure leaving in such account an amount estimated to be sufficient to again match contributions redeposited by employees returning to service as contemplated in RCW 41.44.190. The board may credit such reserve accounts with interest at such rate as the board deems equitable: PROVIDED, That as to any member city which has elected to and is making contributions in lieu of those required in RCW 41.44.090(1)(a), there shall be no release of the city's matching contributions after the date of its commencement to make such lieu contributions: PROVIDED FURTHER, That any released contributions of any such city which have been credited to its reserve account prior to the date of such commencement, shall be available to it for the purposes hereinabove specified, unless the board shall determine that their immediate use for such purposes would result in a harmful effect upon the assets of the system, in which event the board shall have the right to defer their use for a reasonable time in which to permit it to make adjustments in the current assets of the system to prevent the

same. [1953 c 228 § 8; 1947 c 71 § 20; Rem. Supp. 1947 § 9592-140.]

41.44.210 Benefit on death in line of duty. Upon the death of any member who dies from injuries or disease arising out of or incurred in the performance of his duty or duties, of which the board of trustees shall be the judge, if death occurs within one year from date of discontinuance of city service caused by such injury, there shall be paid to his estate or to such person or persons having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the board, the sum of one thousand dollars, purchased by the contributions of the cities participating in the retirement system; and in addition thereto there shall be paid to the surviving spouse during such spouse's lifetime, or if there be no surviving spouse, then to his minor child or children until they shall have reached the age of eighteen years, a monthly pension equal to one-half the monthly final compensation of such deceased member. If any such spouse, or child or children shall marry, then such person so marrying shall thereafter receive no further pension herein provided. Cost of the lump sum benefit above provided shall be determined by actuarial calculation and prorated equitably to each city. The benefits provided in this section shall be exclusive of any other benefits due the member under this chapter. [1973 1st ex.s. c 154 § 79; 1961 c 227 § 10; 1957 c 158 § 6; 1947 c 71 § 21; Rem. Supp. 1947 § 9592-150.]

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

41.44.220 Optional allowance on retirement. A member may elect to receive in lieu of the retirement allowance provided for in RCW 41.44.150, its actuarial equivalent in the form of a lesser retirement allowance, payable in accordance with the terms and conditions of one of the options set forth below in this section. Election of any option must be made by written application filed with the board at least thirty days in advance of retirement, or may be made by any member after he has attained the minimum requirements for his service retirement as required by RCW 41.44.140, and shall not be effective unless approved by the board prior to retirement of the member.

Option A. The lesser retirement allowance shall be payable to the member throughout his life: PROVIDED, That if he die before he receives in annuity payments referred to in paragraph (a) of subsection (1) of RCW 41.44.150 a total amount equal to the amount of his accumulated contributions as it was at date of his retirement, the balance of such accumulated contributions shall be paid in one sum to his estate or to such person having an insurable interest in his life as he shall nominate by written designation duly executed and filed with the board.

Option B. The lesser retirement allowance shall be payable to the member throughout life, and after death of the member, one-half of the lesser retirement allowance shall be continued throughout the life of and paid to the wife or husband of this member.

Option C. The lesser retirement allowance shall be payable to the member throughout life, and after death of the

member it shall be continued throughout the life of and paid to the wife or husband of the member.

A member may apply for some other benefit or benefits and the board may grant such application provided such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent value to his retirement allowance.

The surviving spouse may elect to receive a cash refund of the member's accumulated contributions in lieu of the monthly benefit under either Option B or Option C. [1965 ex.s. c 99 § 9; 1947 c 71 § 22; Rem. Supp. 1947 § 9592-151.]

41.44.230 Monthly payments. A pension, annuity, or a retirement allowance granted under the provisions of this chapter, unless otherwise specified herein, shall be payable in monthly installments, and each installment shall cover for the current calendar month. [1947 c 71 § 23; Rem. Supp. 1947 § 9592-152.]

41.44.240 Rights immune from legal process—Exceptions. The right of a person to a pension, annuity or a retirement allowance, to the return of contribution, the pension, annuity or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter shall not be subject to execution, garnishment, or any other process whatsoever. This section shall not apply to child support collection actions taken under chapter 26.18, 26.23, or 74.20A RCW against benefits payable under any such plan or arrangement. Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation. [1989 c 360 § 28; 1979 ex.s. c 205 § 7; 1947 c 71 § 24; Rem. Supp. 1947 § 9592-153.]

41.44.250 Suspension of retirement allowance. The payment of any retirement allowance to a member who has been retired from service shall be suspended during the time that the beneficiary is in receipt of compensation for service to any city or town that is a member of the state-wide city employees' retirement system, except as to the amount by which such retirement allowance may exceed such compensation for the same period. It is the intent of this section to prevent any retired person from being able to receive both his retirement allowance and compensation for service to any city or town that is a member of the state-wide city employees' retirement system: PROVIDED, That nothing in this section shall prevent county or state welfare departments from furnishing to any retired employee under the terms of this chapter the hospital, medical, dental and other benefits granted to pensioners under the provisions of Title 74 RCW. [1951 c 275 § 15; 1947 c 71 § 25; Rem. Supp. 1947 § 9592-154.]

41.44.260 Merger of existing or new systems into state-wide system—Contract. The council or other legislative body of any city or town in which there has been

established or may hereafter be established by ordinance or pursuant to authority granted, or hereafter granted, by any of the laws of the state of Washington, any retirement system, pension, relief or disability system, excluding any system directly established by the legislature of the state of Washington and by its terms made compulsory, shall have the right by a legal contract in writing to merge or integrate its existing system with that of the state-wide city employees' retirement system established by chapter 71, Laws of 1947 [chapter 41.44 RCW]. Any such contract shall contain appropriate provisions granting to any member of the systems integrated or merged the right to elect to withdraw his or her accumulated contributions accrued to the effective date of the merger or integration where the contract would result in a reduction or impairment of the benefits provided for in the existing system of which he or she is a member, and no such contracts shall be effective which shall reduce or impair the benefits which employees who are receiving benefits from either of the integrated systems would have received had the integration or merger not been effected. [1949 c 137 § 1; Rem. Supp. 1949 § 9592-133a.]

41.44.270 Agreements between board and cities which accept social security act benefits. Should any member city of the state-wide city employees retirement system established pursuant to this chapter, hereafter take advantage of any benefits lawfully available to its employees and their survivors under the old age and survivors insurance system embodied in the social security act, or should any city which has lawfully taken advantage of such benefits desire to become a member of the state-wide city employees retirement system, such city and the board shall have the power to enter into an agreement mutually satisfactory to both parties adjusting the contributions to be made by such city and by its employees and the benefits to be paid by the state-wide city employees retirement system, in such a manner to permit the participation of such city in the system as a member with reduced benefits to its employees and reduced contributions by the city and by its employees: PROVIDED, That such adjustment shall be made upon an actuarially sound basis and that as to all matters, other than those changed by such agreement, the provisions of the state-wide city employees retirement system law shall apply: PROVIDED FURTHER, That unless such an agreement is entered into by mutual consent of such city and the board, all of the provisions of the state-wide city employees retirement system law shall be applicable. [1953 c 228 § 9.]

41.44.300 System abolished—Date—Transfer of assets, liabilities and responsibilities. Notwithstanding any provisions of chapter 41.44 RCW to the contrary, the state-wide employees' retirement system shall no longer exist after January 1, 1972, at which time all assets, liabilities, and responsibilities of the state-wide city employees' retirement system shall be transferred to and assumed by the Washington public employees' retirement system as provided for in *RCW 41.40.405 through 41.40.407. [1971 c 75 § 4.]

*Reviser's note: RCW 41.40.405 through 41.40.407 were decodified pursuant to 1991 c 35 § 4.

Chapter 41.45

ACTUARIAL FUNDING OF STATE RETIREMENT SYSTEMS

Sections

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41.45.010 Intent—Goals. It is the intent of the legislature to provide a dependable and systematic process for funding the benefits provided to members and retirees of the public employees' retirement system, chapter 41.40 RCW; the teachers' retirement system, chapter 41.32 RCW; the law enforcement officers' and fire fighters' retirement system, chapter 41.26 RCW; and the Washington state patrol retirement system, chapter 43.43 RCW.

The funding process established by this chapter is intended to achieve the following goals:

(1) To continue to fully fund the public employees' retirement system plan II, the teachers' retirement system plans II and III, and the law enforcement officers' and fire fighters' retirement system plan II as provided by law;

(2) To fully amortize the total costs of the public employees' retirement system plan I, the teachers' retirement system plan I, and the law enforcement officers' and fire fighters' retirement system plan I not later than June 30, 2024;

(3) To establish predictable long-term employer contribution rates which will remain a relatively constant proportion of the future state budgets; and

(4) To fund, to the extent feasible, benefit increases for plan I members and all benefits for plan II and III members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service. [1995 c 239 § 305; 1989 c 273 § 1.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.45.020 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Council" means the economic and revenue forecast council created in RCW 82.33.010.

(2) "Department" means the department of retirement systems.

(3) "Law enforcement officers' and fire fighters' retirement system plan I" and "law enforcement officers' and fire fighters' retirement system plan II" mean the benefits and funding provisions under chapter 41.26 RCW.

(4) "Public employees' retirement system plan I" and "public employees' retirement system plan II" mean the benefits and funding provisions under chapter 41.40 RCW.

(5) "Teachers' retirement system plan I," "teachers' retirement system plan II," and "teachers' retirement system plan III" mean the benefits and funding provisions under chapter 41.32 RCW.

(6) "Washington state patrol retirement system" means the retirement benefits provided under chapter 43.43 RCW.

(7) "Unfunded liability" means the unfunded actuarial accrued liability of a retirement system.

(8) "Actuary" or "state actuary" means the state actuary employed under chapter 44.44 RCW.

(9) "State retirement systems" means the retirement systems listed in RCW 41.50.030. [1995 c 239 § 306; 1989 c 273 § 2.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.45.030 State actuary to submit information on the experience and financial condition of each retirement system to the economic and revenue forecast council—Adoption of long-term economic assumptions. (1) Beginning September 1, 1995, and every two years thereafter, the state actuary shall submit to the council information regarding the experience and financial condition of each state retirement system. The council shall review this and such other information as it may require.

(2) By December 31, 1995, and every two years thereafter, the council, by affirmative vote of five councilmembers, shall adopt the following long-term economic assumptions:

(a) Growth in system membership;

(b) Growth in salaries, exclusive of merit or longevity increases;

(c) Growth in inflation; and

(d) Investment rate of return.

The council shall work with the department of retirement systems, the state actuary, and the executive director of the state investment board, and shall consider long-term historical averages, in developing the economic assumptions.

(3) The assumptions adopted by the council shall be used by the state actuary in conducting all actuarial studies of the state retirement systems. [1995 c 233 § 1; 1993 c 519 § 17; 1989 c 273 § 3.]

Effective date—1995 c 233: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]." [1995 c 233 § 4.]

Part headings not law—Effective date—1993 c 519: See notes following RCW 28A.400.212.

41.45.050 Contributions to be based on rates established in this chapter—Allocation formula for contributions. (1) Employers of members of the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system shall make contributions to those systems based on the rates established in RCW 41.45.060 and 41.45.070.

(2) The state shall make contributions to the law enforcement officers' and fire fighters' retirement system based on the rates established in RCW 41.45.060 and 41.45.070. The state treasurer shall transfer the required contributions each month on the basis of salary data provided by the department.

(3) The department shall bill employers, and the state shall make contributions to the law enforcement officers' and fire fighters' retirement system, using the combined rates established in RCW 41.45.060 and 41.45.070 regardless of the level of pension funding provided in the biennial budget. Any member of an affected retirement system may, by mandamus or other appropriate proceeding, require the transfer and payment of funds as directed in this section.

(4) The contributions received for the public employees' retirement system shall be allocated between the public employees' retirement system plan I fund and public employees' retirement system plan II fund as follows: The contributions necessary to fully fund the public employees' retirement system plan II employer contribution required by RCW 41.40.650 shall first be deposited in the public employees' retirement system plan II fund. All remaining public employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan I fund.

(5) The contributions received for the teachers' retirement system shall be allocated between the plan I fund and the combined plan II and plan III fund as follows: The contributions necessary to fully fund the combined plan II and plan III employer contribution shall first be deposited in the combined plan II and plan III fund. All remaining teachers' retirement system employer contributions shall be deposited in the plan I fund.

(6) The contributions received under RCW 41.26.450 for the law enforcement officers' and fire fighters' retirement system shall be allocated between the law enforcement officers' and fire fighters' retirement system plan I and the law enforcement officers' and fire fighters' retirement system plan II fund as follows: The contributions necessary to fully fund the law enforcement officers' and fire fighters' retirement system plan II employer contributions shall be first deposited in the law enforcement officers' and fire fighters' retirement system plan II fund. All remaining law enforcement officers' and fire fighters' retirement system employer contributions shall be deposited in the law enforcement officers' and fire fighters' retirement system plan I fund. [1995 c 239 § 308; 1989 c 273 § 5.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.45.060 Basic state and employer contribution rates set by council. (1) The state actuary shall provide actuarial valuation results based on the assumptions adopted under RCW 41.45.030.

(2) Not later than September 30, 1996, and every two years thereafter, consistent with the assumptions adopted under RCW 41.45.030, the council shall adopt both: (a) A basic state contribution rate for the law enforcement officers' and fire fighters' retirement system; and (b) basic employer

contribution rates for the public employees' retirement system plan I, the teachers' retirement system plan I, and the Washington state patrol retirement system to be used in the ensuing biennial period.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the public employees' retirement system plan I, the teachers' retirement system plan I, the law enforcement officers' and fire fighters' retirement system plan I, and the unfunded liability of the Washington state patrol retirement system not later than June 30, 2024; and

(b) To also continue to fully fund the public employees' retirement system plan II, the teachers' retirement system plans II and III, and the law enforcement officers' and fire fighters' retirement system plan II in accordance with RCW 41.40.650, 41.26.450, and this section.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan II and III employer contribution rate.

(5) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted.

(6) The director of the department of retirement systems shall collect those rates adopted by the council. [1995 c 239 § 309; 1993 c 519 § 19; 1992 c 239 § 2; 1990 c 18 § 1; 1989 c 273 § 6.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Part headings not law—Effective date—1993 c 519: See notes following RCW 28A.400.212.

Effective date—1992 c 239: "This act shall take effect September 1, 1992." [1992 c 239 § 6.]

Effective date—1990 c 18: "This act shall take effect September 1, 1991." [1990 c 18 § 3.]

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.45.061 Teachers' retirement system plan II—Contribution rate. (1) The required contribution rate for members of the plan II teachers' retirement system shall be fixed at the rates in effect on July 1, 1996, subject to the following:

(a) Beginning September 1, 1998, except as provided in (b) of this subsection, the employee contribution rate shall not exceed the employer plan II and III rates adopted under RCW 41.45.060 and 41.45.070 for the teachers' retirement system;

(b) In addition, the employee contribution rate for plan II shall be increased by fifty percent of the contribution rate increase caused by any plan II benefit increase passed after July 1, 1996.

(2) The required plan II and III contribution rates for employers shall be adopted in the manner described in RCW 41.45.060. [1995 c 239 § 311.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.45.070 Supplemental rate. (1) In addition to the basic employer contribution rate established in RCW 41.45.060, the department shall also charge employers of public employees' retirement system, teachers' retirement system, or Washington state patrol retirement system members an additional supplemental rate to pay for the cost of additional benefits, if any, granted to members of those systems. The supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) In addition to the basic state contribution rate established in RCW 41.45.060 for the law enforcement officers' and fire fighters' retirement system the department shall also establish a supplemental rate to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and fire fighters' retirement system. This supplemental rate shall be calculated by the state actuary and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan I, the teachers' retirement system plan I, the law enforcement officers' and fire fighters' retirement system plan I, and Washington state patrol retirement system, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit not later than June 30, 2024.

(4) The supplemental rate charged under this section to fund benefit increases provided to active and retired members of the public employees' retirement system plan II, the teachers' retirement system plan II and plan III, or the law enforcement officers' and fire fighters' retirement system plan II, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated under RCW 41.40.650, *41.32.775, or 41.26.450, respectively.

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. The supplemental rate charged under this section to fund automatic postretirement adjustments for active or retired members of the public employees' retirement system plan I and the teachers' retirement system plan I shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024. [1995 c 239 § 310; 1990 c 18 § 2; 1989 1st ex.s. c 1 § 1; 1989 c 273 § 7.]

***Reviser's note:** RCW 41.32.775 was repealed by 1995 c 239 § 326, effective July 1, 1996.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Effective date—1990 c 18: See note following RCW 41.45.060.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.45.080 Additional contributions may be required. In addition to the basic and supplemental employer contributions required by RCW 41.45.060 and 41.45.070 the

department may also require additional employer contributions as provided by law. [1989 c 273 § 8.]

41.45.090 Collection of actuarial data. The department shall collect and keep in convenient form such data as shall be necessary for an actuarial valuation of the assets and liabilities of the state retirement systems, and for making an actuarial investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of those systems. The department and state actuary shall enter into a memorandum of understanding regarding the specific data the department will collect, when it will be collected, and how it will be maintained. The department shall notify the state actuary of any changes it makes, or intends to make, in the collection and maintenance of such data.

At least once in each six-year period, the state actuary shall conduct an actuarial investigation of the mortality, service, compensation and other experience of the members and beneficiaries of each state retirement system, and into the financial condition of each system. The results of each investigation shall be filed with the department, the office of financial management, and the budget writing committees of the Washington house of representatives and senate. Upon the basis of such actuarial investigation the department shall adopt such tables, schedules, factors, and regulations as are deemed necessary in the light of the findings of the actuary for the proper operation of the state retirement systems. [1989 c 273 § 9.]

41.45.900 Severability—1989 c 273. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 c 273 § 32.]

Chapter 41.47

ACCEPTANCE OF OLD AGE AND SURVIVORS' INSURANCE—1941 ACT

Sections

41.47.010	Benefits of federal act accepted.
41.47.020	Wage deductions.
41.47.030	Operation of statute limited.
41.47.040	Severability as to coverage.
41.47.050	Contingent effective date.

Designation of agency to carry out federal social security disability program: RCW 43.17.120, 43.17.130.

41.47.010 Benefits of federal act accepted. The state of Washington in behalf of all its eligible officials and employees and the eligible officials and employees of all its counties, cities and towns, and of any and all other of its municipal corporations and political subdivisions which levy taxes and employ and pay salaries and wages to officials and employees including public utility districts, hereby accepts the benefits of the old age and survivors' insurance benefit provisions of the federal social security act, whenever the provisions of such act are extended to embrace such officials and employees. [1941 c 205 § 1; Rem. Supp. 1941 § 9998-57. Formerly RCW 74.40.010.]

41.47.020 Wage deductions. Any and all officials and boards having charge of the preparation of payrolls and payment of salaries and wages to such eligible officials and employees are hereby authorized and directed to make payroll and salary and wage deductions and to handle and dispose of the same as required by such federal act; and any official or board being authorized to disburse funds respectively for the office, department or division of the state, county, city or town, or other municipal corporation or political subdivision in which any such eligible official or employee is employed is authorized to pay and disburse out of any funds available for the operation and maintenance of such office, department or division such sums and dispose of and handle the same in such manner as is required and necessary to make payments and benefits of said federal act available to such eligible officials and employees. [1941 c 205 § 2; Rem. Supp. 1941 § 9998-58. Formerly RCW 74.40.020.]

41.47.030 Operation of statute limited. Nothing contained in this chapter shall deprive any person of benefits under any existing pension system, nor repeal, amend, modify or supersede any law, charter amendment or ordinance establishing or pertaining to an existing pension system. [1941 c 205 § 3; Rem. Supp. 1941 § 9998-59. Formerly RCW 74.40.030.]

41.47.040 Severability as to coverage. If it is found by any judicial authority of competent jurisdiction that the provisions of this chapter may not become applicable to any group of officials or employees for any reason, such inapplicability shall not prevent the same from becoming applicable as herein provided to the other officials and employees embraced herein. [1941 c 205 § 4; Rem. Supp. 1941 § 9998-60. Formerly RCW 74.40.040.]

41.47.050 Contingent effective date. This chapter shall take effect at the time and in the manner provided by the state Constitution unless at that time the federal social security act has not been amended to cover officials and employees of the state, county, city and other municipal corporations and political subdivisions, in which event it shall take effect and become operative on the first day of the second month following the month when such federal act shall become applicable to such state officials and employees. [1941 c 205 § 5; Rem. Supp. 1941 § 9998-61. Formerly RCW 74.40.050.]

Chapter 41.48

FEDERAL SOCIAL SECURITY FOR PUBLIC EMPLOYEES

Sections

- 41.48.010 Purpose—Construction.
- 41.48.020 Definitions.
- 41.48.030 Agreement with secretary of health, education, and welfare.
- 41.48.040 Employees' contributions.
- 41.48.050 Extension of social security benefits to employees of political subdivisions—Termination, procedure.
- 41.48.060 OASI contribution account.
- 41.48.065 OASI revolving fund.
- 41.48.070 Employees may elect.

- 41.48.080 Administration costs—Allocation.
- 41.48.090 Rules and regulations.
- 41.48.100 Governor may delegate authority.
- 41.48.110 Legislative declaration—Payments to state employees on account of sickness.
- 41.48.120 Sick leave account created—Payments to state employees on account of sickness—Exclusion from wages.
- 41.48.130 Sick leave payments—Accounting plan and payroll procedures.
- 41.48.140 Establishment of sick leave rules by personnel authorities.
- 41.48.150 Definition—"Employee."
- 41.48.160 Political subdivisions—Sick leave payments—Adoption of accounting plan and payroll procedures.
- 41.48.170 Sick leave payments—Transfers of moneys to sick leave account.
- 41.48.180 Sick leave payments—Inclusion in reports to retirement system—Compensation for unused sick leave.

Acceptance of old age and survivors' insurance: Chapter 41.47 RCW.
Application forms—Licenses—Mention of race or religion prohibited: RCW 43.01.100, 43.01.110.

Hours and wages of department of social and health services personnel: RCW 72.01.042, 72.01.043.

Plan for OASI coverage of members of state employees' retirement system: Chapter 41.41 RCW.
teachers' retirement system: Chapter 41.33 RCW.

Trusts for employee benefits: Chapter 49.64 RCW.

41.48.010 Purpose—Construction. In order to extend to employees of the state and its political subdivisions and to the dependents and survivors of such employees, the basic protection accorded to others by the old age and survivors insurance system embodied in the social security act, it is hereby declared to be the policy of the legislature, subject to the limitations of this chapter, that such steps be taken as to provide such protection to employees of the state and its political subdivisions on as broad a basis as is permitted under the social security act. Persons now members of or protected by any state or local pension or retirement plan or system may be covered under the federal social security act only as provided by the federal social security act amendments of 1954. (Public Law No. 761.) It is hereby declared to be the policy of the legislature in enacting the succeeding sections of this title that the protection afforded the employees in positions covered by a retirement system on the date an agreement under this title is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as the result of making the agreements so applicable whether the agreement provides for supplementation, integration or coordination. [1955 ex.s. c 4 § 1; 1951 c 184 § 1.]

41.48.020 Definitions. For the purposes of this chapter:

(1) "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the federal insurance contributions act, would not constitute "wages" within the meaning of that act;

(2) "Employment" means any service performed by an employee in the employ of the state, or any political subdivision thereof, for such employer, except (a) service which in the absence of an agreement entered into under this chapter

would constitute "employment" as defined in the social security act; or (b) service which under the social security act may not be included in an agreement between the state and the secretary of health, education, and welfare entered into under this chapter;

(3) "Employee" includes all officers and employees of the state or its political subdivisions except officials compensated on a fee basis;

(4) "Secretary of health, education, and welfare" includes any individual to whom the secretary of health, education, and welfare has delegated any of his functions under the social security act with respect to coverage under such act of employees of states and their political subdivisions, and with respect to any action taken prior to April 11, 1953, includes the federal security administrator and any individual to whom such administrator has delegated any such function;

(5) "Political subdivision" includes an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions. Such term also includes a proprietary enterprise acquired, purchased or originated by the state or any of its political subdivisions subsequent to December, 1950. Such a subdivision may elect to accept federal OASI coverage under this chapter.

(6) "Federal insurance contributions act" means subchapter A of chapter 9 of the federal internal revenue code of 1939 and subchapters A and B of chapter 21 of the federal internal revenue code of 1954, as such codes have been and may from time to time be amended; and the term "employee tax" means the tax imposed by section 1400 of such code of 1939 and section 3101 of such code of 1954. [1955 ex.s. c 4 § 2; 1953 c 62 § 1; 1951 c 184 § 2.]

41.48.030 Agreement with secretary of health, education, and welfare. (1) The governor is hereby authorized to enter on behalf of the state into an agreement with the secretary of health, education, and welfare consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old-age and survivors insurance system to employees of the state or any political subdivision not members of an existing retirement system, or to members of a retirement system established by the state or by a political subdivision thereof or by an institution of higher learning with respect to services specified in such agreement which constitute "employment" as defined in RCW 41.48.020. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the governor and secretary of health, education, and welfare shall agree upon, but, except as may be otherwise required by or under the social security act as to the services to be covered, such agreement shall provide in effect that—

(a) Benefits will be provided for employees whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such services constituted employment within the meaning of title II of the social security act;

(b) The state will pay to the secretary of the treasury, at such time or times as may be prescribed under the social

security act, contributions with respect to wages (as defined in RCW 41.48.020), equal to the sum of the taxes which would be imposed by the federal insurance contributions act if the services covered by the agreement constituted employment within the meaning of that act;

(c) Such agreement shall be effective with respect to services in employment covered by the agreement or modification thereof performed after a date specified therein but in no event may it be effective with respect to any such services performed prior to the first day of the calendar year immediately preceding the calendar year in which such agreement or modification of the agreement is accepted by the secretary of health, education and welfare.

(d) All services which constitute employment as defined in RCW 41.48.020 and are performed in the employ of the state by employees of the state, shall be covered by the agreement;

(e) All services which (i) constitute employment as defined in RCW 41.48.020, (ii) are performed in the employ of a political subdivision of the state, and (iii) are covered by a plan which is in conformity with the terms of the agreement and has been approved by the governor under RCW 41.48.050, shall be covered by the agreement; and

(f) As modified, the agreement shall include all services described in either paragraph (d) or paragraph (e) of this subsection and performed by individuals to whom section 218(c)(3)(C) of the social security act is applicable, and shall provide that the service of any such individual shall continue to be covered by the agreement in case he thereafter becomes eligible to be a member of a retirement system; and

(g) As modified, the agreement shall include all services described in either paragraph (d) or paragraph (e) of this subsection and performed by individuals in positions covered by a retirement system with respect to which the governor has issued a certificate to the secretary of health, education, and welfare pursuant to subsection (5) of this section.

(h) Law enforcement officers and firemen of each political subdivision of this state who are covered by the Washington Law Enforcement Officers' and Fire Fighters' Retirement System Act (chapter 209, Laws of 1969 ex. sess.) as now in existence or hereafter amended shall constitute a separate "coverage group" for purposes of the agreement entered into under this section and for purposes of section 218 of the social security act. To the extent that the agreement between this state and the federal secretary of health, education, and welfare in existence on the date of adoption of this subsection is inconsistent with this subsection, the governor shall seek to modify the inconsistency.

(2) Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (a) to enter into an agreement with the secretary of health, education, and welfare whereby the benefits of the federal old-age and survivors insurance system shall be extended to employees of such instrumentality, (b) to require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under RCW 41.48.040(1) if they were covered by an agreement made pursuant to subsection (1) of this section, and (c) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with

such agreements. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of subsection (1) and other provisions of this chapter.

(3) The governor is empowered to authorize a referendum, and to designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218(d)(3) of the social security act, and subsection (4) of this section on the question of whether service in all positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under this chapter. If a retirement system covers positions of employees of the state of Washington, of the institutions of higher learning, and positions of employees of one or more of the political subdivisions of the state, then for the purpose of the referendum as provided herein, there may be deemed to be a separate retirement system with respect to employees of the state, or any one or more of the political subdivisions, or institutions of higher learning and the governor shall authorize a referendum upon request of the subdivisions' or institutions' of higher learning governing body: PROVIDED HOWEVER, That if a referendum of state employees generally fails to produce a favorable majority vote then the governor may authorize a referendum covering positions of employees in any state department who are compensated in whole or in part from grants made to this state under title III of the federal social security act: PROVIDED, That any city or town affiliated with the state-wide city employees retirement system organized under chapter 41.44 RCW may at its option agree to a plan submitted by the board of trustees of said state-wide city employees retirement system for inclusion under an agreement under this chapter if the referendum to be held as provided herein indicates a favorable result: PROVIDED FURTHER, That the teachers' retirement system be considered one system for the purpose of the referendum except as applied to the several *colleges of education. The notice of referendum required by section 218(d)(3)(C) of the social security act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this chapter.

(4) The governor, before authorizing a referendum, shall require the following conditions to be met:

(a) The referendum shall be by secret written ballot on the question of whether service in positions covered by such retirement system shall be excluded from or included under the agreement between the governor and the secretary of health, education, and welfare provided for in RCW 41.48.030(1);

(b) An opportunity to vote in such referendum shall be given and shall be limited to eligible employees;

(c) Not less than ninety days' notice of such referendum shall be given to all such employees;

(d) Such referendum shall be conducted under the supervision (of the governor or) of an agency or individual designated by the governor;

(e) The proposal for coverage shall be approved only if a majority of the eligible employees vote in favor of including services in such positions under the agreement;

(f) The state legislature, in the case of a referendum affecting the rights and liabilities of state employees covered under the state employees' retirement system and employees under the teachers' retirement system, and in all other cases the local legislative authority or governing body, shall have specifically approved the proposed plan and approved any necessary structural adjustment to the existing system to conform with the proposed plan.

(5) Upon receiving satisfactory evidence that with respect to any such referendum the conditions specified in subsection (4) of this section and section 218(d)(3) of the social security act have been met, the governor shall so certify to the secretary of health, education, and welfare.

(6) If the legislative body of any political subdivision of this state certifies to the governor that a referendum has been held under the terms of RCW 41.48.050(1)(i) and gives notice to the governor of termination of social security for any coverage group of the political subdivision, the governor shall give two years advance notice in writing to the federal department of health, education, and welfare of such termination of the agreement entered into under this section with respect to said coverage group. [1971 ex.s. c 257 § 19; 1967 c 5 § 1; 1957 c 170 § 1; 1955 ex.s. c 4 § 3; 1951 c 184 § 3.]

***Reviser's note:** The "colleges of education" were redesignated state colleges by 1961 c 62 § 1, formerly RCW 28.81.005, decodified in the 1969 education code. See also RCW 28B.10.016.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.48.040 Employees' contributions. (1) Every employee of the state whose services are covered by an agreement entered into under RCW 41.48.030 shall be required to pay for the period of such coverage, into the *contribution fund established by RCW 41.48.060, contributions, with respect to wages (as defined in RCW 41.48.020), equal to the amount of employee tax which would be imposed by the federal insurance contributions act if such services constituted employment within the meaning of that act. Such liability shall arise in consideration of the employees' retention in the service of the state, or his entry upon such service, after the enactment of this chapter.

(2) The contribution imposed by this section shall be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution.

(3) If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe. [1955 ex.s. c 4 § 4; 1951 c 184 § 4.]

***Reviser's note:** The "OASI contribution fund" was redesignated the "OASI contribution account" by 1991 sp.s. c 13 § 112.

41.48.050 Extension of social security benefits to employees of political subdivisions—Termination, procedure. (1) Each political subdivision of the state is hereby

authorized to submit for approval by the governor a plan for extending the benefits of title II of the social security act, in conformity with the applicable provisions of such act, to those employees of such political subdivisions who are not covered by an existing pension or retirement system. Each pension or retirement system established by the state or a political subdivision thereof is hereby authorized to submit for approval by the governor a plan for extending the benefits of title II of the social security act, in conformity with applicable provisions of such act, to members of such pension or retirement system. Each such plan and any amendment thereof shall be approved by the governor if he finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the governor, except that no such plan shall be approved unless—

(a) It is in conformity with the requirements of the social security act and with the agreement entered into under RCW 41.48.030;

(b) It provides that all services which constitute employment as defined in RCW 41.48.020 and are performed in the employ of the political subdivision by employees thereof, shall be covered by the plan;

(c) It specifies the source or sources from which the funds necessary to make the payments required by paragraph (a) of subsection (3) and by subsection (4) of this section are expected to be derived and contains reasonable assurance that such sources will be adequate for such purposes;

(d) It provides that in the plan of coverage for members of the state teachers' retirement system or for state employee members of the state employees' retirement system, there shall be no additional cost to or involvement of the state until such plan has received prior approval by the legislature;

(e) It provides for such methods of administration of the plan by the political subdivision as are found by the governor to be necessary for the proper and efficient administration of the plan;

(f) It provides that the political subdivision will make such reports, in such form and containing such information, as the governor may from time to time require and comply with such provisions as the governor or the secretary of health, education, and welfare may from time to time find necessary to assure the correctness and verification of such reports; and

(g) It authorizes the governor to terminate the plan in its entirety, in his discretion, if he finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the governor and may be consistent with the provisions of the social security act.

(h) It provides that law enforcement officers and fire fighters of each political subdivision of this state who are covered by the Washington Law Enforcement Officers' and Fire Fighters' Retirement System Act (chapter 209, Laws of 1969 ex. sess.) as now in existence or hereafter amended shall constitute a separate "coverage group" for purposes of the plan or agreement entered into under this section and for purposes of section 216 of the social security act. To the extent that the plan or agreement entered into between the state and any political subdivision of this state is inconsistent

with this subsection, the governor shall seek to modify the inconsistency.

(i) It provides that the plan or agreement may be terminated by any political subdivision as to any such coverage group upon giving at least two years advance notice in writing to the governor, effective at the end of the calendar quarter specified in the notice. It shall specify that before notice of such termination is given, a referendum shall be held among the members of the coverage group under the following conditions:

(i) The referendum shall be conducted under the supervision of the legislative body of the political subdivision.

(ii) Not less than sixty days' notice of such referendum shall be given to members of the coverage group.

(iii) An opportunity to vote by secret ballot in such referendum shall be given and shall be limited to all members of the coverage group.

(iv) The proposal for termination shall be approved only if a majority of the coverage group vote in favor of termination.

(v) If a majority of the coverage group vote in favor of termination, the legislative body of the political subdivision shall certify the results of the referendum to the governor and give notice of termination of such coverage group.

(2) The governor shall not finally refuse to approve a plan submitted by a political subdivision under subsection (1), and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

(3)(a) Each political subdivision as to which a plan has been approved under this section shall pay into the *contribution fund, with respect to wages (as defined in RCW 41.48.020), at such time or times as the governor may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the governor under RCW 41.48.030.

(b) Each political subdivision required to make payments under paragraph (a) of this subsection is authorized, in consideration of the employee's retention in, or entry upon, employment after enactment of this chapter, to impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages (as defined in RCW 41.48.020), not exceeding the amount of employee tax which is imposed by the federal insurance contributions act, and to deduct the amount of such contribution from his wages as and when paid. Contributions so collected shall be paid into the *OASI contribution fund in partial discharge of the liability of such political subdivision or instrumentality under paragraph (a) of this subsection. Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.

(4) Delinquent reports and payments due under paragraph (f) of subsection (1) and paragraph (a) of subsection (3) of this section will be subject to an added interest charge of six percent per year or, if higher, the rate chargeable to the state by the secretary by virtue of federal law, if the late report or payment contributes to any federal penalty for late filing of reports or for late deposit of contributions. Delinquent contributions, interest and penalties may be recovered by civil action or may, at the request of the governor, be deducted from any other moneys payable to the political

subdivision by any department or agency of the state. [1981 c 119 § 1; 1971 ex.s. c 257 § 20; 1955 ex.s. c 4 § 5; 1951 c 184 § 5.]

***Reviser's note:** The "OASI contribution fund" was redesignated the "OASI contribution account" by 1991 sp.s. c 13 § 112.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

Law enforcement officers' and fire fighters' retirement system: Chapter 41.26 RCW.

Public employees' retirement system: Chapter 41.40 RCW.

Teachers' retirement system: Chapter 41.32 RCW.

41.48.060 OASI contribution account. (1) There is hereby established a special account in the state treasury to be known as the OASI contribution account. Such account shall consist of and there shall be deposited in such account: (a) All contributions and penalties collected under RCW 41.48.040 and 41.48.050; (b) all moneys appropriated thereto under this chapter; (c) any property or securities belonging to the account; and (d) all sums recovered upon the bond of the custodian or otherwise for losses sustained by the account and all other moneys received for the account from any other source. All moneys in the account shall be mingled and undivided. Subject to the provisions of this chapter, the governor is vested with full power, authority and jurisdiction over the account, including all moneys and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof and are consistent with the provisions of this chapter.

(2) The OASI contribution account shall be established and held separate and apart from any other funds of the state and shall be used and administered exclusively for the purpose of this chapter. Withdrawals from such account shall be made for, and solely for (a) payment of amounts required to be paid to the secretary of the treasury pursuant to an agreement entered into under RCW 41.48.030; (b) payment of refunds provided for in RCW 41.48.040(3); and (c) refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality.

(3) From the OASI contribution account the custodian of the fund [account] shall pay to the secretary of the treasury such amounts and at such time or times as may be directed by the governor in accordance with any agreement entered into under RCW 41.48.030 and the social security act.

(4) The treasurer of the state shall be ex officio treasurer and custodian of the OASI contribution account and shall administer such account in accordance with the provisions of this chapter and the directions of the governor and shall pay all warrants drawn upon it in accordance with the provisions of this section and with the regulations as the governor may prescribe pursuant thereto. [1991 sp.s. c 13 § 112; 1973 c 126 § 14; 1967 c 213 § 1; 1951 c 184 § 6.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

41.48.065 OASI revolving fund. There is hereby established a separate fund in the custody of the state treasurer to be known as the OASI revolving fund. The fund shall consist of all moneys designated for deposit in the fund. The OASI revolving fund shall be used exclusively

for the purpose of this section. Withdrawals from the fund shall be made for the payment of amounts the state may be obligated to pay or forfeit by reason of any failure of any public agency to pay assessments on contributions or interest assessments required under the federal-state agreement under this chapter or federal regulations.

The treasurer of the state shall be ex officio treasurer and custodian of the fund and shall administer the fund in accordance with this chapter and the directions of the governor and shall pay all amounts drawn upon it in accordance with this section and with the regulations the governor may prescribe under this section. [1991 sp.s. c 13 § 111; 1983 1st ex.s. c 6 § 1.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Establishment of fund—1983 1st ex.s. c 6: "For the purpose of establishing the OASI revolving fund, the state treasurer shall transfer from the interest earnings accrued in the OASI contribution fund the sum of twenty thousand dollars to the OASI revolving fund." [1983 1st ex.s. c 6 § 2.]

41.48.070 Employees may elect. The governing body of any political subdivision having any coverage group, as the term is defined in title II of the social security act, not covered by a state or municipal retirement system may submit for an advisory vote to the members of such coverage group the question of whether they prefer coverage by federal old-age and survivors insurance or coverage by a state or municipal retirement system. [1951 c 184 § 7.]

41.48.080 Administration costs—Allocation. All costs allocable to the administration of this chapter shall be charged to and paid to the general fund by the participating divisions and instrumentalities of the state pro rata according to their respective contributions. [1951 c 184 § 9.]

41.48.090 Rules and regulations. The governor shall make and publish such rules and regulations, not inconsistent with the provisions of this chapter, as he finds necessary or appropriate to the efficient administration of the functions with which he is charged under this chapter. [1951 c 184 § 10.]

41.48.100 Governor may delegate authority. Any authority conferred upon the governor by this chapter may be exercised by an official or state agency designated by him. [1951 c 184 § 11.]

41.48.110 Legislative declaration—Payments to state employees on account of sickness. It is the policy of the state of Washington to pay its employees on account of sickness or accident disability in accordance with applicable leave regulations and in such a manner so such payments are excluded from federal old age and survivors' insurance contribution requirements. [1979 ex.s. c 247 § 3.]

41.48.120 Sick leave account created—Payments to state employees on account of sickness—Exclusion from wages. There is created in the general fund a separate account to be known as the sick leave account, to be used for payments made after January 1, 1980, to state employees

made on account of sickness, for the purpose of excluding such payments from the meaning of "wages" under federal old age and survivors' insurance. The legislature shall appropriate amounts necessary for the account. [1979 c 152 § 1.]

Severability—1979 c 152: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 152 § 8.]

41.48.130 Sick leave payments—Accounting plan and payroll procedures. The director of the office of financial management shall, by January 1, 1980, develop an accounting plan and payroll procedures sufficient to meet the requirements of federal statutes and regulations for the purpose of implementing RCW 41.48.120. [1979 c 152 § 2.]

Severability—1979 c 152: See note following RCW 41.48.120.

41.48.140 Establishment of sick leave rules by personnel authorities. Nothing in RCW 41.48.120 or 41.48.130 shall affect the power of the Washington personnel resources board or any other state personnel authority to establish sick leave rules except as may be required under RCW 41.48.120 or 41.48.130: PROVIDED, That each personnel board and personnel authority shall establish the maximum number of working days an employee under its jurisdiction may be absent on account of sickness or accident disability without a medical certificate.

"Personnel authority" as used in this section, means a state agency, board, committee, or similar body having general authority to establish personnel rules. [1993 c 281 § 39; 1979 c 152 § 3.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—1979 c 152: See note following RCW 41.48.120.

41.48.150 Definition—"Employee." "Employee," as used in RCW 41.48.120 and 41.48.140, includes all officers and employees of the state, except officials and employees compensated on a fee basis, for whom contributions are made to federal old age and survivors' insurance. [1979 c 152 § 4.]

Severability—1979 c 152: See note following RCW 41.48.120.

41.48.160 Political subdivisions—Sick leave payments—Adoption of accounting plan and payroll procedures. A political subdivision of the state may, pursuant to ordinance or resolution, adopt an accounting plan and payroll procedures sufficient to meet the requirements of federal statutes and regulations and the department of health, education, and welfare for the purpose of excluding payments made on account of sickness, from the meaning of "wages" under federal old age and survivors' insurance. [1979 c 152 § 5.]

Severability—1979 c 152: See note following RCW 41.48.120.

41.48.170 Sick leave payments—Transfers of moneys to sick leave account. The office of financial management shall direct the state treasurer to, and the state treasurer shall, periodically transfer to the sick leave account in the general fund moneys sufficient to reimburse the sick leave account for payments on account of sickness. State

agencies shall place in allotment reserve status and cause to be lapsed at the end of the biennium an amount equal to the sick leave pay and the employer's share of all federal old age and survivor's insurance payments rendered unnecessary by reason of RCW 41.48.120. When directing state agencies to place funds in reserve status, the office of financial management shall promulgate allotment instructions which conserve, to the fullest extent possible, state general fund appropriations. [1979 ex.s. c 247 § 2.]

41.48.180 Sick leave payments—Inclusion in reports to retirement system—Compensation for unused sick leave. Payments to employees pursuant to RCW 41.48.120 or 41.48.160 shall be included in compensation reported to the appropriate retirement system. Any compensation for unused sick leave shall not be considered payment on account of sickness and shall not be paid from the sick leave account. [1979 c 152 § 6.]

Severability—1979 c 152: See note following RCW 41.48.120.

Chapter 41.50

DEPARTMENT OF RETIREMENT SYSTEMS

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41.50.005 Policy and intent. The legislature sets forth as retirement policy and intent:

(1) The retirement systems of the state shall provide similar benefits wherever possible.

(2) Persons hired into eligible positions shall accrue service credit for all service rendered.

(3) The calculation of benefits shall be done in such a manner as to prevent the arithmetic lowering of benefits.

(4) Liberalization of the granting of service credit shall not jeopardize part-time employment of retirees in ineligible positions. [1991 c 343 § 2.]

Findings—1991 c 343: "The legislature finds:

(1) There is a dichotomy in the provision of service credit within the major two retirement systems of the state. Within plan I of the public employees' retirement system, credit is given in whole months upon completing seventy hours per month. Within plan I of the teachers' retirement system, full annual service credit is given for full-time employment of four-fifths or more of a school year and partial annual service credit is given for employment of less than four-fifths of a school year but more than twenty days in a school year. Plan II of both the public employees' and teachers' retirement systems' full monthly service credit is based on completing ninety hours in each month.

(2) There is an expressed interest by public employers in encouraging job-sharing or tandem positions wherein two persons perform one job. This is seen as opening up job opportunities for those persons who have family responsibilities prohibiting full-time employment." [1991 c 343 § 1.]

Effective dates—1991 c 343: "(1) Sections 3 through 11 and 14 through 18 of this act shall take effect September 1, 1991.

(2) The remainder of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 343 § 19.]

41.50.010 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

(1) "Actuarial value" means the present value of a change in actuarial liability;

(2) "Department" means the department of retirement systems; and

(3) "Director" means the director of the department of retirement systems. [1994 c 197 § 30; 1975-'76 2nd ex.s. c 105 § 3.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

41.50.020 Department of retirement systems—Created—Director. There is created a department of state government to be known as the department of retirement systems. The executive and administrative head of the department shall be the director, who shall be appointed by the governor with the consent of the senate. The director shall serve at the pleasure of the governor and may be removed upon written notification by the governor to the respective retirement boards.

The director shall have complete charge of and supervisory powers over the department and shall be paid a salary fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he shall present to that body the name of the person appointed to the position of director. [1975-'76 2nd ex.s. c 105 § 4.]

41.50.030 Transfer of powers, duties, and functions of certain systems, administrators, and committees to department of retirement systems. (1) As soon as possible but not more than one hundred and eighty days after March 19, 1976, there is transferred to the department of retirement systems, except as otherwise provided in this chapter, all powers, duties, and functions of:

- (a) The Washington public employees' retirement system;
- (b) The Washington state teachers' retirement system;
- (c) The Washington law enforcement officers' and fire fighters' retirement system;
- (d) The Washington state patrol retirement system;
- (e) The Washington judicial retirement system; and
- (f) The state treasurer with respect to the administration of the judges' retirement fund imposed pursuant to chapter 2.12 RCW.

(2) On July 1, 1996, there is transferred to the department all powers, duties, and functions of the deferred compensation committee.

(3) The department shall administer chapter 41.34 RCW. [1995 c 239 § 316; 1975-'76 2nd ex.s. c 105 § 5.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.50.040 Manner of selection and terms of transferred board members not affected. This chapter shall not affect the manner for selecting members of the boards affected by RCW 41.50.030, nor shall it affect the terms of any members serving on such boards. [1975-'76 2nd ex.s. c 105 § 6.]

41.50.050 Powers, duties, and functions of director.

The director shall:

(1) Have the authority to organize the department into not more than four divisions, each headed by an assistant director;

(2) Have free access to all files and records of various funds assigned to the department and inspect and audit the files and records as deemed necessary;

(3) Employ personnel to carry out the general administration of the department;

(4) Submit an annual written report of the activities of the department to the governor and the chairs of the appropriate legislative committees with one copy to the staff of each of the committees, including recommendations for statutory changes the director believes to be desirable;

(5) Adopt such rules and regulations as are necessary to carry out the powers, duties, and functions of the department pursuant to the provisions of chapter 34.05 RCW. [1995 c 239 § 317; 1993 c 61 § 1; 1987 c 505 § 24; 1981 c 3 § 33; 1977 ex.s. c 251 § 1; 1975-'76 2nd ex.s. c 105 § 7.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.50.055 Director of retirement systems to administer Washington law enforcement officers' and fire fighters' retirement system—Duties. The administration of the Washington law enforcement officers' and fire fighters' retirement system is hereby vested in the director of retirement systems, and the director shall:

(1) Keep in convenient form such data as shall be deemed necessary for actuarial evaluation purposes;

(2) As of March 1, 1970, and at least every two years thereafter, through the state actuary, make an actuarial valuation as to the mortality and service experience of the beneficiaries under this chapter and the various accounts created for the purpose of showing the financial status of the retirement fund;

(3) Adopt for the Washington law enforcement officers' and fire fighters' retirement system the mortality tables and such other tables as shall be deemed necessary;

(4) Keep a record of all its proceedings, which shall be open to inspection by the public;

(5) From time to time adopt such rules and regulations not inconsistent with chapter 41.26 RCW, for the administration of the provisions of this chapter, for the administration of the fund created by this chapter and the several accounts thereof, and for the transaction of the business of the system;

(6) Prepare and publish annually a financial statement showing the condition of the Washington law enforcement officers' and fire fighters' fund and the various accounts thereof, and setting forth such other facts, recommendations and data as may be of use in the advancement of knowledge concerning the Washington law enforcement officers' and fire fighters' retirement system, and furnish a copy thereof to each employer, and to such members as may request copies thereof;

(7) Perform such other functions as are required for the execution of the provisions of chapter 41.26 RCW;

(8) Fix the amount of interest to be credited at a rate which shall be based upon the net annual earnings of the Washington law enforcement officers' and fire fighters' fund for the preceding twelve-month period and from time to time make any necessary changes in such rate;

(9) Pay from the department of retirement systems expense fund the expenses incurred in administration of the Washington law enforcement officers' and fire fighters' retirement system from those funds appropriated for that purpose;

(10) Perform any other duties prescribed elsewhere in chapter 41.26 RCW;

(11) Issue decisions relating to appeals initiated pursuant to RCW 41.16.145 and 41.18.104 as now or hereafter amended and shall be authorized to order increased benefits pursuant to RCW 41.16.145 and 41.18.104 as now or hereafter amended. [1991 c 35 § 16; 1982 c 163 § 6; 1981 c 3 § 27; 1975-'76 2nd ex.s. c 44 § 3; 1971 ex.s. c 216 § 1; 1969 ex.s. c 209 § 6. Formerly RCW 41.26.060.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Intent of amendment—1981 c 3: See note following RCW 2.10.080.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Severability—1971 ex.s. c 216: "If any provision of this act, or its application to any person or circumstance is held invalid the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 216 § 4.]

41.50.060 Delegation of powers, duties, and functions—Director's responsibilities. The director may delegate the performance of such powers, duties, and functions, other than those relating to rule making, to employees of the department, but the director shall remain and be responsible for the official acts of the employees of the department.

The director shall be responsible for the public employees' retirement system, the teachers' retirement system, the judicial retirement system, the law enforcement officers' and fire fighters' retirement system, and the Washington state patrol retirement system. The director shall also be responsible for the deferred compensation program. [1995 c 239 § 318; 1975-'76 2nd ex.s. c 105 § 8.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.50.065 Accumulated service credit—Annual notification to members. (1) The department shall annually notify each member of each retirement system listed in RCW 41.50.030 of his or her:

(a) Service credit accumulated in the preceding calendar year; and

(b) Total service credit accumulated.

(2) The department shall begin notifying members under this section according to the following schedule:

(a) All members of the teachers' retirement system shall begin receiving annual notification of accumulated service credit and service credit earned within the preceding school

year or one school year, as appropriate, no later than January 1, 1991;

(b) All members, other than members of the teachers' retirement system, shall begin receiving annual notification of service credit accumulated within the preceding calendar year or school year, as appropriate, no later than June 30, 1992;

(c) All members within five years of being eligible for service retirement shall begin receiving annual notification of total service credit accumulated no later than October 1, 1993;

(d) Members, other than members of the teachers' retirement system, who are not within five years of being eligible for service retirement shall begin receiving annual notification of total service credit accumulated according to the following schedule:

(i) For members of the law enforcement officers' and fire fighters' retirement system, Washington state patrol retirement system, judicial retirement system, and judges' retirement system, no later than August 30, 1993;

(ii) For employees of the state of Washington who are members of the public employees' retirement system, no later than August 30, 1994;

(iii) For employees of political subdivisions of the state of Washington, no later than January 31, 1995;

(iv) For employees of institutions of higher education as defined in RCW 28B.10.016, no later than June 30, 1995; and

(v) For school district employees who are members of the public employees' retirement system, no later than April 30, 1996.

(3) The department shall adopt rules implementing this section. [1991 c 282 § 1; 1990 c 8 § 2.]

Findings—1990 c 8: "The legislature recognizes that:

(1) It is important that members of the retirement system are informed about the amount of service credit they have earned. Untimely and inaccurate reporting by employers hampers the department's ability to inform members of the service credit they have earned;

(2) Requiring a transfer of funds from the retirement accounts of members of the public employees' retirement system and the law enforcement officers' and fire fighters' retirement system to the expense funds of those systems does not represent added revenue to the systems but is instead a transfer from the trust fund to the expense fund that causes administrative costs and results in a loss to the system or to the member; and

(3) A standardized time period for school administrator contracts and a prohibition against retroactive revision of those contracts is needed to prevent potential abuses of the average final compensation calculation process." [1990 c 8 § 1.]

41.50.067 Adopted employer rates—Notification to employers. The director shall inform all employers in writing as to the employer rates adopted by the economic and revenue forecast council upon the notification of the council as prescribed in RCW 41.45.060. [1993 c 519 § 21.]

Part headings not law—Effective date—1993 c 519: See notes following RCW 28A.400.212.

41.50.070 Personnel. In addition to the exemptions set forth in RCW 41.06.070, the assistant directors, not to exceed two, and an internal auditor shall also be exempt from the application of the state civil service law, chapter 41.06 RCW.

The officers and exempt personnel appointed by the director pursuant to this section shall be paid salaries fixed

by the governor in accordance with the procedure established by law for fixing salaries for officers exempt from the operation of the state civil service law.

All employees classified under chapter 41.06 RCW and engaged in duties pertaining to the functions transferred by this chapter shall be assigned to the department to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state merit system. [1975-'76 2nd ex.s. c 105 § 9.]

41.50.075 Funds established. (1) Two funds are hereby created and established in the state treasury to be known as the Washington law enforcement officers' and fire fighters' system plan I retirement fund, and the Washington law enforcement officers' and fire fighters' system plan II retirement fund which shall consist of all moneys paid into them in accordance with the provisions of this chapter and chapter 41.26 RCW, whether such moneys take the form of cash, securities, or other assets. The plan I fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and fire fighters' retirement system plan I, and the plan II fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and fire fighters' retirement system plan II.

(2) All of the assets of the Washington state teachers' retirement system shall be credited according to the purposes for which they are held, to two funds to be maintained in the state treasury, namely, the teachers' retirement system plan I fund and the teachers' retirement system combined plan II and III fund. The plan I fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan I, and the combined plan II and III fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan II and III.

(3) There is hereby established in the state treasury two separate funds, namely the public employees' retirement system plan I fund and the public employees' retirement system plan II fund. The plan I fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plan I, and the plan II fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plan II. [1996 c 39 § 16; 1995 c 239 § 312; 1991 c 35 § 108.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Intent—1991 c 35: See note following RCW 41.26.005.

Benefit not contractual right until July 1, 1996: RCW 41.34.100.

41.50.077 State treasurer is custodian of funds. The state treasurer is the custodian of, and accountant for, all funds and holdings of the retirement systems listed in RCW 41.50.030. [1991 c 35 § 109.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.50.080 Investment of funds of various systems.

The state investment board shall provide for the investment of all funds of the Washington public employees' retirement system, the teachers' retirement system, the Washington law enforcement officers' and fire fighters' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, and the judges' retirement fund, pursuant to RCW 43.84.150, and may sell or exchange investments acquired in the exercise of that authority. [1981 c 3 § 34; 1977 ex.s. c 251 § 2; 1975-'76 2nd ex.s. c 105 § 10.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

41.50.085 Investments—Exercise of judgment and care required. Any investments under RCW 43.84.150 shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. [1977 ex.s. c 251 § 7.]

41.50.086 Employee retirement benefits board—Created—Membership. (1) The employee retirement benefits board is created within the department of retirement systems.

(2) The board shall be composed of eight members appointed by the governor and one ex officio member as follows:

(a) Three members representing the public employees' retirement system: One retired, two active. The members shall be appointed from a list of nominations submitted by organizations representing each category. The initial term of appointment shall be two years for the retired member, one year for one active member, and three years for the remaining active member.

(b) Three members representing the teachers' retirement system: One retired, two active. The members shall be appointed from a list of nominations submitted by organizations representing each category. The initial term of appointment shall be one year for the retired member, two years for one active member, and three years for the remaining active member.

(c) Two members with experience in defined contribution plan administration. The initial term for these members shall be two years for one member and three years for the remaining member.

(d) The director of the department shall serve ex officio and shall be the chair of the board.

(3) After the initial appointments, members shall be appointed to three-year terms.

(4) The board shall meet at least quarterly during the calendar year, at the call of the chair.

(5) Members of the board shall serve without compensation but shall receive travel expenses as provided for in RCW 43.03.050 and 43.03.060. Such travel expenses shall be reimbursed by the department from the retirement system expense fund.

(6) The board shall adopt rules governing its procedures and conduct of business.

(7) The actuary shall perform all actuarial services for the board and provide advice and support.

(8) The state investment board shall provide advice and support to the board. [1995 c 239 § 301.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.50.088 Employee retirement benefits board—

Duties. The board shall adopt rules as necessary and exercise all the powers and perform all duties prescribed by law with respect to:

(1) The preselection of options for members to choose from for self-directed investment deemed by the board to be in the best interest of the member. At the board's request, the state investment board may provide investment options for purposes of this subsection;

(2) The selection of optional benefit payment schedules available to members and survivors of members upon the death, disability, retirement, or termination of the member. The optional benefit payments may include but not be limited to: Fixed and participating annuities, joint and survivor annuities, and payments that bridge to social security or defined benefit plan payments;

(3) Approval of actuarially equivalent annuities that may be purchased from the combined plan II and plan III funds under RCW 41.50.075 (2) or (3);

(4) Determination of the basis for administrative charges to the self-directed investment fund to offset self-directed account expenses; and

(5) Selection of investment options for the deferred compensation program. [1995 c 239 § 302.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.50.090 Department succeeds to and vested with transferred powers, duties, and functions—Boards to be kept informed—Approval of rules—Disability benefit applications.

(1) Except as otherwise provided in this section, on the effective date of transfer as provided in RCW 41.50.030, the department shall succeed to and is vested with all powers, duties, and functions now or by any concurrent act of this 1976 legislature vested in the individual retirement boards set forth in RCW 41.50.030 relating to the administration of their various retirement systems, including but not limited to the power to appoint a staff and define the duties thereof: PROVIDED, That actuarial services required by the department shall be performed by the state actuary as provided in RCW 44.44.040.

(2) The department shall keep each retirement board fully informed on the administration of the corresponding retirement system, and shall furnish any information requested by a retirement board.

(3) Rules proposed by the director under RCW 2.10.070, 41.50.055, 41.32.025, or 41.40.020 shall be submitted to the appropriate retirement boards for review prior to adoption.

After receiving approval of the members of the appropriate board, such rules shall become effective as provided by the administrative procedure act, chapter 34.05 RCW.

(4) Each retirement board shall continue to perform all functions as are vested in it by law with respect to applications for benefits paid upon either temporary or permanent disability, with such staff assistance from the department as may be required. The director shall perform those functions with respect to disability benefits as are vested in him or her by RCW 41.26.120, 41.26.125, and 41.26.200. [1985 c 102 § 6; 1983 c 3 § 97; 1981 c 294 § 8; 1975-'76 2nd ex.s. c 105 § 11.]

Purpose—Retrospective application—1985 c 102: See notes following RCW 41.26.120.

Severability—1981 c 294: See note following RCW 41.26.115.

41.50.100 Proposed legislation. All proposed legislation to be submitted by a retirement board as a departmental request shall be first submitted to the director for evaluation. The director shall obtain an initial actuarial estimate of the costs on each system of the changes contained in the proposed legislation as if the legislation were applicable to each system. The results of such estimate shall be then transmitted to the retirement board which has requested the proposed legislation. The board may modify its legislative proposal into final form for introduction as a bill on the basis of the estimate. The final form of the legislative proposal shall be returned to the director who shall obtain a final actuarial estimate of the costs applied in the same manner as the initial estimate. On or before September 1, the director shall transmit the final legislative proposal together with the actuarial estimates to the governor for consideration in his budget requests and to the chairmen of the ways and means committees of the legislature. [1975-'76 2nd ex.s. c 105 § 12.]

Actuarial fiscal note to be prepared on proposed pension bills: RCW 44.44.040.

41.50.110 Expenses of administration paid from department of retirement systems expense fund—

Administrative expense fee. (1) Except as provided by RCW 41.50.255 and subsection (6) of this section, all expenses of the administration of the department and the expenses of administration of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, and 43.43 RCW shall be paid from the department of retirement systems expense fund.

(2) In order to reimburse the department of retirement systems expense fund on an equitable basis the department shall ascertain and report to each employer, as defined in RCW 41.26.030, 41.32.010, or 41.40.010, the sum necessary to defray its proportional share of the entire expense of the administration of the retirement system that the employer participates in during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(3) The department shall compute and bill each employer, as defined in RCW 41.26.030, 41.32.010, or 41.40.010, at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each employer shall be made on a percentage rate of salary established by the department. However, the department may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter.

(4) The director may adjust the expense fund contribution rate for each system at any time when necessary to reflect unanticipated costs or savings in administering the department.

(5) An employer who fails to submit timely and accurate reports to the department may be assessed an additional fee related to the increased costs incurred by the department in processing the deficient reports. Fees paid under this subsection shall be deposited in the retirement system expense fund.

(a) Every six months the department shall determine the amount of an employer's fee by reviewing the timeliness and accuracy of the reports submitted by the employer in the preceding six months. If those reports were not both timely and accurate the department may prospectively assess an additional fee under this subsection.

(b) An additional fee assessed by the department under this subsection shall not exceed fifty percent of the standard fee.

(c) The department shall adopt rules implementing this section.

(6) Expenses other than those under RCW 41.34.060(2) shall be paid pursuant to subsection (1) of this section. [1996 c 39 § 17; 1995 c 239 § 313; 1990 c 8 § 3; 1979 ex.s. c 249 § 8.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Findings—1990 c 8: See note following RCW 41.50.065.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.50.120 Payment of moneys due department by employers—Interest. Notwithstanding any provision of law to the contrary, all employers of members of retirement systems administered by the department shall transmit by a warrant or check to the department within fifteen days following the end of each calendar month the moneys due the department as determined by the statutes governing each system together with such reports as the department may require. The director may collect interest on any employer's overdue payments at the rate of one percent per month on the outstanding balance where necessary to secure adherence to timeliness requirements. [1979 ex.s. c 249 § 9.]

41.50.125 Interest on contributions—Department may charge. The department may charge interest, as determined by the director, on member or employer contributions owing to any of the retirement systems listed in RCW 41.50.030. The department's authority to charge

interest shall extend to all optional and mandatory billings for contributions where member or employer contributions are paid other than immediately after service is rendered. Except as explicitly limited by statute, the director may delay the imposition of interest charges on late contributions under this section if the delay is necessary to implement required changes in the department's accounting and information systems. [1994 c 177 § 2.]

Findings—1994 c 177: "The legislature finds that:

(1) Whenever employer or member contributions are not made at the time service is rendered, the state retirement system trust funds lose investment income which is a major source of pension funding. The department of retirement systems has broad authority to charge interest to compensate for the loss to the trust funds, subject only to explicit statutory provisions to the contrary.

(2) The inherent authority of the department to recover all overpayments and unauthorized payments from the retirement trust funds, for the benefit of members and taxpayers, should be established clearly in statute." [1994 c 177 § 1.]

41.50.130 Correction of retirement systems' records—Adjustment in payment of benefits—Limitations.

(1) The director may at any time correct errors appearing in the records of the retirement systems listed in RCW 41.50.030. Should any error in such records result in any member, beneficiary, or other person or entity receiving more or less than he or she would have been entitled to had the records been correct, the director, subject to the conditions set forth in this section, shall adjust the payment in such a manner that the benefit to which such member, beneficiary, or other person or entity was correctly entitled shall be paid in accordance with the following:

(a) In the case of underpayments to a member or beneficiary, the retirement system shall correct all future payments from the point of error detection, and shall compute the additional payment due for the allowable prior period which shall be paid in a lump sum by the appropriate retirement system.

(b) In the case of overpayments to a member or beneficiary, the retirement system shall adjust the payment in such a manner that the benefit to which such member or beneficiary was correctly entitled shall be reduced by an amount equal to the actuarial equivalent of the amount of overpayment. Alternatively the member shall have the option of repaying the overpayment in a lump sum within ninety days of notification and receive the proper benefit in the future. In the case of overpayments to a member, beneficiary, or other person or entity resulting from actual fraud on the part of the member, beneficiary, or other person or entity, the benefits shall be adjusted to reflect the full amount of such overpayment, plus interest at the rate of one percent per month on the outstanding balance.

(c) In the case of overpayments to a person or entity other than a member or beneficiary, the overpayment shall constitute a debt from the person or entity to the department, recovery of which shall not be barred by laches or statute of limitations.

(2) Except in the case of actual fraud, in the case of overpayments to a member or beneficiary, the benefits shall be adjusted to reflect only the amount of overpayments made within three years of discovery of the error, notwithstanding any provision to the contrary in chapter 4.16 RCW.

(3)(a) The employer shall elicit on a written form from all new employees as to their having been retired from a retirement system listed in RCW 41.50.030.

(b) In the case of overpayments which result from the failure of an employer to report properly to the department the employment of a retiree from information received in subparagraph (a), the employer shall, upon receipt of a billing from the department, pay into the appropriate retirement system the amount of the overpayment plus interest as determined by the director. However, except in the case of actual employer fraud, the overpayments charged to the employer under this subsection shall not exceed five thousand dollars for each year of overpayments received by a retiree. The retiree's benefits upon rereirement shall not be reduced because of such overpayment except as necessary to recapture contributions required for periods of employment.

(c) The provision of this subsection regarding the reduction of retirees' benefits shall apply to recovery actions commenced on or after January 1, 1986, even though the overpayments resulting from retiree employment were discovered by the department prior to that date. The provisions of this subsection regarding the billing of employers for overpayments shall apply to overpayments made after January 1, 1986.

(4) Except in the case of actual fraud, no monthly benefit shall be reduced by more than fifty percent of the member's or beneficiary's corrected benefit. Any overpayment not recovered due to the inability to actuarially reduce a member's benefit due to: (a) The provisions of this subsection; or (b) the fact that the retiree's monthly retirement allowance is less than the monthly payment required to effectuate an actuarial reduction, shall constitute a claim against the estate of a member, beneficiary, or other person or entity in receipt of an overpayment.

(5) Except as provided in subsection (2) of this section, obligations of employers or members until paid to the department shall constitute a debt from the employer or member to the department, recovery of which shall not be barred by laches or statutes of limitation. [1994 c 177 § 3; 1987 c 490 § 1; 1982 c 13 § 1.]

Findings—1994 c 177: See note following RCW 41.50.125.

41.50.131 Correction of errors in reporting compensation earnable. (1) Notwithstanding RCW 41.50.130, the department is not required to correct, nor to cause any employer to correct the reporting error described in subsection (2) of this section.

(2) Standby pay and other similar forms of compensation that are not pay for time worked were not salary or wages for personal services within the meaning of RCW 41.40.010(8). Contrary to RCW 41.40.010(8), some employers have been reporting standby pay to the department as compensation earnable. To avoid unduly impacting the retirement allowances of persons who have retired on or before June 9, 1994, the department is not required to correct, nor cause to be corrected, any misreporting of amounts identified as standby pay through June 9, 1994. Any erroneous reporting of amounts identified as standby pay to the department on or after June 9, 1994, shall be corrected as an error under RCW 41.50.130.

(3) The forgiveness of past misreporting under subsection (2) of this section constitutes a benefit enhancement for those individuals for whom amounts received as standby pay were misreported to the department. Prior to June 9, 1994, no retirement system member had any right, contractual or otherwise, to have amounts identified as standby pay included as compensation earnable. [1994 c 177 § 9.]

Findings—1994 c 177: See note following RCW 41.50.125.

41.50.132 Correction of erroneous deduction or pick-up of contributions. (1) By December 31, 1992, the department of retirement systems shall implement and complete the following process for those members of the law enforcement officers' and fire fighters' retirement system plan II, public employees' retirement system plans I and II, and teachers' retirement system plan II who erroneously had contributions either deducted or picked-up from their earnings on and after January 1, 1987:

(a) Create a list of transactions by employer for those members whose employer either deducted or picked-up employee contributions during a month where an employee did not work sufficient hours to earn service credit;

(b) Provide the affected employers with direction and guidance for the review of the transmitted lists from this subsection and the employers' preparation of any necessary correcting transactions to the department's records;

(c) Receive all correcting transactions submitted by the employer.

(2) All debits and credits to all member accounts affected by this remedial process shall be reconciled by the department.

(3) All moneys payable to an affected member, or any moneys to be further deducted or picked-up from such member's earnings, shall be determined and accomplished solely by the employer.

(4) After December 31, 1992, no credit of employer contributions shall be made.

(5) Return of contributions to an employee by the department is limited solely to when such member retires or otherwise terminates his or her membership and chooses to withdraw them with any accumulated interest.

(6) Employer contributions forfeited under this section shall be transferred to the department of retirement systems expense account. [1991 c 343 § 13.]

Findings—Effective dates—1991 c 343: See notes following RCW 41.50.005.

41.50.133 Recovery of certain overpayments to surviving beneficiaries under the teachers' retirement system. (1) The director of the department of retirement systems shall not recover from surviving beneficiaries of members who died in service any pension overpayment based on the application of section 2, chapter 96, Laws of 1979 ex. sess., nor shall such benefits be reduced.

(2) The director of the department of retirement systems shall not recover from retirees any pension overpayments made between July 1, 1990, and February 1, 1992, based upon the application of *RCW 41.40.198, 41.40.1981, 41.40.325, 41.32.485, 41.32.487, or 41.32.575 due to the incorrect calculation of the "age sixty-five allowance" as this

term is defined in *RCW 41.32.575(1)(a) and 41.40.325(1)(a). [1992 c 212 § 21; 1987 c 490 § 2.]

*Reviser's note: RCW 41.40.198, 41.40.1981, 41.40.325, 41.32.487, and 41.32.575 were repealed by 1995 c 345 § 11.

41.50.135 Collection of overpayments—Determination of liability—Administrative process created. (1) If the department finds that any member, beneficiary, or other person or entity has been paid an amount of retirement benefits to which that person or entity is not entitled, and the person is not entitled to a continuing benefit from any of the retirement systems listed in RCW 41.50.030, the department may issue an order and notice of assessment specifying the amount due, including interest, to be remitted to the department. The order and notice of assessment shall be served upon any person or entity who may have received benefits to which the person or entity is not entitled. The order and notice of assessment shall be served by the department in the manner prescribed for the service of a summons in a civil action, or by certified mail to the last known address of the obligor as shown by the records of the department.

(2) Any notice of assessment under subsection (1) of this section shall constitute a determination of liability from which the member, beneficiary, or other person or entity served may appeal by filing a petition for adjudicative proceedings with the director personally or by mail within sixty days from the date the assessment was served. If a petition for adjudicative proceedings is not filed within sixty days of the delivery of the notice of assessment, the determination that was the basis for establishing the overpayment debt and the assessment is conclusive and final.

(3) This section creates an administrative process for the collection of overpayments from persons who are not entitled to a continuing benefit from one of the retirement systems listed in RCW 41.50.030. The collection of overpayments from persons entitled to a continuing benefit from one of the retirement systems listed in RCW 41.50.030 is governed by RCW 41.50.130. [1996 c 56 § 1.]

41.50.136 Collection of overpayments—Issuance of warrant—Lien. Whenever a notice of determination of liability becomes conclusive and final under RCW 41.50.135, the director, upon giving at least twenty days notice by certified mail return receipt requested to the individual's last known address of the intended action, may file with the superior court clerk of any county within the state a warrant in the amount of the notice of determination of liability plus a filing fee of five dollars payable under RCW 36.18.016. The clerk of the county where the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the person mentioned in the warrant, the amount of the notice of determination of liability, and the date when the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to, and any interest in, all real and personal property of the person against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. A copy of the warrant shall be mailed to the

person mentioned in the warrant by certified mail to the person's last known address within five days of its filing with the clerk. [1996 c 56 § 2.]

41.50.137 Collection of overpayments—Department may issue subpoenas. The department may issue subpoenas to compel the statement of witnesses and the production of any books, records, or documents necessary or relevant to the department's administration of duties under this chapter. It is unlawful for any person or entity, without just cause, to fail to comply with any subpoena issued under this section. [1996 c 56 § 3.]

41.50.138 Collection of overpayments—Waiver of overpayment. (1) The director may waive repayment of all or part of a retirement allowance overpayment, under RCW 41.50.130 only, if:

(a) The overpayment was not the result of the retiree's or the beneficiary's nondisclosure, fraud, misrepresentation, or other fault; and

(b) The director finds in his or her sole discretion that recovery of the overpayment would be a manifest injustice.

(2) The director may not waive an overpayment if the member, retiree, or beneficiary:

(a) Provided incorrect information to the department or the employer which caused the overpayment;

(b) Failed to provide information to the department or the employer which was necessary to correctly calculate the retirement allowance;

(c) Caused the employer to provide incorrect information or fail to provide necessary information; or

(d) Knew or reasonably should have known that he or she was in receipt of an overpayment.

(3) If the director waives an overpayment and the overpayment occurred because the member's or retiree's employer:

(a) Provided incorrect information to the department which caused the overpayment;

(b) Failed to provide information to the department which was necessary to correctly calculate the retirement allowance;

(c) Caused another party to provide incorrect information or fail to provide necessary information; or

(d) Knew or reasonably should have known that the information provided would cause the retiree or beneficiary to be overpaid;

then the department shall bill the member's or retiree's employer for the amount of the overpayment that would have been recoverable under RCW 41.50.130 had the overpayment not been waived pursuant to this section.

(4) Nothing in this section authorizes the director to waive the prospective correction of an overstated retirement allowance.

(5) If the director waives an overpayment he or she must state in writing:

(a) The nature of and reason for the overpayment;

(b) The reason for the waiver; and

(c) The amount of the overpayment that is waived.

The department will maintain a file containing documentation of all overpayments waived. The department will provide the file to any person upon request.

(6) This section applies to overpayments identified on or after September 1, 1994. [1996 c 56 § 4.]

41.50.140 Cooperation of employers in administration of systems—Employer contributions for retroactive service credit—Employee contributions paid by employer.

(1) Every employer participating in one or more of the retirement systems listed in RCW 41.50.030 shall fully cooperate in the administration of the systems in which its employees participate, including the distribution of information to employees, and shall accept and carry out all other duties as required by law, regulation, or administrative instruction.

(2) If an employee is entitled to retroactive service credit which was not previously established through no fault of the employee, or through an employer error which has caused a member's compensation or contributions to be understated or overstated so as to cause a loss to the retirement funds, the director may bill the employer for the loss, to include interest, if applicable. The employer contributions, with interest thereon, will be treated as if in fact the interest was part of the normal employer contribution and no distribution of interest received shall be required.

(3) Employer-paid employee contributions will not be credited to a member's account until the employer notifies the director in writing that the employer has been reimbursed by the employee or beneficiary for the payment. The employer shall have the right to collect from the employee the amount of the employee's obligation. Failure on the part of the employer to collect all or any part of the sums which may be due from the employee or beneficiary shall in no way cause the employer obligation for the total liability to be lessened. [1982 1st ex.s. c 52 § 33.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

41.50.150 Retirement benefits based on excess compensation—Employer liable for extra retirement costs.

(1) The employer of any employee whose retirement benefits are based in part on excess compensation, as defined in this section, shall, upon receipt of a billing from the department, pay into the appropriate retirement system the present value at the time of the employee's retirement of the total estimated cost of all present and future benefits from the retirement system attributable to the excess compensation. The state actuary shall determine the estimated cost using the same method and procedure as is used in preparing fiscal note costs for the legislature. However, the director may in the director's discretion decline to bill the employer if the amount due is less than fifty dollars. Accounts unsettled within thirty days of the receipt of the billing shall be assessed an interest penalty of one percent of the amount due for each month or fraction thereof beyond the original thirty-day period.

(2) "Excess compensation," as used in this section, includes any payment that was used in the calculation of the employee's retirement allowance, except regular salary and overtime compensated at up to twice the regular rate of pay. Excess compensation includes but is not limited to:

(a) A cash out of unused annual leave in excess of two hundred forty hours of such leave. "Cash out" for purposes

of this subsection means any payment in lieu of an accrual of annual leave or any payment added to salary or wages, concurrent with a reduction of annual leave;

(b) A cash out of any other form of leave;

(c) A payment for, or in lieu of, any personal expense or transportation allowance;

(d) The portion of any payment, including overtime payments, that exceeds twice the regular rate of pay; and

(e) Any other termination or severance payment.

(3) This section applies to the retirement systems listed in RCW 41.50.030 and to retirements occurring on or after March 15, 1984. Nothing in this section is intended to amend or determine the meaning of any definition in chapter 2.10, 2.12, 41.26, 41.32, 41.40, or 43.43 RCW or to determine in any manner what payments are includable in the calculation of a retirement allowance under such chapters.

(4) An employer is not relieved of liability under this section because of the death of any person either before or after the billing from the department. [1995 c 244 § 1; 1984 c 184 § 1.]

Intent—Application—1995 c 244 § 1: "The definition of "cash out" added to RCW 41.50.150(2)(a) by this act is a clarification of the legislature's original intent regarding the meaning of the term. The definition of "cash out" applies retroactively to payments made before July 23, 1995." [1995 c 244 § 2.]

Severability—1984 c 184: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 184 § 31.]

41.50.152 Payment of excess compensation—Public notice requirements.

(1) Except as limited by subsection (3) of this section, the governing body of an employer under chapter 41.32 or 41.40 RCW shall comply with the provisions of subsection (2) of this section prior to executing a contract or collective bargaining agreement with members under chapter 41.32 or 41.40 RCW which provides for:

(a) A cash out of unused annual leave in excess of two hundred forty hours of such leave. "Cash out" for purposes of this subsection means any payment in lieu of an accrual of annual leave or any payment added to regular salary, concurrent with a reduction of annual leave;

(b) A cash out of any other form of leave;

(c) A payment for, or in lieu of, any personal expense or transportation allowance;

(d) The portion of any payment, including overtime payments, that exceeds twice the regular rate of pay; or

(e) Any other termination or severance payment.

(2) Any governing body entering into a contract that includes a compensation provision listed in subsection (1) of this section shall do so only after public notice in compliance with the open public meetings act, chapter 42.30 RCW. This notification requirement may be accomplished as part of the approval process for adopting a contract in whole, and does not require separate or additional open public meetings. At the public meeting, full disclosure shall be made of the nature of the proposed compensation provision, and the employer's estimate of the excess compensation billings under RCW 41.50.150 that the employing entity would have to pay as a result of the proposed compensation provision. The employer shall notify the department of its compliance with this section at the time the department bills the employer under *RCW 41.40.150 for the pension impact of com-

pensation provisions listed in subsection (1) of this section that are adopted after July 23, 1995.

(3) The requirements of subsection (2) of this section shall not apply to the adoption of a compensation provision listed in subsection (1) of this section if the compensation would not be includable in calculating benefits under chapter 41.32 or 41.40 RCW for the employees covered by the compensation provision. [1995 c 387 § 1.]

***Reviser's note:** The reference to RCW 41.40.150 appears to be erroneous. The section governing the subject of billing an employer for excess compensation is RCW 41.50.150.

41.50.155 Erroneous withdrawals of contributions—

Restoration. (1) If a person receives a withdrawal of accumulated contributions from any of the retirement systems listed in RCW 41.50.030 in contravention of the restrictions on withdrawal for the particular system, the member shall no longer be entitled to credit for the period of service represented by the withdrawn contributions. The erroneous withdrawal shall be treated as an authorized withdrawal, subject to all conditions imposed by the member's system for restoration of withdrawn contributions. Failure to restore the contributions within the time permitted by the system shall constitute a waiver by the member of any right to receive a retirement allowance based upon the period of service represented by the withdrawn contributions.

(2) All erroneous withdrawals occurring prior to June 9, 1994, shall be subject to the provisions of this section. The deadline for restoring the prior erroneous withdrawals shall be five years from June 9, 1994, for members who are currently active members of a system. [1994 c 177 § 4.]

Findings—1994 c 177: See note following RCW 41.50.125.

41.50.160 Restoration of withdrawn contributions.

The department of retirement systems shall incorporate the development of individual member accounts receivable into its information systems projects for fiscal years 1993 and 1994, so that by January 1, 1994, members of state retirement systems who are otherwise eligible to restore previously withdrawn contributions have the option to make restoration in a manner determined by the department. [1994 c 197 § 31; 1992 c 195 § 2.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

41.50.165 Establishing, restoring service credit—

Conditions. (1) Except for those affected by subsection (4) of this section, a member of a retirement system specified by RCW 41.50.030 or, one previously established by the state but closed to new membership, may, as provided in each retirement system:

(a) Establish allowable membership service not previously credited;

(b) Restore all or a part of that previously credited membership service represented by withdrawn contributions; or

(c) Restore service credit represented by a lump sum payment in lieu of benefits.

(2) Persons who previously have failed to:

(a) Establish service credit for service previously earned; or

(b) Reestablish service credit by the restoration of withdrawn contributions or repayment of a lump sum payment in lieu of a benefit, may now establish or reestablish such service credit by paying the actuarial value of the resulting increase in their benefit in a manner defined by the department.

(3) Any establishment of service credit for service previously rendered, restoration of service credit destroyed, or repayment of a lump sum received in lieu of benefit must be completed prior to retirement.

(4) Service credit is established for or restored to the period in which the service credit is earned. [1994 c 197 § 2.]

Intent—1994 c 197: "(1) This act removes the time limitations within the state's retirement systems for:

(a) The restoration of service credit represented by employee contributions withdrawn by a member of a state's retirement systems; or

(b) The crediting of certain service that, under the provisions of the system, was not creditable at the time it was performed, such as a probationary period or interrupted military service.

(2) This act expands the current procedures for establishing service credit previously earned, restoring withdrawn contributions, or repaying lump sums received in lieu of a benefit. In so doing, it allows the member of one of the state's retirement systems to obtain additional service credit by paying the value of this added benefit that was previously unavailable." [1994 c 197 § 1.]

Severability—1994 c 197: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 197 § 37.]

Effective date—1994 c 197: "This act shall take effect January 1, 1995." [1994 c 197 § 38.]

41.50.170 Notification of restoration rights. Upon termination for reasons other than retirement, the department shall inform a member withdrawing his or her contributions, and the member shall acknowledge in writing, of the right to restore such contributions upon reestablishment of membership in the respective retirement system and the requirements involved in such restoration. [1994 c 197 § 3.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

41.50.175 Adoption of rules. The department shall adopt rules under chapter 34.05 RCW implementing and administering chapter 197, Laws of 1994. These rules are to include, but are not limited to:

(1) The application and calculation of actuarial value, with the agreement of the state actuary; and

(2) Establishing the minimum partial payment or the minimum units of restored service, or both. [1994 c 197 § 4.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

41.50.200 Subdivision of retirement system funds.

In the records of the teachers' retirement system the teachers' retirement system plan I fund shall be subdivided into the member reserve, the pension reserve, and other funds as may from time to time be created by the director for the purpose of the internal accounting record. The director may adopt rules creating or deleting funds as he or she deems necessary. [1992 c 212 § 2; 1991 c 35 § 32; 1989 c 273 § 16; 1982 1st ex.s. c 52 § 7; 1969 ex.s. c 150

§ 1; 1963 ex.s. c 14 § 2; 1955 c 274 § 2; 1947 c 80 § 3; Rem. Supp. 1947 § 4995-28. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; 1923 c 187 § 5, part; Rem. Supp. 1941 § 4995-3, part. Formerly RCW 41.32.030.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1989 c 273: See RCW 41.45.900.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Effective date—1969 ex.s. c 150: "The provisions of sections 1 through 20 of this 1969 amendatory act shall take effect on July 1, 1969." [1969 ex.s. c 150 § 21.]

41.50.205 Records—Teachers' retirement system annual report. The department shall keep a record of all its proceedings, which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the Washington state teachers' retirement system for the preceding school year; the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system. [1991 c 35 § 33; 1969 ex.s. c 150 § 4; 1947 c 80 § 12; Rem. Supp. 1947 § 4995-31. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; Rem. Supp. 1941 § 4995-3, part. Formerly RCW 41.32.120.]

Intent—1991 c 35: See note following RCW 41.26.005.

Effective date—1969 ex.s. c 150: See note following RCW 41.50.200.

41.50.210 Medical director. The director shall designate a medical director. If required, other physicians may be employed to report on special cases. The medical director shall arrange for and pass upon all medical examinations required under the provisions of chapter 41.32 RCW, investigate all essential statements and certificates by or on behalf of a member in connection with an application for a disability allowance, and report in writing to the board of trustees the conclusions and recommendations upon all matters under referral. [1992 c 72 § 10; 1991 c 35 § 34; 1947 c 80 § 13; Rem. Supp. 1947 § 4995-32. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; Rem. Supp. 1941 § 4995-3, part. Formerly RCW 41.32.130.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.50.215 Teacher's retirement system funds—Annual interest to be credited. From interest and other earnings on the moneys of the Washington state teachers' retirement system, and except as otherwise provided in *RCW 41.32.499, at the close of each fiscal year the department shall make an allowance of regular interest on the balance which was on hand at the beginning of the fiscal year in each of the teachers' retirement system funds as they may deem advisable; however, no interest shall be credited to the expense fund. [1992 c 212 § 6; 1991 c 35 § 36; 1973 1st ex.s. c 189 § 7; 1955 c 274 § 5; 1947 c 80 § 19; Rem. Supp. 1947 § 4995-38. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part. Formerly RCW 41.32.190.]

*Reviser's note: RCW 41.32.499 was repealed by 1995 c 345 § 11.

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1973 1st ex.s. c 189: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 189 § 12.]

41.50.220 Trustees, employees not to guarantee loans. No trustee or employee of the department shall become an endorser or surety or an obligor for moneys loaned by the department. [1991 c 35 § 37; 1947 c 80 § 23; Rem. Supp. 1947 § 4995-42. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part. Formerly RCW 41.32.230.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.50.230 Employer reports to department. On or before a date specified by the department in each month every employer shall file a report with the department on a form provided, stating the name of the employer and with respect to each employee who is a member or who is required to become a member of the Washington state teachers' retirement system: (1) The full name, (2) the earnable compensation paid, (3) the employee's contribution to the retirement system, and (4) other information as the department shall require. [1991 c 35 § 51; 1983 c 56 § 14; 1975-'76 2nd ex.s. c 16 § 1. Prior: 1975 1st ex.s. c 275 § 150; 1975 c 43 § 32; 1969 ex.s. c 176 § 96; 1967 c 50 § 4; 1963 ex.s. c 14 § 13; 1947 c 80 § 42; Rem. Supp. 1947 § 4995-61. Formerly RCW 41.32.420.]

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1983 c 56: See note following RCW 28A.195.010.

Effective date—Severability—1975 c 43: See notes following RCW 28A.315.230.

Effective date—1969 ex.s. c 176: See note following RCW 41.32.010.

Effective date—Severability—1967 c 50: See notes following RCW 41.32.010.

Savings—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

41.50.235 Teachers' retirement system salary deductions. Every officer authorized to issue salary warrants to teachers shall deduct from the salary payments to any member of the Washington state teachers' retirement system plan I regularly employed an amount which will result in total deductions of six percent of the amount of earnable compensation paid in any fiscal year. These deductions shall be transmitted and reported to the retirement system as directed by the department. [1991 c 35 § 52; 1967 c 50 § 5; 1963 ex.s. c 14 § 14; 1955 c 274 § 20; 1947 c 80 § 43; Rem. Supp. 1947 § 4995-62. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; Rem. Supp. 1941 § 4995-6, part. Formerly RCW 41.32.430.]

Intent—1991 c 35: See note following RCW 41.26.005.

Effective date—Severability—1967 c 50: See notes following RCW 41.32.010.

Savings—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

41.50.240 Duties of payroll officer. The person responsible for making up the payroll shall transmit promptly to the department at the end of each and every payroll period a copy of the original payroll voucher or such other payroll

report as the department may require showing thereon all deductions for contributions for the teachers' retirement system made from the earnable compensation of a member of the teachers' retirement system together with warrants or checks covering the total of such deductions. The department shall place such moneys into the proper funds established in this chapter. [1977 ex.s. c 293 § 17. Formerly RCW 41.32.830.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.755.

41.50.255 Payment of legal and medical expenses of retirement systems. The director is authorized to pay from the interest earnings of the trust funds of the public employees' retirement system, the teachers' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, the judges' retirement system, or the law enforcement officers' and fire fighters' retirement system lawful obligations of the appropriate system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the appropriate trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings.

The director may also pay from the interest earnings of the trust funds specified in this section costs incurred in investigating fraud and collecting overpayments, including expenses incurred to review and investigate cases of possible fraud against the trust funds and collection agency fees and other costs incurred in recovering overpayments. Recovered funds must be returned to the appropriate trust funds. [1995 c 281 § 1; 1993 sp.s. c 24 § 916; 1991 c 35 § 73; 1984 c 184 § 7. Formerly RCW 41.40.083.]

Effective date—1995 c 281: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 281 § 2.]

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

Intent—1991 c 35: See note following RCW 41.26.005.

Severability—1984 c 184: See note following RCW 41.50.150.

41.50.260 Public employees' retirement system funds created. For the purpose of the internal accounting record of the public employees' retirement system and not the segregation of moneys on deposit with the state treasurer there are hereby created the employees' savings fund, the benefit account fund, and such other funds as the director may from time to time create.

(1) The employees' savings fund shall be the fund in which shall be accumulated the contributions from the compensation of public employees' retirement system

members. The director shall provide for the maintenance of an individual account for each member of the public employees' retirement system showing the amount of the member's contributions together with interest accumulations thereon. The contributions of a member returned to the former employee upon the individual's withdrawal from service, or paid in event of the employee's or former employee's death, as provided in chapter 41.40 RCW, shall be paid from the employees' savings fund. The accumulated contributions of a member, upon the commencement of the individual's retirement, shall be transferred from the employees' savings fund to the benefit account fund.

(2) The benefit account fund shall be the fund in which shall be accumulated the reserves for the payment of all public employees' retirement system retirement allowances and death benefits, if any, in respect of any beneficiary. The amounts contributed by all public employees' retirement system employers to provide pension benefits shall be credited to the benefit account fund. The benefit account fund shall be the fund from which shall be paid all public employees' retirement system retirement allowances, or benefits in lieu thereof because of which reserves have been transferred from the employees' savings fund to the benefit account fund. At the time a recipient of a retirement allowance again becomes a member of the public employees' retirement system, the department shall transfer from the benefit account fund to the employees' savings fund and credit to the individual account of such a member a sum equal to the excess, if any, of the individual's account at the date of the member's retirement over any service retirement allowance received since that date. [1992 c 212 § 11; 1991 c 35 § 74; 1982 1st ex.s. c 52 § 18; 1973 1st ex.s. c 190 § 4; 1972 ex.s. c 151 § 2; 1967 c 127 § 2; 1963 c 174 § 7; 1953 c 200 § 4; 1949 c 240 § 6; 1947 c 274 § 11; Rem. Supp. 1949 § 11072-11. Formerly RCW 41.40.100.]

Intent—1991 c 35: See note following RCW 41.26.005.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Severability—1973 1st ex.s. c 190: See note following RCW 41.40.010.

41.50.265 Public employees' retirement system funds—Report of the state treasurer—Members may receive reports and statements. The state treasurer shall furnish annually to the department a statement of the amount of the funds in the treasurer's custody belonging to the public employees' retirement system. Copies of this annual report shall be available to public employees' retirement system members upon request. The records of the department shall be open to public inspection. Any member of the public employees' retirement system shall be furnished with a statement of the amount to the credit of his or her individual account in the employees' savings fund upon his or her written request, provided that the department shall not be required to answer more than one such request of any member in any one year. [1991 c 35 § 75; 1947 c 274 § 12; Rem. Supp. 1947 § 11072-12. Formerly RCW 41.40.110.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.50.270 Transmittal of total of public employees' retirement system members' deductions. The person

responsible for making up the payroll shall transmit promptly to the department at the end of each and every payroll period a copy of the original payroll voucher or any other payroll report as the department may require showing thereon all deductions for the public employees' retirement system made from the compensation earnable of each member, together with warrants or checks covering the total of the deductions. The department after making a record of all receipts shall pay them to the state treasurer for use according to the provisions of chapter 41.40 RCW. [1991 c 35 § 90; 1977 ex.s. c 295 § 19; 1947 c 274 § 36; Rem. Supp. 1947 § 11072-36. Formerly RCW 41.40.350.]

Intent—1991 c 35: See note following RCW 41.26.005.

41.50.500 Mandatory assignment of retirement benefits—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.50.500 through 41.50.650, 41.50.670 through 41.50.720, and 26.09.138.

(1) "Benefits" means periodic retirement payments or a withdrawal of accumulated contributions.

(2) "Disposable benefits" means that part of the benefits of an individual remaining after the deduction from those benefits of any amount required by law to be withheld. The term "required by law to be withheld" does not include any deduction elective to the member.

(3) "Dissolution order" means any judgment, decree, or order of spousal maintenance, property division, or court-approved property settlement incident to a decree of divorce, dissolution, invalidity, or legal separation issued by the superior court of the state of Washington or a judgment, decree, or other order of spousal support issued by a court of competent jurisdiction in another state or country, that has been registered or otherwise made enforceable in this state.

(4) "Mandatory benefits assignment order" means an order issued to the department of retirement systems pursuant to RCW 41.50.570 to withhold and deliver benefits payable to an obligor under chapter 2.10, 2.12, 41.26, 41.32, 41.40, or 43.43 RCW.

(5) "Obligee" means an ex spouse or spouse to whom a duty of spousal maintenance or property division obligation is owed.

(6) "Obligor" means the spouse or ex spouse owing a duty of spousal maintenance or a property division obligation.

(7) "Periodic retirement payments" means periodic payments of retirement allowances, including but not limited to service retirement allowances, disability retirement allowances, and survivors' allowances. The term does not include a withdrawal of accumulated contributions.

(8) "Property division obligation" means any outstanding court-ordered property division or court-approved property settlement obligation incident to a decree of divorce, dissolution, or legal separation.

(9) "Standard allowance" means a benefit payment option selected under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a), 41.40.188(1)(a), or 41.40.660(1), that ceases upon the death of the retiree. Standard allowance also means the benefit allowance provided under RCW 2.10.110, 2.10.130, 43.43.260, 41.26.100, 41.26.130(1)(a), or chapter 2.12 RCW. Standard allowance also means the maximum

retirement allowance available under RCW 41.32.530(1) following member withdrawal of accumulated contributions, if any.

(10) "Withdrawal of accumulated contributions" means a lump sum payment to a retirement system member of all or a part of the member's accumulated contributions, including accrued interest, at the request of the member including any lump sum amount paid upon the death of the member. [1991 c 365 § 1; 1987 c 326 § 1.]

Severability—1991 c 365: "If any provision of this act or its application to any person or circumstances is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 365 § 37.]

41.50.510 Mandatory assignment of retirement benefits—Remedies—Applicability. (1) The remedies provided in RCW 41.50.530 through 41.50.650 and 26.09.138 are in addition to, and not in substitution for, any other remedies provided by law to enforce a dissolution order against an obligor.

(2) The remedies provided in RCW 41.50.530 through 41.50.630 shall be the exclusive remedies enforceable against the department of retirement systems or the retirement systems listed in RCW 41.50.030 to recover spousal maintenance pursuant to a dissolution, divorce, or legal separation order.

(3) RCW 41.50.530 through 41.50.650 and 26.09.138 apply to all dissolution orders incident to a decree of divorce, dissolution, or legal separation whether entered before or after July 1, 1987. [1991 c 365 § 2; 1987 c 326 § 2.]

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

41.50.520 Mandatory assignment of retirement benefits—Other remedies not limited. Nothing in RCW 41.50.500 through 41.50.650 limits the use of any and all civil and criminal remedies against an obligor to enforce the obligations of a dissolution order. [1987 c 326 § 3.]

41.50.530 Mandatory assignment of retirement benefits—Proceeding to enforce spousal maintenance—Venue—Jurisdiction. (1) A proceeding to enforce a duty of spousal maintenance through a mandatory benefits assignment order may be commenced by an obligee:

(a) By filing a petition for an original action; or

(b) By motion in an existing action or under an existing cause number.

(2) Venue for the action is in the superior court of the county of the state of Washington where the obligee resides or is present, where the obligor resides, or where the prior dissolution order was entered.

(3) The court retains continuing jurisdiction under RCW 41.50.500 through 41.50.650 and 26.09.138 until the obligor has satisfied all duties of spousal maintenance, including arrearages, to the obligee. [1991 c 365 § 3; 1987 c 326 § 4.]

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

41.50.540 Mandatory assignment of retirement benefits—Notice to obligor. (1) Every court order or decree establishing a spousal maintenance obligation may

state that if any such payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order without prior notice to the obligor. Failure to include this provision does not affect the validity of the dissolution order.

(2) If the dissolution order under which the obligor owes the duty of spousal maintenance is not in compliance with subsection (1) of this section or if the obligee cannot show that the obligor has approved or received a copy of the court order or decree that complies with subsection (1) of this section, then notice shall be provided to the obligor at least fifteen days before the obligee seeks a mandatory benefits assignment order. The notice shall state that, if a spousal maintenance payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order without further notice to the obligor. Service of the notice shall be by personal service, or by any form of mail requiring a return receipt. The notice requirement under this subsection is not jurisdictional. [1991 c 365 § 4; 1987 c 326 § 5.]

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

41.50.550 Mandatory assignment of retirement benefits—Withdrawal of accumulated contributions—Notice to obligee—Payment to obligee. (1) An obligee who wishes to be notified by the department of retirement systems if the obligor seeks a withdrawal of accumulated contributions shall submit such a request to the department in writing on a form supplied by the department. The request shall be filed by certified or registered mail and shall include the obligee's address and a copy of the dissolution order requiring the spousal maintenance owed.

(2) The department shall thereafter promptly send notice to the obligee at the address provided in subsection (1) of this section when the obligor applies for a withdrawal of accumulated contributions. The department shall not process the obligor's request for a withdrawal of accumulated contributions sooner than seventy-five days after sending the notice to the obligee.

(3) The department shall pay directly to an obligee who has not obtained a mandatory benefits assignment order all or part of the accumulated contributions if the dissolution order filed with the department pursuant to subsection (1) of this section includes a provision that states:

"At such time as (the obligor) requests a withdrawal of accumulated contributions as defined in RCW 41.50.500, the department of retirement systems shall pay to (the obligee) dollars from such accumulated contributions or . . . percentage of such accumulated contributions (whichever is provided by the court)." [1991 c 365 § 5; 1987 c 326 § 6.]

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

41.50.560 Mandatory assignment of retirement benefits—Petition for order. (1) A petition or motion

seeking a mandatory benefits assignment order in an action under RCW 41.50.530 may be filed by an obligee if the obligor is more than fifteen days past due in spousal maintenance payments and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems. The petition or motion shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the mandatory benefits assignment order, including:

(a) That the obligor, stating his or her name, residence, and social security number, (i) is more than fifteen days past due in spousal maintenance payments and that the total of such past due payments is equal to or greater than one hundred dollars, or (ii) has requested a withdrawal of accumulated contributions from the department of retirement systems;

(b) A description of the terms of the dissolution order requiring payment of spousal maintenance and the amount, if any, past due;

(c) The name of the public retirement system or systems from which the obligor is currently receiving periodic retirement benefits or from which the obligor has requested a withdrawal of accumulated contributions; and

(d) That notice has been provided to the obligor as required by RCW 41.50.540.

(2) If the court in which a mandatory benefits assignment order is sought does not already have a copy of the dissolution order in the court file, then the obligee shall attach a copy of the dissolution order to the petition or motion seeking the mandatory benefits assignment order. [1991 c 365 § 6; 1987 c 326 § 7.]

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

41.50.570 Mandatory assignment of retirement benefits—Issuance of order. Upon receipt of a petition or motion seeking a mandatory benefits assignment order that complies with RCW 41.50.560, the court shall issue a mandatory benefits assignment order as provided in RCW 41.50.590, including the information required in RCW 41.50.580 (1)(a) or (2)(a), directed to the department of retirement systems, and commanding the department to answer the order on the forms served with the order that comply with RCW 41.50.610 within twenty days after service of the order upon the department. [1987 c 326 § 8.]

41.50.580 Mandatory assignment of retirement benefits—Order—Contents. (1)(a) The mandatory benefits assignment order issued pursuant to RCW 41.50.570 and directed at periodic retirement benefits shall include:

(i) The maximum amount of current spousal maintenance to be withheld from the obligor's periodic retirement benefits each month;

(ii) The total amount of the arrearage judgments previously entered by the court, if any, together with interest, if any; and

(iii) The maximum amount to be withheld from the obligor's periodic retirement payments each month to satisfy the arrearage judgments specified in (a)(ii) of this subsection.

(b) The total amount to be withheld from the obligor's periodic retirement payments each month pursuant to a

mandatory benefits assignment order shall not exceed fifty percent of the disposable benefits of the obligor. If the amounts to be paid toward the arrearage are specified in the assignment order, then the maximum amount to be withheld is the sum of the current maintenance ordered and the amount ordered to be paid toward the arrearage, or fifty percent of the disposable benefits of the obligor, whichever is less.

(c) Fifty percent of the disposable benefits of the obligor are exempt from collection under the assignment order, and may be disbursed by the department to the obligor. The provisions of RCW 6.27.150 do not apply to mandatory benefits assignment orders under this chapter.

(2)(a) A mandatory benefits assignment order issued pursuant to RCW 41.50.570 and directed at a withdrawal of accumulated contributions shall include:

(i) The maximum amount of current spousal maintenance to be withheld from the obligor's accumulated contributions;

(ii) The total amount of the arrearage judgments for spousal maintenance payments entered by the court, if any, together with interest, if any; and

(iii) The amount to be withheld from the obligor's withdrawal of accumulated contributions to satisfy the current maintenance obligation and the arrearage judgments specified in (a) (i) and (ii) of this subsection;

(b) The total amount to be withheld from the obligor's withdrawal of accumulated contributions may be up to one hundred percent of the disposable benefits of the obligor.

(3) If an obligor is subject to two or more mandatory benefits assignment orders on account of different obligees and if the nonexempt portion of the obligor's benefits is not sufficient to respond fully to all the mandatory benefits assignment orders, the department shall apportion the obligor's nonexempt disposable benefits among the various obligees in proportionate shares to the extent permitted by federal law. Any obligee may seek a court order directing the department to reapportion the obligor's nonexempt disposable earnings upon notice to all interested obligees. The order must specifically supersede the terms of previous mandatory benefits assignment orders the terms of which it alters. Notice shall be by personal service, or in a manner provided by the civil rules of superior court or applicable statute. [1991 c 365 § 7; 1987 c 326 § 9.]

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

41.50.590 Mandatory assignment of retirement benefits—Order—Form. The mandatory benefits assignment order shall be in the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF

..... ,
Obligee
vs.

No.

..... ,
Obligor

**MANDATORY
BENEFITS ASSIGNMENT
ORDER**

..... ,
The Department of Retirement Systems
of the State of Washington

THE STATE OF WASHINGTON TO: The Department of Retirement Systems

AND TO:
Obligor

The above-named obligee claims that the above-named obligor is more than fifteen days past due in spousal maintenance payments and that the total amount of such past due payments is equal to or greater than one hundred dollars or that the obligor has requested a withdrawal of accumulated contributions from the department of retirement systems. The amount of the accrued past due spousal maintenance debt as of this date is dollars. If the obligor is receiving periodic retirement payments from the department, the amount to be withheld from the obligor's benefits to satisfy such accrued spousal maintenance is dollars per month and the amount to be withheld from the obligor's benefits to satisfy current and continuing spousal maintenance is per month. Upon satisfaction of the accrued past due spousal maintenance debt, the department shall withhold only dollars, the amount necessary to satisfy current and continuing spousal maintenance from the obligor's benefits. If the obligor has requested a withdrawal of accumulated contributions from the department, the amount to be withheld from the obligor's benefits to satisfy such accrued spousal maintenance is dollars.

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service of this benefits assignment order upon you.

(1) If you are currently paying periodic retirement payments to the obligor, then you shall do as follows:

(a) Withhold from the obligor's retirement payments each month the lesser of:

(i) The sum of the specified arrearage payment amount plus the specified current spousal maintenance amount; or
(ii) Fifty percent of the disposable benefits of the obligor.

(b) The total amount withheld above is subject to the mandatory benefits assignment order, and all other sums may be disbursed to the obligor.

You shall continue to withhold the ordered amounts from nonexempt benefits of the obligor until notified by a court order that the mandatory benefits assignment order has been modified or terminated. You shall promptly notify the court if and when the obligor is no longer receiving periodic

retirement payments from the department of retirement systems.

You shall deliver the withheld benefits to the clerk of the court that issued this mandatory benefits assignment order each month, but the first delivery shall occur no sooner than twenty days after your receipt of this mandatory benefits assignment order.

(2) If you are not currently paying periodic retirement payments to the obligor but the obligor has requested a withdrawal of accumulated contributions, then you shall do as follows:

(a) Withhold from the obligor's benefits the sum of the specified arrearage payment amount plus the specified interest amount, up to one hundred percent of the disposable benefits of the obligor.

(b) The total amount withheld above is subject to the mandatory benefits assignment order, and all other sums may be disbursed to the obligor.

You shall mail a copy of this order and a copy of your answer to the obligor at the mailing address in the department's files as soon as is reasonably possible. This mandatory benefits assignment order has priority over any assignment or order of execution, garnishment, attachment, levy, or similar legal process authorized by Washington law, except for a wage assignment order for child support under chapter 26.18 RCW or order to withhold or deliver under chapter 74.20A RCW.

NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS MANDATORY BENEFITS ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE MANDATORY BENEFITS ASSIGNMENT ORDER.

DATED THIS day of, 19. . .

.....
Obligee,
or obligee's attorney

.....
Judge/Court Commissioner

[1991 c 365 § 8; 1987 c 326 § 10.]

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

41.50.600 Mandatory assignment of retirement benefits—Duties of department. (1) The director or the director's designee shall answer an order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor receives periodic payments from the department of retirement systems, whether the obligor has requested a withdrawal of accumulated contributions from the department, whether the department will honor the mandatory benefits assignment order and if not, the reasons why, and whether there are other current court or administrative orders on file with the department directing the department to withhold all or a portion of the obligor's benefits.

(2)(a) If any periodic retirement payments are currently payable to the obligor, the funds subject to the mandatory benefits assignment order shall be withheld from the next periodic retirement payment due twenty days or more after receipt of the mandatory benefits assignment order. The withheld amount shall be delivered to the clerk of the court that issued the mandatory benefits assignment order each

month, but the first delivery shall occur no sooner than twenty days after receipt of the mandatory benefits assignment order.

(b) The department shall continue to withhold the ordered amount from nonexempt benefits of the obligor until notified by the court that the mandatory benefits assignment order has been modified or terminated. If the department is initially unable to comply, or able to comply only partially, with the withholding obligation, the court's order shall be interpreted to require the department to comply to the greatest extent possible at the earliest possible date. The department shall notify the court of changes in withholding amounts and the reason for the change. When the obligor is no longer eligible to receive funds from one or more public retirement systems the department shall promptly notify the court.

(3)(a) If no periodic retirement payments are currently payable to the obligor but the obligor has requested a withdrawal of accumulated contributions, the funds subject to the mandatory benefits assignment order shall be withheld from the withdrawal payment. The withheld amount shall be delivered to the clerk of the court that issued the mandatory benefits assignment order.

(b) If the department is unable to comply fully with the withholding obligation, the court's order shall be interpreted to require the department to comply to the greatest extent possible.

(4) The department may deduct a processing fee from the remainder of the obligor's funds after withholding under the mandatory benefits assignment order, unless the remainder is exempt under RCW 41.50.580. The processing fee may not exceed (a) twenty-five dollars for the first disbursement made by the department to the superior court clerk; and (b) six dollars for each subsequent disbursement to the clerk. Funds collected pursuant to this subsection shall be deposited in the department of retirement systems expense fund.

(5) A court order for spousal maintenance governed by RCW 41.50.500 through 41.50.650 or 26.09.138 shall have priority over any other assignment or order of execution, garnishment, attachment, levy, or similar legal process authorized under Washington law, except for a mandatory wage assignment for child support under chapter 26.18 RCW, or an order to withhold and deliver under chapter 74.20A RCW.

(6) If the department, without good cause, fails to withhold funds as required by a mandatory benefits assignment order issued under RCW 41.50.570, the department may be held liable to the obligee for any amounts wrongfully disbursed to the obligor in violation of the mandatory benefits assignment order. However, the department shall under no circumstances be held liable for failing to withhold funds from a withdrawal of accumulated contributions unless the mandatory benefits assignment order was properly served on the department at least thirty days before the department made the withdrawal payment to the obligor. If the department is held liable to an obligee for failing to withhold funds as required by a mandatory benefits assignment order, the department may recover such amounts paid to an obligee by thereafter either withholding such amounts from the available nonexempt benefits of the obligor or filing a legal action against the obligor.

(7) If the department complies with a court order pursuant to RCW 41.50.500 through 41.50.650, neither the department, its officers, its employees, nor any of the retirement systems listed in RCW 41.50.030 may be liable to the obligor or an obligee for wrongful withholding.

(8) The department may combine amounts withheld from various obligors into a single payment to the superior court clerk, if the payment includes a listing of the amounts attributable to each obligor and other information as required by the clerk.

(9) The department shall mail to the obligor at the obligor's last known mailing address appearing in the department's files copies of the mandatory benefits assignment order and the department's answer within twenty days after receiving the mandatory benefits assignment order.

(10) The department shall not consider any withholding allowance that is elective to the employee to be a mandatory deduction for purposes of calculating the member's disposable benefits subject to a mandatory benefits assignment order. The department shall withhold elective withholdings as elected by the employee after deducting from the benefit the amount owing to an obligee pursuant to a mandatory benefits assignment order. [1991 c 365 § 9; 1987 c 326 § 11.]

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

41.50.610 Mandatory assignment of retirement benefits—Order—Answer—Form. The answer of the department shall be made on forms, served on the director with the mandatory benefits assignment order, substantially as follows:

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON IN AND FOR THE
COUNTY OF

..... No.

Obligee
vs.

.....
Obligor
.....
ANSWER TO
MANDATORY BENEFITS
ASSIGNMENT ORDER

Department of Retirement Systems of
the State of Washington

1. At the time of the service of the mandatory benefits assignment order on the department, was the above-named obligor receiving periodic retirement payments from the department of retirement systems?

Yes No (check one).

2. At the time of the service of the mandatory benefits assignment order on the department, had the above-named obligor requested a withdrawal of accumulated contributions from the department?

Yes No (check one).

3. Are there any other court or administrative orders on file with the department currently in effect directing the department to withhold all or a portion of the obligor's benefits?

Yes No (check one).

4. If the answer to question one or two is yes and the department cannot comply fully with the mandatory benefits assignment order, provide an explanation.

I declare under the laws of the state of Washington that the foregoing is true and correct to the best of my knowledge.

.....
Signature of director Date and place

or

.....
Signature of person Place
answering for director

.....
Connection with director

[1987 c 326 § 12.]

41.50.620 Mandatory assignment of retirement benefits—Order—Service. (1) Service of the mandatory benefits assignment order on the department is invalid unless it is served with four answer forms in conformance with RCW 41.50.610, together with stamped envelopes addressed to, respectively, the clerk of the court where the order was issued, the obligee's attorney or the obligee, and the obligor at the last mailing address known to the obligee. The obligee shall also include an extra copy of the mandatory benefits assignment order for the department to mail to the obligor. Service on the department shall be in person or by any form of mail requiring a return receipt.

(2) On or before the date of service of the mandatory benefits assignment order on the department, the obligee shall mail or cause to be mailed by certified or registered mail a copy of the mandatory benefits assignment order to the obligor at the obligor's last mailing address known to the obligee; or, in the alternative, a copy of the mandatory benefits assignment order shall be served on the obligor in the same manner as a summons in a civil action on, before, or within two days after the date of service of the order on the department. This requirement is not jurisdictional, but if the copy is not mailed or served as this subsection requires, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion, may quash the mandatory benefits assignment order, upon motion of the obligor promptly made and supported by an affidavit showing that the obligor has been prejudiced due to the failure to mail or serve the copy. [1991 c 365 § 10; 1987 c 326 § 13.]

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

41.50.630 Mandatory assignment of retirement benefits—Hearing to quash, modify, or terminate order. In a hearing to quash, modify, or terminate the mandatory benefits assignment order, the court may grant relief only upon a showing that the mandatory benefits assignment order causes extreme hardship or substantial injustice. Satisfaction by the obligor of all past due payments subsequent to the issuance of the mandatory benefits assignment order is not grounds to quash, modify, or terminate the mandatory benefits assignment order. If a mandatory benefits assignment order has been in operation for twelve consecutive months and the obligor's spousal maintenance is current, the court may terminate the order upon motion of the obligor unless the obligee can show good cause as to why the man-

datory benefits assignment order should remain in effect. [1991 c 365 § 11; 1987 c 326 § 14.]

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

41.50.640 Mandatory assignment of retirement benefits—Award of costs to prevailing party. In any action to enforce a dissolution order by means of a mandatory benefits assignment order pursuant to RCW 41.50.530 through 41.50.630 and 26.09.138, the court may award costs to the prevailing party, including an award for reasonable attorneys' fees consistent with RCW 26.09.140. An obligor shall not be considered a prevailing party under this section unless the obligee has acted in bad faith in connection with the proceeding in question. This section does not authorize an award of attorneys' fees against the department of retirement systems or any of the retirement systems listed in RCW 41.50.030. [1987 c 326 § 15.]

41.50.650 Payments pursuant to court orders entered under prior law. (1) Notwithstanding RCW 2.10.180(1), 2.12.090(1), *41.26.180(1), 41.32.052(1), 41.40.052(1), and 43.43.310(1) as those sections existed between July 1, 1987, and July 28, 1991, the department of retirement systems shall make direct payments of benefits to a spouse or ex spouse pursuant to court orders or decrees entered before July 1, 1987, that complied with all the requirements in RCW 2.10.180(1), 2.12.090(2), *41.26.180(3), 41.32.052(3), 41.40.052(3), 43.43.310(2), and 41.04.310 through 41.04.330, as such requirements existed before July 1, 1987. The department shall be responsible for making direct payments only if the decree or court order expressly orders the department to make direct payments to the spouse or ex spouse and specifies a sum certain or percentage amount of the benefit payments to be made to the spouse or ex spouse.

(2) The department of retirement systems shall notify a spouse or ex spouse who, pursuant to a mandatory benefits assignment order entered between July 1, 1987, and July 28, 1991, is receiving benefits in satisfaction of a court-ordered property division, that he or she is entitled to receive direct payments of a court-ordered property division pursuant to RCW 41.50.670 if the dissolution order fully complies or is modified to fully comply with the requirements of RCW 41.50.670 through 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, *41.26.180, 41.32.052, 41.40.052, 43.43.310, and 26.09.138. The department shall send notice in writing as soon as reasonably feasible but no later than ninety days after July 28, 1991. The department shall also send notice to the obligor member spouse. [1991 c 365 § 12; 1987 c 326 § 16.]

***Reviser's note:** RCW 41.26.180 was recodified as RCW 41.26.053 pursuant to 1994 c 298 § 5.

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

41.50.660 Mandatory assignment of retirement benefits—Rules. The director shall adopt such rules under RCW 41.50.050 as the director may find necessary to carry out the purposes of RCW 41.50.500 through 41.50.650 and to avoid conflicts with any applicable federal or state laws. [1987 c 326 § 27.]

41.50.670 Property division obligations—Direct payments pursuant to court order. (1) Nothing in this chapter regarding mandatory assignment of benefits to enforce a spousal maintenance obligation shall abridge the right of an obligee to direct payments of retirement benefits to satisfy a property division obligation ordered pursuant to a court decree of dissolution or legal separation or any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation as provided in RCW 2.10.180, 2.12.090, 41.04.310, 41.04.320, 41.04.330, 41.26.053, 41.32.052, 41.34.070(3), 41.40.052, 43.43.310, or 26.09.138, as those statutes existed before July 1, 1987, and as those statutes exist on and after July 28, 1991. The department shall pay benefits under this chapter in a lump sum or as a portion of periodic retirement payments as expressly provided by the dissolution order. A dissolution order may not order the department to pay a periodic retirement payment or lump sum unless that payment is specifically authorized under the provisions of chapter 2.10, 2.12, 41.26, 41.32, 41.34, 41.40, or 43.43 RCW, as applicable.

(2) The department shall pay directly to an obligee the amount of periodic retirement payments or lump sum payment, as appropriate, specified in the dissolution order if the dissolution order filed with the department pursuant to subsection (1) of this section includes a provision that states in the following form:

If (the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to (the obligee) dollars from such payments or . . . percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

If (the obligor) requests or has requested a withdrawal of accumulated contributions as defined in RCW 41.50.500, or becomes eligible for a lump sum death benefit, the department of retirement systems shall pay to (the obligee) dollars plus interest at the rate paid by the department of retirement systems on member contributions. Such interest to accrue from the date of this order's entry with the court of record.

(3) This section does not require a member to select a standard allowance upon retirement nor does it require the department to recalculate the amount of a retiree's periodic retirement payment based on a change in survivor option.

(4) A court order under this section may not order the department to pay more than seventy-five percent of an obligor's periodic retirement payment to an obligee.

(5) Persons whose court decrees were entered between July 1, 1987, and July 28, 1991, shall also be entitled to receive direct payments of retirement benefits to satisfy court-ordered property divisions if the dissolution orders comply or are modified to comply with this section and RCW 41.50.680 through 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, 41.26.053, 41.32.052, 41.34.070, 41.40.052, 43.43.310, and 26.09.138.

(6) The obligee must file a copy of the dissolution order with the department within ninety days of that order's entry with the court of record.

(7) A division of benefits pursuant to a dissolution order under this section shall be based upon the obligor's gross benefit prior to any deductions. If the department is required to withhold a portion of the member's benefit pursuant to 26 U.S.C. Sec. 3402 and the sum of that amount plus the amount owed to the obligee exceeds the total benefit, the department shall satisfy the withholding requirements under 26 U.S.C. Sec. 3402 and then pay the remainder to the obligee. The provisions of this subsection do not apply to amounts withheld pursuant to 26 U.S.C. Sec. 3402(i). [1996 c 39 § 18; 1991 c 365 § 13.]

Effective dates—1996 c 39: See note following RCW 41.32.010.

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

41.50.680 Property division obligations—Processing fee. The department may deduct a processing fee for administering direct payments under RCW 41.50.670 according to the dissolution order. The fee may not exceed (1) seventy-five dollars or the actual average administrative costs, whichever is less, for the first disbursement made by the department; and (2) six dollars or the actual average administrative costs, whichever is less for subsequent disbursements. The department shall deduct the fee in equal dollar amounts from the obligee's and obligor's payments. The funds collected pursuant to this section shall be deposited in the department of retirement systems expense account. [1991 c 365 § 14.]

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

41.50.690 Property division obligations—Obligee entitled to statement of obligor's retirement benefits—When. Unless otherwise prohibited by federal law, following both the initial and final postretirement audit of an obligor's retirement benefit, the department shall provide an obligee entitled to direct payment of retirement benefits pursuant to a dissolution order under RCW 41.50.670 with a statement of monthly retirement benefit allowance to be paid to the obligor, and other retirement benefit information available to the obligor including the average final compensation, total years of service, retirement date, the amount of the employee contributions made prior to implementation of employer pickup under RCW 41.04.445 and 41.04.450, and savings and interest. [1991 c 365 § 15.]

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

41.50.700 Property division obligations—Cessation upon death of obligee or obligor—Payment treated as deduction from member's periodic retirement payment. (1) The department's obligation to provide direct payment of a property division obligation to an obligee under RCW 41.50.670 shall cease upon the death of the obligee or upon the death of the obligor, whichever comes first. However, if an obligor dies and is eligible for a lump sum death benefit, the department shall be obligated to provide direct payment to the obligee of all or a portion of the withdrawal of accumulated contributions pursuant to a court order that complies with RCW 41.50.670.

(2) The direct payment of a property division obligation to an obligee under RCW 41.50.670 shall be paid as a deduction from the member's periodic retirement payment. An obligee may not direct the department to withhold any funds from such payment. [1991 c 365 § 16.]

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

41.50.710 Property division obligations—Remedies exclusive—Payment pursuant to court order defense against claims. (1) The remedies provided in RCW 41.50.670 through 41.50.720 are the exclusive remedies enforceable against the department or the retirement systems listed in RCW 41.50.030 for the direct payment of retirement benefits to satisfy a property division obligation pursuant to a dissolution order. The department shall not be required to make payments to an obligee of benefits accruing prior to (a) thirty calendar days following service of the dissolution order on the department; or (b) benefit payments restrained under RCW 41.50.720.

(2) Whenever the department of retirement systems makes direct payments of property division to a spouse or ex spouse under RCW 41.50.670 to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation, it shall be a sufficient answer to any claim of a beneficiary against the department for the department to show that the payments were made pursuant to court decree. [1991 c 365 § 17.]

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

41.50.720 Payment of benefits—Restraining orders. A party to a dissolution proceeding may file a motion with the court requesting the court to enter an order restraining the department from paying any benefits to a member until further order of the court. The department shall not initiate payment of benefits to a member from the time a restraining order is served on the department until the court enters a further order disposing of the benefits. [1991 c 365 § 25.]

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

41.50.730 Retirement or termination agreement payments—Effect on pension benefits calculation. Any payment made by an employer to a member of any retirement system enumerated in RCW 41.50.030 based on either an agreement of the employee to terminate or retire; or notification of the employer of intent to retire; shall affect retirement as follows:

(1) If the agreement does not require the employee to perform additional service, the payment shall not be used in any way to calculate the pension benefit.

(2) If the agreement requires additional service and results in payment at the same or a lower rate than that paid for the same or similar service by other employees it may be included in the pension benefit calculation but shall be deemed excess compensation and is billable to the employer as provided in RCW 41.50.150.

(3) If the agreement requires additional service and results in payment at a rate higher than that paid for the same or similar service by other employees, that portion of the payment which equals the payment for the same or

similar service shall be treated as described in subsection (2) of this section, and the balance of the payment shall be treated as described in subsection (1) of this section. [1993 c 270 § 1.]

41.50.740 Retirement or termination agreement payments—Opportunity to change payment options. Members of the teachers' retirement system who retired prior to January 1, 1993, from service with a community college district whose reported earnable compensation included payments made pursuant to an agreement to terminate or retire, or to provide notice of intent to retire, and whose retirement allowance has been reduced under RCW 41.50.150 or is reduced after July 25, 1993, under RCW 41.50.730, shall have an opportunity to change the retirement allowance payment option selected by the member under RCW 41.32.530. Any request for a change shall be made in writing to the department no later than October 31, 1993, and shall apply prospectively only. [1993 c 270 § 2.]

41.50.750 Retirement or termination agreement payments—Overpayments not required to be repaid. (1) Retirees whose reported earnable compensation included payments made pursuant to an agreement to terminate or retire, or to provide notice of intent to retire, shall not be required to repay to the trust funds any overpayments resulting from the employer misreporting, subject to the conditions provided in subsection (2) of this section. The retirees' allowances shall be prospectively adjusted to reflect the benefits to which the retirees are correctly entitled.

(2) Subsection (1) of this section shall apply only to members of the teachers' retirement system who retired prior to January 1, 1993, from service with a community college district.

(3) Any retirees under subsection (2) of this section who, since January 1, 1990, have had their retirement allowances reduced under RCW 41.50.130(1)(b) because of the inclusion of retirement agreement payments in calculating their allowances, shall have their allowances adjusted to reflect the benefits to which the retirees are correctly entitled, but without a reduction to recoup prior overpayments. The retirees shall be reimbursed by the retirement system for the cumulative amount of the reduction in the retirement allowance that has occurred since January 1, 1990, to recoup prior overpayments.

(4) Any retirees covered by subsection (2) of this section who, after January 1, 1990, repaid a previous overpayment in a lump sum under RCW 41.50.130(1)(b) because of the inclusion of retirement agreement payments in calculating their allowances, shall be reimbursed by the retirement system for the amount of the lump sum repayment. [1993 c 270 § 3.]

41.50.760 Cost-of-living adjustments—Alternative calculation—Election. The department of retirement systems may continue to pay cost-of-living adjustments consistent with the provisions of the statutes repealed by section 11, chapter 345, Laws of 1995, in lieu of the benefits provided by RCW 41.32.489, 41.32.4872, 41.40.197, and 41.40.1986, if the department determines that: (1) A member earned service credit under chapter 41.40 or 41.32

RCW on or after May 8, 1989; and (2) a retiree would receive greater increases in the next ten years under the statutes repealed by section 11, chapter 345, Laws of 1995 than under the provisions of RCW 41.32.489, 41.32.4872, 41.40.197, and 41.40.1986; and (3) the retiree does not elect the benefits provided by chapter 345, Laws of 1995 over the benefits provided under the statutes repealed by section 11, chapter 345, Laws of 1995. The election must be made in a manner prescribed by the department. [1995 c 345 § 13.]

Intent—Effective date—1995 c 345: See notes following RCW 41.32.489.

41.50.770 Deferred compensation plans. (1) "Employee" as used in this section and RCW 41.50.780 includes all full-time, part-time, and career seasonal employees of the state, a county, a municipality, or other political subdivision of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of the government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and of the superior and district courts; and members of the state legislature or of the legislative authority of any county, city, or town.

(2) The state, through the department, and any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body is authorized to contract with an employee to defer a portion of that employee's income, which deferred portion shall in no event exceed the amount allowable under 26 U.S.C. Sec. 457, and deposit or invest such deferred portion in a credit union, savings and loan association, bank, or mutual savings bank or purchase life insurance, shares of an investment company, or fixed and/or variable annuity contracts from any insurance company or any investment company licensed to contract business in this state.

(3) The department can provide such plans as the employee retirement benefits board, established under RCW 41.50.086, deems are in the interests of state employees. In addition to the types of investments described in this section, the department may invest the deferred portion of an employee's income, without limitation as to amount, in any of the class of investments described in RCW 43.84.150 as in effect on January 1, 1981. Any income deferred under such a plan shall continue to be included as regular compensation, for the purpose of computing the state or local retirement and pension benefits earned by any employee.

(4) Coverage of an employee under a deferred compensation plan under this section shall not render such employee ineligible for simultaneous membership and participation in any pension system for public employees. [1995 c 239 § 314.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.50.780 Deferred compensation principal account—Created—Participation in deferred compensation plans. (1) The deferred compensation principal account is hereby created in the state treasury. Any deficiency in the deferred compensation administrative account caused by an

excess of administrative expenses disbursed from that account over earnings of investments of balances credited to that account shall be eliminated by transferring moneys to that account from the deferred compensation principal account.

(2) The amount of compensation deferred by employees under agreements entered into under the authority contained in RCW 41.50.770 shall be paid into the deferred compensation principal account and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by the department. The deferred compensation principal account shall be used to carry out the purposes of RCW 41.50.770. All eligible state employees shall be given the opportunity to participate in agreements entered into by the department under RCW 41.50.770. State agencies shall cooperate with the department in providing employees with the opportunity to participate.

(3) Any county, municipality, or other subdivision of the state may elect to participate in any agreements entered into by the department under RCW 41.50.770, including the making of payments therefrom to the employees participating in a deferred compensation plan upon their separation from state or other qualifying service. Accordingly, the deferred compensation principal account shall be considered to be a public pension or retirement fund within the meaning of Article XXIX, section 1 of the state Constitution, for the purpose of determining eligible investments and deposits of the moneys therein.

(4) All moneys in the deferred compensation principal account, all property and rights purchased therewith, and all income attributable thereto, shall remain (until made available to the participating employee or other beneficiary) solely the money, property, and rights of the state and participating counties, municipalities, and subdivisions (without being restricted to the provision of benefits under the plan) subject only to the claims of the state's and participating jurisdictions' general creditors. Participating jurisdictions shall each retain property rights separately.

(5) The state investment board, at the request of the employee retirement benefits board as established under RCW 41.50.086, is authorized to invest moneys in the deferred compensation principal account in accordance with RCW 43.84.150. Except as provided in RCW 43.33A.160, one hundred percent of all earnings from these investments shall accrue directly to the deferred compensation principal account.

(6) The deferred compensation administrative account is hereby created in the state treasury. All expenses of the department pertaining to the deferred compensation plan including staffing and administrative expenses shall be paid out of the deferred compensation administrative account. Any excess of earnings of investments of balances credited to this account over administrative expenses disbursed from this account shall be transferred to the deferred compensation principal account. Any deficiency in the deferred compensation administrative account caused by an excess of administrative expenses disbursed from this account over earnings of investments of balances credited to this account shall be transferred to this account from the deferred compensation principal account.

(7) In addition to the duties specified in this section and RCW 41.50.770, the department shall administer the salary

reduction plan established in RCW 41.04.600 through 41.04.645.

(8) The department shall keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of any deferred compensation plans created under RCW 41.50.770 and this section.

(9) The department shall file an annual report of the financial condition, transactions, and affairs of the deferred compensation plans under its jurisdiction. A copy of the annual report shall be filed with the speaker of the house of representatives, the president of the senate, the governor, and the state auditor.

(10) Members of the employee retirement benefits board established under RCW 41.50.086 shall be deemed to stand in a fiduciary relationship to the employees participating in the deferred compensation plans created under RCW 41.50.770 and this section and shall discharge the duties of their respective positions in good faith and with that diligence, care, and skill which ordinary prudent persons would exercise under similar circumstances in like positions.

(11) The department may adopt rules necessary to carry out the purposes of RCW 41.50.770 and this section. [1995 c 239 § 315.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.50.790 Survivor benefits—Dissolution orders.

(1) The department shall designate an obligee as a survivor beneficiary of a member under RCW 2.10.146, 41.26.460, 41.32.530, 41.32.785, 41.40.188, or 41.40.660 if the department has been served by registered or certified mail with a dissolution order as defined in RCW 41.50.500 at least thirty days prior to the member's retirement. The department's duty to comply with the dissolution order arises only if the order contains a provision that states in substantially the following form:

When (the obligor) applies for retirement the department shall designate (the obligee) as survivor beneficiary with a survivor benefit.

The survivor benefit designated in the dissolution order must be consistent with the survivor benefit options authorized by statute or administrative rule.

(2) The obligee's entitlement to a survivor benefit pursuant to a dissolution order filed with the department in compliance with subsection (1) of this section shall cease upon the death of the obligee.

(3)(a) A subsequent dissolution order may order the department to divide a survivor benefit between a survivor beneficiary and an alternate payee. In order to divide a survivor benefit between more than one payee, the dissolution order must:

(i) Be ordered by a court of competent jurisdiction following notice to the survivor beneficiary;

(ii) Contain a provision that complies with subsection (1) of this section designating the survivor beneficiary;

(iii) Contain a provision clearly identifying the alternate payee or payees; and

(iv) Specify the proportional division of the benefit between the survivor beneficiary and the alternate payee or payees.

(b) The department will calculate actuarial adjustment for the court-ordered survivor benefit based upon the life of the survivor beneficiary.

(c) If the survivor beneficiary dies, the department shall terminate the benefit. If the alternate payee predeceases the survivor beneficiary, all entitlement of the alternate payee to a benefit ceases and the entire benefit will revert to the survivor beneficiary.

(d) For purposes of this section, "survivor beneficiary" means:

(i) The obligee designated in the provision of dissolution filed in compliance with subsection (1) of this section; or

(ii) In the event of more than one dissolution order, the obligee named in the first decree of dissolution received by the department.

(e) For purposes of this section, "alternate payee" means a person, other than the survivor beneficiary, who is granted a percentage of a survivor benefit pursuant to a dissolution order.

(4) The department shall under no circumstances be held liable for not designating an obligee as a survivor beneficiary under subsection (1) of this section if the dissolution order or amendment thereto is not served on the department by registered or certified mail at least thirty days prior to the member's retirement.

(5) If a dissolution order directing designation of a survivor beneficiary has been previously filed with the department in compliance with this section, no additional obligation shall arise on the part of the department upon filing of a subsequent dissolution order unless the subsequent dissolution order:

(a) Specifically amends or supersedes the dissolution order already on file with the department; and

(b) Is filed with the department by registered or certified mail at least thirty days prior to the member's retirement.

(6) The department shall designate a court-ordered survivor beneficiary pursuant to a dissolution order filed with the department before June 6, 1996, only if the order:

(a) Specifically directs the member or department to make such selection;

(b) Specifies the survivor option to be selected; and

(c) The member retires after June 6, 1996. [1996 c 175 § 1.]

41.50.800 Apportionment of budgeted funds of affected agencies. If apportionments of budgeted funds are required because of the transfers herein authorized, the director of financial management shall certify such apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustment in funds and appropriation accounts and equipment records in accordance with such certification. [1979 c 151 § 64; 1975-'76 2nd ex.s. c 105 § 13.]

41.50.801 Continuation of rules, pending business, contracts, investments, etc. On the effective date of transfer as provided in RCW 41.50.030, all rules and regulations, and all pending business before any of the retirement

boards whose powers, duties, and functions are transferred to the department by this chapter shall be continued and acted upon by the department.

All existing contracts and obligations pertaining to the functions herein transferred shall remain in full force and effect, and shall be performed by the department. None of the transfers directed by this chapter shall affect the validity of any act performed by a retirement board or by any official or employee thereof prior to the effective date of transfer as provided in RCW 41.50.030.

None of the transfers involving investment of funds by any of the retirement boards shall affect the validity of any act performed by such boards or by any official or employee thereof prior to the effective date of transfer as provided in RCW 41.50.030. [1975-'76 2nd ex.s. c 105 § 14.]

41.50.802 Transfer of reports, documents, etc., property, funds, assets, appropriations, etc. All reports, documents, surveys, books, records, files, papers, or other writings relating to the administration of the powers, duties, and functions transferred by this chapter shall be made available to the department and to the state actuary.

All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the powers, duties, and functions transferred by this chapter shall be made available to the department.

All funds, credits, or other assets held in connection with powers, duties, and functions transferred by this chapter shall be assigned to the department.

Any appropriations made to any committee, division, board, or any other state agency for the purpose of carrying out the powers, duties, and functions transferred by this chapter shall, in the manner prescribed by the director of financial management, be transferred and credited to the department for the purpose of carrying out such transferred powers, duties, and functions. [1979 c 151 § 65; 1975-'76 2nd ex.s. c 105 § 15.]

41.50.803 Savings. Nothing in this chapter nor in the amendment of RCW 43.17.010, 43.17.020, or 43.33.070 shall be construed to affect any existing rights acquired under RCW 43.17.010, 43.17.020, or 43.33.070 except as to the governmental agencies referred to and their officials and employees, nor as affecting any actions, activities, or proceedings validated thereunder, nor as affecting any civil or criminal proceedings instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor any administrative action taken thereunder; and neither the abolition of any agency or division thereof nor any transfer of powers, duties, and functions as provided in this chapter shall affect the validity of any act performed by such agency or division thereof or any officer thereof prior to the effective date of transfer as provided in RCW 41.50.030. [1975-'76 2nd ex.s. c 105 § 16.]

41.50.804 Existing collective bargaining agreements not affected. Nothing contained in this chapter shall be construed to alter any existing collective bargaining agreement until any such agreement has expired or until any such bargaining unit has been modified by action of the Washing-

ton personnel resources board as provided by law. [1993 c 281 § 40; 1975-'76 2nd ex.s. c 105 § 17.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.50.900 Severability—1975-'76 2nd ex.s. c 105. See note following RCW 41.04.270.

41.50.901 Effective date—1987 c 326. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987. [1987 c 326 § 29.]

Chapter 41.52

PUBLIC PENSION COMMISSION

Sections

- 41.52.010 Created—Composition—Qualifications and appointment of members.
- 41.52.020 Terms—Vacancies.
- 41.52.030 Expenses—Officers—Personnel—Quorum.
- 41.52.040 Powers and duties.
- 41.52.050 Right of access to files and records of public pension systems—Minutes, reports, etc., to be forwarded to commission.
- 41.52.060 Examination of records—Subpoena of witnesses, fees.
- 41.52.070 Appointment of investment counsel—Qualifications—Duties.

41.52.010 Created—Composition—Qualifications and appointment of members. There is created the state public pension commission. The commission shall consist of five members of the house of representatives to be appointed by the speaker thereof, five members of the senate to be appointed by the president of the senate, and five members to be appointed by the governor: PROVIDED, That no more than three senators nor more than three representatives shall be appointed from the same political party. All original legislative members shall be appointed before the close of the 1963 extraordinary session of the legislature and successors shall be appointed before the close of each regular session during an odd-numbered year thereafter: PROVIDED, FURTHER, That if prior to the close of each regular session during an odd-numbered year, the governor shall issue a proclamation convening the legislature into special session, or the legislature shall by resolution convene the legislature into special session, following such regular session, then such appointments shall be made as a matter of closing business of such special session. Legislative members shall be subject to confirmation, as to senate members by the senate, and as to house members by the house. No terms of legislative members shall be extended without such confirmation.

The members appointed by the governor shall have the following qualifications: (1) At least one of the members shall be experienced in actuarial principles; (2) one member shall be a trustee or official of a retirement system; and (3) three members shall have had general experience and knowledge in fields pertinent to retirement system operating, but shall not at the time of appointment or during their terms of office be trustees or officials in any retirement system. [1980 c 87 § 16; 1969 c 10 § 2; 1963 ex.s. c 17 § 1.]

41.52.020 Terms—Vacancies. The members of the commission shall be appointed biennially for terms commencing July 1st and expiring on June 30th on each succeeding odd-numbered year and shall serve until their successors are appointed or elected, and qualified. The terms of office of legislative members who shall not continue to be members of the senate and house shall cease as of the date the certificates of election of their successors are issued. Vacancies in office of legislative members shall be filled by appointment from the same house by the remaining legislative members of that house. All vacancies shall be filled for the remainder of the unexpired term. Vacancies in memberships appointed by the governor shall be filled by appointment by the governor. [1963 ex.s. c 17 § 2.]

41.52.030 Expenses—Officers—Personnel—Quorum. The members of the commission shall be reimbursed for their expenses incurred while attending sessions of the commission or meetings of any committees of the commission or while engaged on other commission business authorized by the commission, at the rates provided in RCW 44.04.120, as now or hereafter amended. The commission shall select a chairman, vice chairman and secretary from among its members. The commission shall have authority to select and employ such research, technical, and clerical personnel and consultants as it deems necessary to carry out its powers and duties, whose compensation and salaries shall be fixed by the commission. A majority of the membership shall constitute a quorum. [1967 c 128 § 1; 1963 ex.s. c 17 § 3.]

41.52.040 Powers and duties. The commission shall have the following powers and duties:

- (1) Study the pension and benefit laws applicable to officers and employees in governmental service throughout the state and appraise and evaluate the existing laws pertaining to this subject;
- (2) Study and consider the financial problems of the several retirement and pension funds and make recommendations as to revisions in financial provisions and methods of amortizing the accrued liabilities of such funds without impairment of any of the rights and equities of participants and beneficiaries but in conformity with sound and established principles of financing pension fund obligations;
- (3) Study and make recommendations concerning the extension of pension coverage to public employees to whom pension protection has not been accorded;
- (4) Study and make recommendations concerning the preservation and continuity of earned rights and credits in public employment for pension purposes including a thorough study of the legal, financial and other aspects of so-called legal vesting of pension rights;
- (5) Evaluate all pension proposals in terms of policy, cost implications, and their impact on other public employee retirement programs;
- (6) Consider all aspects of pension planning and operation aiming toward the development of a standard pension policy grounded in fundamental principles;
- (7) Consider the feasibility of codifying pension laws;
- (8) Make available to such public officers and employees at all levels of government as it shall deem advisable,

information as to pension and benefit studies, recommendations, and evaluations as to afford them an opportunity to become familiar with all aspects of pension problems so they may develop sound legislative and fiscal policies in accordance with established concepts of good retirement planning and sound financing;

(9) Report from time to time, at least biennially, to the members of the legislature, and to the governor, its conclusions and recommendations;

(10) Prepare an explanatory note for each pension bill introduced in the legislature, which note shall briefly explain the financial impact and policies of the bill, indicate the impact on the relative position of the system affected with the other public pension systems, and which shall be attached to or printed upon the printed bill;

(11) Study and make recommendations on the investment policies and procedures of all public pension systems. [1967 c 128 § 2; 1963 ex.s. c 17 § 4.]

41.52.050 Right of access to files and records of public pension systems—Minutes, reports, etc., to be forwarded to commission. (1) The commission, its staff and consultants as ordered by the commission shall have access to all files and records of the public pension systems in the state for inspection and review;

(2) The governing boards of all public pension systems in the state shall promptly forward to the commission copies of their minutes of meetings, actuarial reports, annual reports, reports on portfolio including changes in investment holdings showing sales, purchases and exchanges, and any other report which is approved for distribution by the board of trustees of any system. [1967 c 128 § 3.]

41.52.060 Examination of records—Subpoena of witnesses, fees. In the discharge of any duty herein imposed, the commission or any personnel under its authority and its subcommittees shall have the authority to examine and inspect all files, records and accounts of any public retirement system or board, and to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the superior courts.

In the case of the failure on the part of any person to comply with any subpoena issued in behalf of the commission, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, it shall be the duty of the superior court of any county, or the judge thereof, on application of the commission, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

Each witness who appears before the commission by its order, other than a state official or employee, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record in accordance with RCW 2.40.010, which shall be audited and paid upon the presentation of proper vouchers signed by such witness and approved

by the secretary and chairman of the commission. [1967 c 128 § 4.]

41.52.070 Appointment of investment counsel—Qualifications—Duties. The state public pension commission shall employ on a contractual basis a qualified investment counsel. Such counsel shall be a business organization having experience in securities analyses and investment counseling for both private and public pension funds on a national basis for a minimum of three consecutive years during the five years immediately prior to employment by the commission. The counsel shall not be engaged in the business of buying, selling or otherwise marketing securities during the time of its employment by the commission.

The securities counsel shall make periodic examinations of the transactions and portfolio of each public pension system in the state. The administrator of each pension system shall cooperate with and make its records available to the counsel. The counsel shall file a copy of its examination report with the public pension system examined and also with the public pension commission. The public pension commission shall include in its biennial report to the legislature a summarization of all such examination reports. The securities counsel shall be available on request of the board of trustees of any public retirement system in the state of Washington for investment counseling pertaining to any or all proposed changes in the investment portfolio of that system. [1967 c 160 § 1.]

Chapter 41.54

PORTABILITY OF PUBLIC RETIREMENT BENEFITS

Sections

41.54.010	Definitions.
41.54.020	Benefits under prior retirement systems—Restoration of contributions.
41.54.030	Calculation of service retirement allowance.
41.54.032	Calculation of disability retirement allowance.
41.54.034	Calculation of surviving spouse's death benefit.
41.54.040	Payment of retirement allowance and postretirement adjustments—Death benefit.
41.54.050	Election to establish membership in public employees' retirement system.
41.54.061	Seattle, Spokane, Tacoma—Irrevocable election for coverage under chapter—Effective date.
41.54.070	Benefits under chapter—Minimum and maximum.
41.54.080	Benefits under chapter—Contractual rights not established.
41.54.090	Benefits under chapter—Lump sum payment.
41.54.900	Effective dates—1987 c 192.
41.54.901	Effective date—1988 c 195.

41.54.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Base salary" means salaries or wages earned by a member of a system during a payroll period for personal services and includes wages and salaries deferred under provisions of the United States internal revenue code, but shall exclude overtime payments, nonmoney maintenance compensation, and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, any form of severance pay, any bonus for

voluntary retirement, any other form of leave, or any similar lump sum payment.

(2) "Department" means the department of retirement systems.

(3) "Director" means the director of the department of retirement systems.

(4) "Dual member" means a person who (a) is or becomes a member of a system on or after July 1, 1988, (b) has been a member of one or more other systems, and (c) has never been retired for service from a retirement system and is not receiving a disability retirement or disability leave benefit from any retirement system listed in RCW 41.50.030 or subsection (6) of this section.

(5) "Service" means the same as it may be defined in each respective system. For the purposes of RCW 41.54.030, military service granted under RCW 41.40.170(3) or 43.43.260 may only be based on service accrued under chapter 41.40 or 43.43 RCW, respectively.

(6) "System" means the retirement systems established under chapters 41.32, 41.40, 41.44, and 43.43 RCW; plan II of the system established under chapter 41.26 RCW; and the city employee retirement systems for Seattle, Tacoma, and Spokane. The inclusion of an individual first class city system is subject to the procedure set forth in RCW 41.54.061. [1993 c 517 § 8; 1990 c 192 § 1; 1988 c 195 § 1; 1987 c 192 § 1.]

Purpose—1993 c 517: See note following RCW 41.26.420.

41.54.020 Benefits under prior retirement systems—Restoration of contributions. (1) Those persons who are dual members on or after July 1, 1988, shall not receive a retirement benefit from any prior system while dual members without the loss of all benefits under this chapter. Retroactive retirement in any prior system will cancel membership in any subsequent systems except as allowed under RCW 41.04.270 and will result in the refund of all employee and employer contributions made to such systems.

(2) If a member has withdrawn contributions from a prior system, the member may restore the contributions, together with interest since the date of withdrawal as determined by the system, and recover the service represented by the contributions. Such restoration must be completed within two years of establishing dual membership or prior to retirement, whichever occurs first.

(3) If a member does not meet the time limitation under subsection (2) of this section, the member, prior to retirement, may restore the service credit destroyed by the withdrawn contributions by paying the amount required under RCW 41.50.165(2).

(4) Any service accrued in one system by the member shall not accrue in any other system. [1994 c 197 § 32; 1987 c 384 § 2; 1987 c 192 § 2.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Effective dates—1987 c 384: See note following RCW 41.40.150.

41.54.030 Calculation of service retirement allowance. (1) A dual member may combine service in all systems for the purpose of:

(a) Determining the member's eligibility to receive a service retirement allowance; and

(b) Qualifying for a benefit under RCW 41.32.840(2).

(2) A dual member who is eligible to retire under any system may elect to retire from all the member's systems and to receive service retirement allowances calculated as provided in this section. Each system shall calculate the allowance using its own criteria except that the member shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the allowance.

(3) The service retirement allowances from a system which, but for this section, would not be allowed to be paid at this date based on the dual member's age may be received immediately or deferred to a later date. The allowances shall be actuarially adjusted from the earliest age upon which the combined service would have made such dual member eligible in that system.

(4) The service retirement eligibility requirements of RCW 41.40.180 shall apply to any dual member whose prior system is plan I of the public employees' retirement system established under chapter 41.40 RCW. [1996 c 55 § 4; 1996 c 55 § 3; 1996 c 39 § 19; 1995 c 239 § 319; 1990 c 192 § 2; 1988 c 195 § 2; 1987 c 192 § 3.]

Reviser's note: This section was amended by 1996 c 39 § 19, 1996 c 55 § 3, and by 1996 c 55 § 4, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective dates—1996 c 39: See note following RCW 41.32.010.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

41.54.032 Calculation of disability retirement allowance. (1) If a dual member becomes disabled, the member's service in all systems may be combined for the sole purpose of determining the member's eligibility to receive a disability retirement allowance from the member's current system.

(2) The member's current system shall use its own criteria to:

(a) Determine the member's eligibility for a disability retirement allowance; and

(b) Calculate the disability retirement allowance based on service actually established in the current system. The member shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the allowance.

(3) Subsections (1) and (2) of this section shall not apply to the member's prior system.

(4) A dual member who is eligible to receive a disability retirement under the current system may elect to receive a service retirement from all prior systems and to receive service retirement allowances calculated as provided in this section. Each system shall calculate the service retirement allowance using its own criteria except that the member shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the service retirement allowance.

(5) The service retirement allowances from a system which, but for this section, would not be allowed to be paid at this date based on the dual member's age, may be received immediately or deferred to a later date. The

allowances shall be actuarially adjusted from the earliest age upon which the combined service would have made such dual member eligible in that system.

(6) This section shall not apply to any disability benefit under:

(a) RCW 41.40.220; or

(b) The Washington state patrol retirement system established under chapter 43.43 RCW. [1996 c 55 § 1.]

41.54.034 Calculation of surviving spouse's death benefit. (1) If a dual member dies in service in any system, the member's service in all systems may be combined for the sole purpose of determining the surviving spouse's eligibility to receive a death benefit from each of the member's current and prior systems.

(2) Each system shall use its own criteria to:

(a) Determine the surviving spouse's eligibility for a death benefit; and

(b) Calculate the death benefit based on service actually established in that system.

(3) The surviving spouse shall receive the same benefit from each system that would have been received if the member were active in the system at the time of death. The spouse shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the allowance.

(4) This section shall not apply to the Washington state patrol retirement system established under chapter 43.43 RCW. [1996 c 55 § 2.]

41.54.040 Payment of retirement allowance and postretirement adjustments—Death benefit. (1) The allowances calculated under RCW 41.54.030, 41.54.032, and 41.54.034 shall be paid separately by each respective current and prior system. Any deductions from such separate payments shall be according to the provisions of the respective systems.

(2) Postretirement adjustments, if any, shall be applied by the respective systems based on the payments made under subsection (1) of this section.

(3) The department shall adopt rules under chapter 34.05 RCW to ensure that where a dual member has service in a system established under chapter 41.32, 41.40, 41.44, or 43.43 RCW; service in plan II of the system established under chapter 41.26 RCW; and service under the city employee retirement system for Seattle, Tacoma, or Spokane, the additional cost incurred as a result of the dual member receiving a benefit under this chapter shall be borne by the retirement system incurring the additional cost. [1996 c 55 § 5. Prior: 1993 c 519 § 16; 1993 c 517 § 9; 1990 c 192 § 5; 1988 c 195 § 3; 1987 c 192 § 4.]

Part headings not law—Effective date—1993 c 519: See notes following RCW 28A.400.212.

Purpose—1993 c 517: See note following RCW 41.26.420.

41.54.050 Election to establish membership in public employees' retirement system. A person who was eligible to establish membership under RCW 41.40.023(3) prior to October 1, 1977, but failed to do so by that date, is authorized to elect to do so as if such election had been made prior to that date. Such an election must be made not

later than June 30, 1988, and all other terms and conditions of RCW 41.40.023(3) shall apply. [1987 c 192 § 5.]

41.54.061 Seattle, Spokane, Tacoma—Irrevocable election for coverage under chapter—Effective date. (1) The cities of Seattle, Spokane, and Tacoma shall each have the option of making an irrevocable election to have its employee retirement system included in the coverage of this chapter by adopting a resolution transmitting it to the director and the joint committee on pension policy prior to December 31, 1993.

The resolution shall indicate the city's desire to be covered by this chapter and its willingness to pay for the additional cost it may incur as a result of the benefits provided by this chapter.

(2) This chapter shall become effective on January 1, 1994, for each city which adopts a resolution pursuant to subsection (1) of this section. [1993 c 519 § 15; 1990 c 192 § 3.]

Part headings not law—Effective date—1993 c 519: See notes following RCW 28A.400.212.

41.54.070 Benefits under chapter—Minimum and maximum. The benefit granted by this chapter shall not result in a total benefit less than would have been received absent such benefit. The total sum of the retirement allowances received under this chapter shall not exceed the largest amount the dual member would receive if all the service had been rendered in any one system. When calculating the maximum benefit a dual member would receive: (1) Military service granted under RCW 41.40.170(3) or 43.43.260 shall be based only on service accrued under chapter 41.40 or 43.43 RCW, respectively; and (2) the calculation shall be made assuming that the dual member did not defer any allowances pursuant to RCW 41.54.030(3). When a dual member's combined retirement allowances would exceed the limitation imposed by this section, the allowances shall be reduced by the systems on a proportional basis, according to service. [1996 c 55 § 6; 1988 c 195 § 4; 1987 c 192 § 7.]

41.54.080 Benefits under chapter—Contractual rights not established. The benefits provided under RCW 41.54.010 through 41.54.070 are not provided to employees as a matter of contractual right and the legislature retains the right to alter or abolish these benefits at any time prior to a member's retirement. [1987 c 192 § 8.]

41.54.090 Benefits under chapter—Lump sum payment. (1) The systems may pay a dual member a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.54.030 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of such monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from the system making the lump sum payment. [1988 c 195 § 6.]

41.54.900 Effective dates—1987 c 192. (1) RCW 41.54.050 is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1987.

(2) The remainder of this act shall take effect on July 1, 1988. [1987 c 192 § 11.]

41.54.901 Effective date—1988 c 195. This act shall take effect July 1, 1988. [1988 c 195 § 7.]

Chapter 41.56

PUBLIC EMPLOYEES' COLLECTIVE BARGAINING

Sections

- 41.56.010 Declaration of purpose.
- 41.56.020 Application of chapter.
- 41.56.022 Application of chapter to University of Washington printing craft employees.
- 41.56.023 Application of chapter to employees of institutions of higher education.
- 41.56.024 Application of chapter to classified employees of technical colleges.
- 41.56.030 Definitions.
- 41.56.040 Right of employees to organize and designate representatives without interference.
- 41.56.050 Disagreement in selection of bargaining representative—Intervention by commission.
- 41.56.060 Determination of bargaining unit—Bargaining representative.
- 41.56.070 Election to ascertain bargaining representative.
- 41.56.080 Certification of bargaining representative—Scope of representation.
- 41.56.090 Rules and regulations.
- 41.56.100 Authority and duty of employer to engage in collective bargaining—Limitations—Mediation, grievance procedures upon failure to agree.
- 41.56.110 Dues—Deduction from pay.
- 41.56.120 Right to strike not granted.
- 41.56.122 Collective bargaining agreements—Authorized provisions.
- 41.56.123 Collective bargaining agreements—Effect of termination—Application of section.
- 41.56.125 Arbitrators—Selection—Additional method.
- 41.56.130 Rules and regulations of Washington state personnel resources board—Mandatory subjects.
- 41.56.140 Unfair labor practices for public employer enumerated.
- 41.56.150 Unfair labor practices for bargaining representative enumerated.
- 41.56.160 Commission to prevent unfair labor practices and issue remedial orders and cease and desist orders.
- 41.56.165 Applicability of administrative procedure act to commission action.
- 41.56.201 Employees of institutions of higher education—Option to have relationship and obligations governed by chapter.
- 41.56.210 Department to prevent unfair labor practices and issue remedial orders—Application to state civil service employees.
- 41.56.220 Right of employee representing bargaining unit to be absent from employment during legislative session—Replacement.
- 41.56.430 Uniformed personnel—Legislative declaration.
- 41.56.440 Uniformed personnel—Negotiations—Declaration of an impasse—Appointment of mediator.
- 41.56.450 Uniformed personnel—Interest arbitration panel—Powers and duties—Hearings—Findings and determination.
- 41.56.452 Interest arbitration panel a state agency.
- 41.56.465 Uniformed personnel—Interest arbitration panel—Determinations—Factors to be considered.
- 41.56.470 Uniformed personnel—Arbitration panel—Rights of parties.
- 41.56.475 Uniformed personnel—Application of chapter to Washington state patrol—Mediation and arbitration.

- 41.56.480 Uniformed personnel—Refusal to submit to procedures—Invoking jurisdiction of superior court—Contempt.
- 41.56.490 Uniformed employees—Strikes prohibited—Violations—Contempt of court.
- 41.56.492 Application of uniformed personnel collective bargaining provisions to employees of public passenger transportation systems—Conditions.
- 41.56.900 Short title—Effective date—1967 ex.s. c 108.
- 41.56.905 Uniformed personnel—Provisions additional—Liberal construction.
- 41.56.910 Severability—1973 c 131.
- 41.56.950 Retroactive date in collective bargaining agreements allowable, when.

Reviser's note: Throughout chapter 41.56 RCW, the phrase "this act" has been changed to "this chapter." "This act" [1967 ex.s. c 108] is codified as this chapter and RCW 41.06.150.

41.56.010 Declaration of purpose. The intent and purpose of this chapter is to promote the continued improvement of the relationship between public employers and their employees by providing a uniform basis for implementing the right of public employees to join labor organizations of their own choosing and to be represented by such organizations in matters concerning their employment relations with public employers. [1967 ex.s. c 108 § 1.]

41.56.020 Application of chapter. This chapter shall apply to any county or municipal corporation, or any political subdivision of the state of Washington, including district courts and superior courts, except as otherwise provided by RCW 54.04.170, 54.04.180, and chapters 41.59, 47.64, and 53.18 RCW. The Washington state patrol shall be considered a public employer of state patrol officers appointed under RCW 43.43.020. The Washington state bar association shall be considered a public employer of its employees. [1994 c 297 § 1; 1993 c 76 § 2; 1992 c 36 § 1; 1989 c 275 § 1; 1987 c 135 § 1; 1985 c 7 § 107; 1983 c 3 § 98; 1967 ex.s. c 108 § 2.]

Severability—1987 c 135: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 135 § 4.]

41.56.022 Application of chapter to University of Washington printing craft employees. In addition to the entities listed in RCW 41.56.020, this chapter shall apply to the University of Washington with respect to the printing craft employees in the department of printing at the University of Washington. [1987 c 484 § 1.]

41.56.023 Application of chapter to employees of institutions of higher education. In addition to the entities listed in RCW 41.56.020, this chapter shall apply to institutions of higher education with respect to the employees included in a bargaining unit that has exercised the option specified in RCW 41.56.201. [1993 c 379 § 301.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

41.56.024 Application of chapter to classified employees of technical colleges. In addition to the entities listed in RCW 41.56.020, this chapter shall apply to classified employees of technical colleges as provided for in RCW 28B.50.874. [1991 c 238 § 112.]

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

41.56.030 Definitions. As used in this chapter:

(1) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter, or any subdivision of such public body. For the purposes of this section, the public employer of district court or superior court employees for wage-related matters is the respective county legislative authority, or person or body acting on behalf of the legislative authority, and the public employer for nonwage-related matters is the judge or judge's designee of the respective district court or superior court.

(2) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head or body of the applicable bargaining unit, or any person elected by popular vote or appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or (d) who is a personal assistant to a district court judge, superior court judge, or court commissioner. For the purpose of (d) of this subsection, no more than one assistant for each judge or commissioner may be excluded from a bargaining unit.

(3) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter. In the case of the Washington state patrol, "collective bargaining" shall not include wages and wage-related matters.

(5) "Commission" means the public employment relations commission.

(6) "Executive director" means the executive director of the commission.

(7) "Uniformed personnel" means: (a)(i) Until July 1, 1997, law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of seven thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of thirty-five thousand or more; (ii) beginning on July 1, 1997, law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of two thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of ten thousand or more; (b) correctional employ-

ees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020(5), by a county with a population of seventy thousand or more, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates; (c) general authority Washington peace officers as defined in RCW 10.93.020 employed by a port district in a county with a population of one million or more; (d) security forces established under RCW 43.52.520; (e) fire fighters as that term is defined in RCW 41.26.030; (f) employees of a port district in a county with a population of one million or more whose duties include crash fire rescue or other fire fighting duties; (g) employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; or (h) employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer.

(8) "Institution of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges. [1995 c 273 § 1. Prior: 1993 c 398 § 1; 1993 c 397 § 1; 1993 c 379 § 302; 1992 c 36 § 2; 1991 c 363 § 119; 1989 c 275 § 2; 1987 c 135 § 2; 1984 c 150 § 1; 1975 1st ex.s. c 296 § 15; 1973 c 131 § 2; 1967 ex.s. c 108 § 3.]

Effective date—1995 c 273: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 273 § 5.]

Effective dates—1993 c 398: "(1) Sections 3 and 5 of this act shall take effect July 1, 1995.

(2) Sections 1, 2, 4, and 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 15, 1993]." [1993 c 398 § 7.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Severability—1987 c 135: See note following RCW 41.56.020.

Effective date—1984 c 150: "This act shall take effect on July 1, 1985." [1984 c 150 § 2.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

Construction—Severability—1973 c 131: See RCW 41.56.905, 41.56.910.

Public employment relations commission: Chapter 41.58 RCW.

41.56.040 Right of employees to organize and designate representatives without interference. No public employer, or other person, shall directly or indirectly, interfere with, restrain, coerce, or discriminate against any public employee or group of public employees in the free exercise of their right to organize and designate representatives of their own choosing for the purpose of collective bargaining, or in the free exercise of any other right under this chapter. [1967 ex.s. c 108 § 4.]

41.56.050 Disagreement in selection of bargaining representative—Intervention by commission. In the event that a public employer and public employees are in dis-

agreement as to the selection of a bargaining representative the commission shall be invited to intervene as is provided in RCW 41.56.060 through 41.56.090. [1975 1st ex.s. c 296 § 16; 1967 ex.s. c 108 § 5.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

41.56.060 Determination of bargaining unit—Bargaining representative. The commission, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purpose of collective bargaining. In determining, modifying, or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees. The commission shall determine the bargaining representative by (1) examination of organization membership rolls, (2) comparison of signatures on organization bargaining authorization cards, or (3) by conducting an election specifically therefor. [1975 1st ex.s. c 296 § 17; 1967 ex.s. c 108 § 6.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

41.56.070 Election to ascertain bargaining representative. In the event the commission elects to conduct an election to ascertain the exclusive bargaining representative, and upon the request of a prospective bargaining representative showing written proof of at least thirty percent representation of the public employees within the unit, the commission shall hold an election by secret ballot to determine the issue. The ballot shall contain the name of such bargaining representative and of any other bargaining representative showing written proof of at least ten percent representation of the public employees within the unit, together with a choice for any public employee to designate that he does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot and neither of the three or more choices receives a majority vote of the public employees within the bargaining unit, a run-off election shall be held. The run-off ballot shall contain the two choices which received the largest and second-largest number of votes. No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question of representation may be raised except during the period not more than ninety nor less than sixty days prior to the expiration date of the agreement. Any agreement which contains a provision for automatic renewal or extension of the agreement shall not be a valid agreement; nor shall any agreement be valid if it provides for a term of existence for more than three years. [1975 1st ex.s. c 296 § 18; 1967 ex.s. c 108 § 7.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

41.56.080 Certification of bargaining representative—Scope of representation. The bargaining representative which has been determined to represent a majority of the employees in a bargaining unit shall be certified by the commission as the exclusive bargaining representative of, and shall be required to represent, all the public employees

within the unit without regard to membership in said bargaining representative: PROVIDED, That any public employee at any time may present his grievance to the public employer and have such grievance adjusted without the intervention of the exclusive bargaining representative, if the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect, and if the exclusive bargaining representative has been given reasonable opportunity to be present at any initial meeting called for the resolution of such grievance. [1975 1st ex.s. c 296 § 19; 1967 ex.s. c 108 § 8.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

41.56.090 Rules and regulations. The commission shall promulgate, revise or rescind such rules and regulations as it may deem necessary or appropriate to administer the provisions of this chapter in conformity with the intent and purpose of this chapter and consistent with the best standards of labor-management relations. [1975 1st ex.s. c 296 § 20; 1967 ex.s. c 108 § 9.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

41.56.100 Authority and duty of employer to engage in collective bargaining—Limitations—Mediation, grievance procedures upon failure to agree. A public employer shall have the authority to engage in collective bargaining with the exclusive bargaining representative and no public employer shall refuse to engage in collective bargaining with the exclusive bargaining representative: PROVIDED, That nothing contained herein shall require any public employer to bargain collectively with any bargaining representative concerning any matter which by ordinance, resolution or charter of said public employer has been delegated to any civil service commission or personnel board similar in scope, structure and authority to the board created by chapter 41.06 RCW. Upon the failure of the public employer and the exclusive bargaining representative to conclude a collective bargaining agreement, any matter in dispute may be submitted by either party to the commission. If a public employer implements its last and best offer where there is no contract settlement, allegations that either party is violating the terms of the implemented offer shall be subject to grievance arbitration procedures if and as such procedures are set forth in the implemented offer, or, if not in the implemented offer, if and as such procedures are set forth in the parties' last contract. [1989 c 45 § 1; 1975 1st ex.s. c 296 § 21; 1967 ex.s. c 108 § 10.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

Arbitration of labor disputes: Chapter 49.08 RCW.

41.56.110 Dues—Deduction from pay. Upon the written authorization of any public employee within the bargaining unit and after the certification or recognition of such bargaining representative, the public employer shall deduct from the pay of such public employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall transmit the same to the treasurer of the exclusive bargaining representative. [1973 c 59 § 1; 1967 ex.s. c 108 § 11.]

41.56.120 Right to strike not granted. Nothing contained in this chapter shall permit or grant any public employee the right to strike or refuse to perform his official duties. [1967 ex.s. c 108 § 12.]

41.56.122 Collective bargaining agreements—Authorized provisions. A collective bargaining agreement may:

(1) Contain union security provisions: PROVIDED, That nothing in this section shall authorize a closed shop provision: PROVIDED FURTHER, That agreements involving union security provisions must safeguard the right of nonassociation of public employees based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member. Such public employee shall pay an amount of money equivalent to regular union dues and initiation fee to a nonreligious charity or to another charitable organization mutually agreed upon by the public employee affected and the bargaining representative to which such public employee would otherwise pay the dues and initiation fee. The public employee shall furnish written proof that such payment has been made. If the public employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. When there is a conflict between any collective bargaining agreement reached by a public employer and a bargaining representative on a union security provision and any charter, ordinance, rule, or regulation adopted by the public employer or its agents, including but not limited to, a civil service commission, the terms of the collective bargaining agreement shall prevail.

(2) Provide for binding arbitration of a labor dispute arising from the application or the interpretation of the matters contained in a collective bargaining agreement. [1975 1st ex.s. c 296 § 22; 1973 c 59 § 2.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

41.56.123 Collective bargaining agreements—Effect of termination—Application of section. (1) After the termination date of a collective bargaining agreement, all of the terms and conditions specified in the collective bargaining agreement shall remain in effect until the effective date of a subsequent agreement, not to exceed one year from the termination date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(2) This section does not apply to provisions of a collective bargaining agreement which both parties agree to exclude from the provisions of subsection (1) of this section and to provisions within the collective bargaining agreement with separate and specific termination dates.

(3) This section shall not apply to the following:

(a) Bargaining units covered by RCW 41.56.430 et seq. for factfinding and interest arbitration;

(b) Collective bargaining agreements authorized by chapter 53.18 RCW; or

(c) Collective bargaining agreements authorized by chapter 54.04 RCW.

(4) This section shall not apply to collective bargaining agreements in effect or being bargained on July 23, 1989. [1993 c 398 § 4; 1989 c 46 § 1.]

Effective dates—1993 c 398: See note following RCW 41.56.030.

41.56.125 Arbitrators—Selection—Additional method. In addition to any other method for selecting arbitrators, the parties may request the public employment relations commission to, and the commission shall, appoint a qualified person who may be an employee of the commission to act as an arbitrator to assist in the resolution of a labor dispute between such public employer and such bargaining representative arising from the application of the matters contained in a collective bargaining agreement. The arbitrator shall conduct such arbitration of such dispute in a manner as provided for in the collective bargaining agreement: PROVIDED, That the commission shall not collect any fees or charges from such public employer or such bargaining representative for services performed by the commission under the provisions of this chapter: PROVIDED FURTHER, That the provisions of chapter 49.08 RCW shall have no application to this chapter. [1975 1st ex.s. 296 § 23; 1973 c 59 § 3.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

41.56.130 Rules and regulations of Washington state personnel resources board—Mandatory subjects. See RCW 41.06.150.

41.56.140 Unfair labor practices for public employer enumerated. It shall be an unfair labor practice for a public employer:

(1) To interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by this chapter;

(2) To control, dominate or interfere with a bargaining representative;

(3) To discriminate against a public employee who has filed an unfair labor practice charge;

(4) To refuse to engage in collective bargaining. [1969 ex.s. c 215 § 1.]

41.56.150 Unfair labor practices for bargaining representative enumerated. It shall be an unfair labor practice for a bargaining representative:

(1) To interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by this chapter;

(2) To induce the public employer to commit an unfair labor practice;

(3) To discriminate against a public employee who has filed an unfair labor practice charge;

(4) To refuse to engage in collective bargaining. [1969 ex.s. c 215 § 2.]

41.56.160 Commission to prevent unfair labor practices and issue remedial orders and cease and desist orders. (1) The commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders: PROVIDED, That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission. This power shall not be affected or impaired by any means of adjustment, mediation or conciliation in labor disputes that have been or may hereafter be established by law.

(2) If the commission determines that any person has engaged in or is engaging in an unfair labor practice, the

commission shall issue and cause to be served upon the person an order requiring the person to cease and desist from such unfair labor practice, and to take such affirmative action as will effectuate the purposes and policy of this chapter, such as the payment of damages and the reinstatement of employees.

(3) The commission may petition the superior court for the county in which the main office of the employer is located or in which the person who has engaged or is engaging in such unfair labor practice resides or transacts business, for the enforcement of its order and for appropriate temporary relief. [1994 c 58 § 1; 1983 c 58 § 1; 1975 1st ex.s. c 296 § 24; 1969 ex.s. c 215 § 3.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

41.56.165 Applicability of administrative procedure act to commission action. Actions taken by or on behalf of the commission shall be pursuant to chapter 34.05 RCW, or rules adopted in accordance with chapter 34.05 RCW, and the right of judicial review provided by chapter 34.05 RCW shall be applicable to all such actions and rules. [1994 c 58 § 2.]

41.56.201 Employees of institutions of higher education—Option to have relationship and obligations governed by chapter. (1) At any time after July 1, 1993, an institution of higher education and the exclusive bargaining representative of a bargaining unit of employees classified under chapter *28B.16 or 41.06 RCW as appropriate may exercise their option to have their relationship and corresponding obligations governed entirely by the provisions of this chapter by complying with the following:

(a) The parties will file notice of the parties' intent to be so governed, subject to the mutual adoption of a collective bargaining agreement permitted by this section recognizing the notice of intent. The parties shall provide the notice to the **higher education personnel board or its successor and the commission;

(b) During the negotiation of an initial contract between the parties under this chapter, the parties' scope of bargaining shall be governed by this chapter and any disputes arising out of the collective bargaining rights and obligations under this subsection shall be determined by the commission. If the commission finds that the parties are at impasse, the notice filed under (a) of this subsection shall be void and have no effect; and

(c) On the first day of the month following the month during which the institution of higher education and the exclusive bargaining representative provide notice to the **higher education personnel board or its successor and the commission that they have executed an initial collective bargaining agreement recognizing the notice of intent filed under (a) of this subsection, chapter *28B.16 or 41.06 RCW as appropriate shall cease to apply to all employees in the bargaining unit covered by the agreement.

(2) All collective bargaining rights and obligations concerning relations between an institution of higher education and the exclusive bargaining representative of its employees who have agreed to exercise the option permitted by this section shall be determined under this chapter, subject to the following:

(a) The commission shall recognize, in its current form, the bargaining unit as certified by the **higher education personnel board or its successor and the limitations on collective bargaining contained in RCW 41.56.100 shall not apply to that bargaining unit.

(b) If, on the date of filing the notice under subsection (1)(a) of this section, there is a union shop authorized for the bargaining unit under rules adopted by the **higher education personnel board or its successor, the union shop requirement shall continue in effect for the bargaining unit and shall be deemed incorporated into the collective bargaining agreement applicable to the bargaining unit.

(c) Salary increases negotiated for the employees in the bargaining unit shall be subject to the following:

(i) Salary increases shall continue to be appropriated by the legislature. The exclusive bargaining representative shall meet before a legislative session with the governor or governor's designee and the representative of the institution of higher education concerning the total dollar amount for salary increases and health care contributions that will be contained in the appropriations proposed by the governor under RCW 43.88.060;

(ii) The collective bargaining agreements may provide for salary increases from local efficiency savings that are different from or that exceed the amount or percentage for salary increases provided by the legislature in the omnibus appropriations act for the institution of higher education or allocated to the board of trustees by the state board for community and technical colleges, but the base for salary increases provided by the legislature under (c)(i) of this subsection shall include only those amounts appropriated by the legislature, and the base shall not include any additional salary increases provided under this subsection (2)(c)(ii);

(iii) Any provisions of the collective bargaining agreements pertaining to salary increases provided under (c)(i) of this subsection shall be subject to modification by the legislature. If any provision of a salary increase provided under (c)(i) of this subsection is changed by subsequent modification of the appropriations act by the legislature, both parties shall immediately enter into collective bargaining for the sole purpose of arriving at a mutually agreed upon replacement for the modified provision.

(3) Nothing in this section may be construed to permit an institution of higher education to bargain collectively with an exclusive bargaining representative concerning any matter covered by: (a) Chapter 41.05 RCW, except for the related cost or dollar contributions or additional or supplemental benefits as permitted by chapter 492, Laws of 1993; or (b) chapter 41.32 or 41.40 RCW. [1993 c 379 § 304.]

Reviser's note: *(1) Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.015 and 28B.16.240, which was recodified as RCW 41.06.382.

** (2) Powers, duties, and functions of the higher education personnel board and the state personnel board were transferred to the Washington personnel resources board by 1993 c 281, effective July 1, 1994.

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

41.56.210 Department to prevent unfair labor practices and issue remedial orders—Application to state civil service employees. See RCW 41.06.340.

41.56.220 Right of employee representing bargaining unit to be absent from employment during legislative session—Replacement. Any public employee who represents fifty percent or more of a bargaining unit or who represents on a state-wide basis a group of five or more bargaining units shall have the right to absent himself from his employment without pay and without suffering any discrimination in his future employment and without losing benefits incident to his employment while representing his bargaining unit at the legislature of the state of Washington during any regular or special session thereof: PROVIDED, That such employee is replaced by his bargaining unit with an employee who shall be paid by the employer and who shall be qualified to perform the duties and obligations of the absent member in accordance with the rules of the civil service or other standards established by his employer for such absent employee. [1980 c 87 § 17; 1969 ex.s. c 174 § 1.]

41.56.430 Uniformed personnel—Legislative declaration. The intent and purpose of *this 1973 amendatory act is to recognize that there exists a public policy in the state of Washington against strikes by uniformed personnel as a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington; that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes. [1973 c 131 § 1.]

*Reviser's note: "this 1973 amendatory act" [1973 c 131] consists of RCW 41.56.430 through 41.56.490, 41.56.905, and 41.56.910, and the 1973 c 131 amendments to RCW 41.56.030 and 41.56.420.

Construction—Severability—1973 c 131: See RCW 41.56.905, 41.56.910.

41.56.440 Uniformed personnel—Negotiations—Declaration of an impasse—Appointment of mediator. Negotiations between a public employer and the bargaining representative in a unit of uniformed personnel shall be commenced at least five months prior to the submission of the budget to the legislative body of the public employer. If no agreement has been reached sixty days after the commencement of such negotiations then, at any time thereafter, either party may declare that an impasse exists and may submit the dispute to the commission for mediation, with or without the concurrence of the other party. The commission shall appoint a mediator, who shall forthwith meet with the representatives of the parties, either jointly or separately, and shall take such other steps as he or she may deem appropriate in order to persuade the parties to resolve their differences and effect an agreement: PROVIDED, That a mediator does not have a power of compulsion. [1979 ex.s. c 184 § 1; 1975-'76 2nd ex.s. c 14 § 1; 1975 1st ex.s. c 296 § 28; 1973 c 131 § 3.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

Construction—Severability—1973 c 131: See RCW 41.56.905, 41.56.910.

41.56.450 Uniformed personnel—Interest arbitration panel—Powers and duties—Hearings—Findings and determination. If an agreement has not been reached

following a reasonable period of negotiations and mediation, and the executive director, upon the recommendation of the assigned mediator, finds that the parties remain at impasse, then an interest arbitration panel shall be created to resolve the dispute. The issues for determination by the arbitration panel shall be limited to the issues certified by the executive director. Within seven days following the issuance of the determination of the executive director, each party shall name one person to serve as its arbitrator on the arbitration panel. The two members so appointed shall meet within seven days following the appointment of the later appointed member to attempt to choose a third member to act as the neutral chairman of the arbitration panel. Upon the failure of the arbitrators to select a neutral chairman within seven days, the two appointed members shall use one of the two following options in the appointment of the third member, who shall act as chairman of the panel: (1) By mutual consent, the two appointed members may jointly request the commission, and the commission shall appoint a third member within two days of such request. Costs of each party's appointee shall be borne by each party respectively; other costs of the arbitration proceedings shall be borne by the commission; or (2) either party may apply to the commission, the federal mediation and conciliation service, or the American Arbitration Association to provide a list of five qualified arbitrators from which the neutral chairman shall be chosen. Each party shall pay the fees and expenses of its arbitrator, and the fees and expenses of the neutral chairman shall be shared equally between the parties.

The arbitration panel so constituted shall promptly establish a date, time, and place for a hearing and shall provide reasonable notice thereof to the parties to the dispute. A hearing, which shall be informal, shall be held, and each party shall have the opportunity to present evidence and make argument. No member of the arbitration panel may present the case for a party to the proceedings. The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the chairman of the arbitration panel may be received in evidence. A recording of the proceedings shall be taken. The arbitration panel has the power to administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents as may be deemed by the panel to be material to a just determination of the issues in dispute. If any person refuses to obey a subpoena issued by the arbitration panel, or refuses to be sworn or to make an affirmation to testify, or any witness, party, or attorney for a party is guilty of any contempt while in attendance at any hearing held hereunder, the arbitration panel may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court has jurisdiction to issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof. The hearing conducted by the arbitration panel shall be concluded within twenty-five days following the selection or designation of the neutral chairman of the arbitration panel, unless the parties agree to a longer period.

The neutral chairman shall consult with the other members of the arbitration panel, and, within thirty days following the conclusion of the hearing, the neutral chairman shall make written findings of fact and a written determination.

nation of the issues in dispute, based on the evidence presented. A copy thereof shall be served on the commission, on each of the other members of the arbitration panel, and on each of the parties to the dispute. That determination shall be final and binding upon both parties, subject to review by the superior court upon the application of either party solely upon the question of whether the decision of the panel was arbitrary or capricious. [1983 c 287 § 2; 1979 ex.s. c 184 § 2; 1975-'76 2nd ex.s. c 14 § 2; 1975 1st ex.s. c 296 § 29; 1973 c 131 § 4.]

Severability—1983 c 287: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 287 § 6.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

Construction—Severability—1973 c 131: See RCW 41.56.905, 41.56.910.

41.56.452 Interest arbitration panel a state agency.

An interest arbitration panel created pursuant to RCW 41.56.450, in the performance of its duties under chapter 41.56 RCW, exercises a state function and is, for the purposes of this chapter, a state agency. Chapter 34.05 RCW does not apply to proceedings before an interest arbitration panel under this chapter. [1983 c 287 § 3; 1980 c 87 § 19.]

Severability—1983 c 287: See note following RCW 41.56.450.

41.56.465 Uniformed personnel—Interest arbitration panel—Determinations—Factors to be considered.

(1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c)(i) For employees listed in RCW 41.56.030(7)(a) through (d), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(ii) For employees listed in RCW 41.56.030(7)(e) through (h), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers may not be considered;

(d) The average consumer prices for goods and services, commonly known as the cost of living;

(e) Changes in any of the circumstances under (a) through (d) of this subsection during the pendency of the proceedings; and

(f) Such other factors, not confined to the factors under (a) through (e) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. For those

employees listed in RCW 41.56.030(7)(a) who are employed by the governing body of a city or town with a population of less than fifteen thousand, or a county with a population of less than seventy thousand, consideration must also be given to regional differences in the cost of living.

(2) Subsection (1)(c) of this section may not be construed to authorize the panel to require the employer to pay, directly or indirectly, the increased employee contributions resulting from chapter 502, Laws of 1993 or chapter 517, Laws of 1993 as required under chapter 41.26 RCW. [1995 c 273 § 2; 1993 c 398 § 3.]

Effective date—1995 c 273: See note following RCW 41.56.030.

Effective dates—1993 c 398: See note following RCW 41.56.030.

41.56.470 Uniformed personnel—Arbitration panel—Rights of parties. During the pendency of the proceedings before the arbitration panel, existing wages, hours and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his rights or position under *this 1973 amendatory act. [1973 c 131 § 6.]

*Reviser's note: "this 1973 amendatory act," see note following RCW 41.56.430.

Construction—Severability—1973 c 131: See RCW 41.56.905, 41.56.910.

41.56.475 Uniformed personnel—Application of chapter to Washington state patrol—Mediation and arbitration. In addition to the classes of employees listed in RCW 41.56.030(7), the provisions of RCW 41.56.430 through 41.56.452 and 41.56.470, 41.56.480, and 41.56.490 also apply to Washington state patrol officers appointed under RCW 43.43.020 as provided in this section, subject to the following:

(1) The mediator shall not consider wages and wage-related matters.

(2) In making its determination, the arbitration panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c) Comparison of the hours and conditions of employment of personnel involved in the proceedings with the hours and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(d) Changes in any of the foregoing circumstances during the pendency of the proceedings; and

(e) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of hours and conditions of employment. [1993 c 351 § 1; 1988 c 110 § 2; 1987 c 135 § 3.]

Severability—1987 c 135: See note following RCW 41.56.020.

41.56.480 Uniformed personnel—Refusal to submit to procedures—Invoking jurisdiction of superior court—Contempt. If the representative of either or both the

uniformed personnel and the public employer refuse to submit to the procedures set forth in RCW 41.56.440 and 41.56.450, the parties, or the commission on its own motion, may invoke the jurisdiction of the superior court for the county in which the labor dispute exists and such court shall have jurisdiction to issue an appropriate order. A failure to obey such order may be punished by the court as a contempt thereof. A decision of the arbitration panel shall be final and binding on the parties, and may be enforced at the instance of either party, the arbitration panel or the commission in the superior court for the county where the dispute arose. [1975 1st ex.s. c 296 § 30; 1973 c 131 § 7.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

Construction—Severability—1973 c 131: See RCW 41.56.905, 41.56.910.

41.56.490 Uniformed employees—Strikes prohibited—Violations—Contempt of court. The right of uniformed employees to engage in any strike, work slowdown, or stoppage is not granted. An organization recognized as the bargaining representative of uniformed employees subject to this chapter that willfully disobeys a lawful order of enforcement by a superior court pursuant to RCW 41.56.480 and 41.56.490, or willfully offers resistance to such order, whether by strike or otherwise, is in contempt of court as provided in chapter 7.21 RCW. An employer that willfully disobeys a lawful order of enforcement by a superior court pursuant to RCW 41.56.480 or willfully offers resistance to such order is in contempt of court as provided in chapter 7.21 RCW. [1989 c 373 § 24; 1973 c 131 § 8.]

Severability—1989 c 373: See RCW 7.21.900.

Construction—Severability—1973 c 131: See RCW 41.56.905, 41.56.910.

41.56.492 Application of uniformed personnel collective bargaining provisions to employees of public passenger transportation systems—Conditions. In addition to the classes of employees listed in RCW 41.56.030(7), the provisions of RCW 41.56.430 through 41.56.452, 41.56.470, 41.56.480, and 41.56.490 shall also be applicable to the employees of a public passenger transportation system of a metropolitan municipal corporation, county transportation authority, public transportation benefit area, or city public passenger transportation system, subject to the following:

(1) Negotiations between the public employer and the bargaining representative may commence at any time agreed to by the parties. If no agreement has been reached ninety days after commencement of negotiations, either party may demand that the issues in disagreement be submitted to a mediator. The services of the mediator shall be provided by the commission without cost to the parties, but nothing in this section or RCW 41.56.440 shall be construed to prohibit the public employer and the bargaining representative from agreeing to substitute at their own expense some other mediator or mediation procedure; and

(2) If an agreement has not been reached following a reasonable period of negotiations and mediation, and the mediator finds that the parties remain at impasse, either party may demand that the issues in disagreement be submitted to an arbitration panel for a binding and final determination.

In making its determination, the arbitration panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards or guidelines to aid it in reaching a decisions [decision], shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c) Compensation package comparisons, economic indices, fiscal constraints, and similar factors determined by the arbitration panel to be pertinent to the case; and

(d) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. [1993 c 473 § 1.]

41.56.900 Short title—Effective date—1967 ex.s. c 108. RCW 41.56.010 through 41.56.900 and 41.06.150 shall be known as the "Public Employees' Collective Bargaining Act" and shall take effect on July 1, 1967. [1967 ex.s. c 108 § 14.]

41.56.905 Uniformed personnel—Provisions additional—Liberal construction. The provisions of this chapter are intended to be additional to other remedies and shall be liberally construed to accomplish their purpose. Except as provided in RCW 53.18.015, if any provision of this chapter conflicts with any other statute, ordinance, rule or regulation of any public employer, the provisions of this chapter shall control. [1983 c 287 § 5; 1973 c 131 § 10.]

Severability—1983 c 287: See note following RCW 41.56.450.

41.56.910 Severability—1973 c 131. If any provisions of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 c 131 § 11.]

41.56.950 Retroactive date in collective bargaining agreements allowable, when. Whenever a collective bargaining agreement between a public employer and a bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the same parties, the effective date of such collective bargaining agreement may be the day after the termination date of the previous collective bargaining agreement and all benefits included in the new collective bargaining agreement including wage increases may accrue beginning with such effective date as established by this section. [1971 ex.s. c 187 § 1.]

Chapter 41.58

PUBLIC EMPLOYMENT LABOR RELATIONS

Sections

41.58.005	Intent—Construction.
41.58.010	Public employment relations commission—Created—Membership—Terms—Vacancies—Quorum—Report.
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- 41.58.040 Duties of employers and employees.
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- 41.58.802 Procedure for transfer of budgeted fund or equipment.
- 41.58.803 Continuation and savings.
- 41.58.900 Effective dates—1975-'76 2nd ex.s. c 5.
- 41.58.901 Effective date—1975 1st ex.s. c 296 §§ 4, 6, and 8 through 39.

41.58.005 Intent—Construction. (1) It is the intent of the legislature by the adoption of *this 1975 amendatory act to provide, in the area of public employment, for the more uniform and impartial (a) adjustment and settlement of complaints, grievances, and disputes arising out of employer-employee relations and, (b) selection and certification of bargaining representatives by transferring jurisdiction of such matters to the public employment relations commission from other boards and commissions. It is further the intent of the legislature, by such transfer, to achieve more efficient and expert administration of public labor relations administration and to thereby ensure the public of quality public services.

(2) Nothing contained in *this 1975 amendatory act shall be construed to alter any existing collective bargaining unit or the provisions of any existing bargaining agreement.

(3) Nothing contained in *this 1975 amendatory act shall be construed to alter any power or authority regarding the scope of collective bargaining in the employment areas affected by *this 1975 amendatory act, but *this amendatory act shall be construed as transferring existing jurisdiction and authority to the public employment relations commission.

(4) Nothing contained in *this 1975 amendatory act shall be construed to prohibit the consideration or adjustment of complaints or grievances by the public employer. [1975 1st ex.s. c 296 § 1.]

***Reviser's note:** "this 1975 amendatory act" or "this amendatory act" [1975 1st ex.s. c 296] consists of chapter 41.58 RCW, amendments to RCW 28A.72.020, 28A.72.060, 28A.72.080, 28A.72.100, 28B.52.020, 28B.52.060, 28B.52.080, 41.56.030, 41.56.050, 41.56.060, 41.56.070, 41.56.080, 41.56.090, 41.56.100, 41.56.122, 41.56.125, 41.56.160, 41.56.170, 41.56.180, 41.56.190, 41.56.440, 41.56.450, 41.56.480, 43.22.260, 43.22.270, 47.64.010, 47.64.030, 47.64.040, 49.08.010, 49.08.020, and 53.18.030, the repeal of RCW 47.64.020, and additions to chapter 41.58 RCW by 1975-'76 2nd ex.s. c 5. RCW 28A.72.020, 28A.72.060, 28A.72.080, and 28A.72.100 were repealed by 1975-'76 2nd ex.s. c 5 § 7. See Table of Disposition of Former RCW Sections, Volume 0.

41.58.010 Public employment relations commission—Created—Membership—Terms—Vacancies—Quorum—Report. (1) There is hereby created the public employment relations commission (hereafter called the "commission") to administer the provisions of this chapter. The commission shall consist of three members who shall be citizens appointed by the governor by and with the advice and consent of the senate. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Commission members shall be eligible for reappointment. The governor shall designate one member to serve as chairman of the commission. Any member of the

commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members shall not be eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission.

(2) In making citizen member appointments initially, and subsequently thereafter, the governor shall be cognizant of the desirability of appointing persons knowledgeable in the area of labor relations in the state.

(3) A vacancy in the commission shall not impair the right of the remaining members to exercise all of the powers of the commission, and two members of the commission shall, at all times, constitute a quorum of the commission.

(4) The commission shall at the close of each fiscal year make a report in writing to the legislature and to the governor stating the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the commission, and an account of all moneys it has disbursed. [1981 c 338 § 21; 1975-'76 2nd ex.s. c 5 § 1.]

41.58.015 Compensation and travel expenses of members—Executive director—Employees. (1) Each member of the commission shall be compensated in accordance with RCW 43.03.250. Members of the commission shall also be reimbursed for travel expenses incurred in the discharge of their official duties on the same basis as is provided in RCW 43.03.050 and 43.03.060.

(2) The commission shall appoint an executive director whose annual salary shall be determined under the provisions of RCW 43.03.028. The executive director shall perform such duties and have such powers as the commission shall prescribe in order to implement and enforce the provisions of this chapter. In addition to the performance of administrative duties, the commission may delegate to the executive director authority with respect to, but not limited to, representation proceedings, unfair labor practice proceedings, mediation of labor disputes, arbitration of disputes concerning the interpretation or application of a collective bargaining agreement, and, in certain cases, fact-finding or arbitration of disputes concerning the terms of a collective bargaining agreement. Such delegation shall not eliminate a party's right of appeal to the commission. The executive director, with such assistance as may be provided by the attorney general and such additional legal assistance consistent with chapter 43.10 RCW, shall have authority on behalf of the commission, when necessary to carry out or enforce any action or decision of the commission, to petition any court of competent jurisdiction for an order requiring compliance with the action or decision.

(3) The commission shall employ such employees as it may from time to time find necessary for the proper performance of its duties, consistent with the provisions of this chapter.

(4) The payment of all of the expenses of the commission, including travel expenses incurred by the members or employees of the commission under its orders, shall be subject to the provisions of RCW 43.03.050 and 43.03.060. [1984 c 287 § 71; 1979 ex.s. c 146 § 2; 1975-'76 2nd ex.s. c 34 § 91; 1975-'76 2nd ex.s. c 5 § 2.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

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

41.58.020 Powers and duties of commission. (1) It shall be the duty of the commission, in order to prevent or minimize interruptions growing out of labor disputes, to assist employers and employees to settle such disputes through mediation and fact-finding.

(2) The commission, through the director, may proffer its services in any labor dispute arising under a collective bargaining statute administered by the commission, either upon its own motion or upon the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial disruption to the public welfare.

(3) If the director is not able to bring the parties to agreement by mediation within a reasonable time, the director shall seek to induce the parties to voluntarily seek other means of settling the dispute without resort to strike or other coercion, including submission to the employees in the bargaining unit of the employer's last offer of settlement for approval or rejection in a secret ballot. The failure or refusal of either party to agree to any procedure suggested by the director shall not be deemed a violation of any duty or obligation imposed by this chapter.

(4) Final adjustment by a method agreed upon by the parties is declared to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective bargaining agreement. The commission is directed to make its mediation and fact-finding services available in the settlement of such grievance disputes only as a last resort. [1993 c 379 § 303; 1975 1st ex.s. c 296 § 4.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

41.58.030 Office. The principal office of the commission shall be in the city of Olympia, but it may meet and exercise any or all of its powers at any other place in the state. [1975 1st ex.s. c 296 § 5.]

41.58.040 Duties of employers and employees. In order to prevent or minimize disruptions to the public welfare growing out of labor disputes, employers and employees and their representatives shall:

(1) Exert every reasonable effort to make and maintain agreements concerning rates of pay, hours, and working conditions, including provision for adequate notice of any proposed change in the terms of such agreements;

(2) Whenever a dispute arises over the terms or application of a collective bargaining agreement and a conference is requested by a party or prospective party thereto, arrange promptly for such a conference to be held and endeavor in such conference to settle such dispute expeditiously; and

(3) In case such dispute is not settled by conference, participate fully and promptly in such meetings as may be undertaken by the commission under this chapter for the purpose of aiding in a settlement of the dispute. [1975 1st ex.s. c 296 § 6.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

41.58.050 Rules and regulations. The board shall have authority from time to time to make, amend, and rescind, in the manner prescribed by the administrative procedure act, chapter 34.05 RCW, such rules and regulations as may be necessary to carry out the provisions of this chapter. [1975 1st ex.s. c 296 § 7.]

41.58.060 State ferry system—Chapter 47.64 RCW to govern. For any matter concerning the state ferry system and employee relations, collective bargaining, or labor disputes or stoppages, the provisions of chapter 47.64 RCW shall govern. [1983 c 15 § 22.]

Severability—1983 c 15: See RCW 47.64.910.

41.58.800 Transfer of employees to commission. All employees of the department of labor and industries classified under the provisions of chapter 41.06 RCW, the state civil service law, whose positions are entirely concerned with functions transferred to the commission by chapter 296, Laws of 1975 1st ex. sess. shall be transferred to the jurisdiction of the commission. [1975-'76 2nd ex.s. c 5 § 3.]

41.58.801 Transfer of reports, documents, records, property, etc., funds, appropriations, etc. All reports, documents, surveys, books, records, files, papers, or other writings in the possession of the marine employee commission, the office of the superintendent of public instruction, the *state board for community college education, and the department of labor and industries and pertaining to the functions transferred to the commission by chapter 296, Laws of 1975 1st ex. sess. shall by January 1, 1976, be delivered to the custody of the commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the functions transferred by chapter 296, Laws of 1975 1st ex. sess. shall by January 1, 1976, be transferred to the commission.

Any appropriation or portion thereof remaining as of January 1, 1976, and which is made to an agency for the purpose of carrying out functions transferred from such agency pursuant to chapter 296, Laws of 1975 1st ex. sess., shall, by January 1, 1976, be transferred and credited to the commission for the purpose of carrying out such functions. This paragraph shall not affect the transfer of moneys prior to January 1, 1976, pursuant to section 67, chapter 269, Laws of 1975 1st ex. sess.

Whenever any question arises as to the transfer of any funds, including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or any other tangible property used or held in the exercise of the performance of the functions transferred under chapter 296, Laws of 1975 1st ex. sess., the director of financial management or his successor shall make a determination as to the proper allocation and certify the same to the state agencies concerned. [1979 c 151 § 66; 1975-'76 2nd ex.s. c 5 § 4.]

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

41.58.802 Procedure for transfer of budgeted fund or equipment. Where transfers of budgeted funds or

equipment are required under *this act, the director of financial management shall certify such transfers to the agencies affected, the state auditor and the state treasurer all of whom shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with such certification. [1979 c 151 § 67; 1975-'76 2nd ex.s. c 5 § 5.]

*Reviser's note: "this act" [1975-'76 2nd ex.s. c 5], see note following RCW 41.58.005.

41.58.803 Continuation and savings. On January 1, 1976, all rules and regulations, and all business pending before the agencies or divisions thereof from whom functions are transferred pursuant to chapter 296, Laws of 1975 1st ex. sess. and which pertain to such functions shall be continued and acted upon by the commission. All existing contracts and obligations pertaining to such functions shall remain in full force and effect, but shall be performed by the commission in lieu of the agency from whom the functions are transferred. The transfer of any functions shall not affect the validity of any act performed by such agency or division thereof or any officer or employee thereof prior to the effective date of the transferral of such functions.

Notwithstanding any other provisions of *this act, contracts or agreements are authorized between the commission and other agencies with respect to functions transferred from other agencies pursuant to chapter 296, Laws of 1975 1st ex. sess. Such contract or agreement may provide for an employee or employees of such other agencies or other person or persons to continue to provide services relating to pending business which is transferred to the commission as of January 1, 1976, until such pending business is completed. [1975-'76 2nd ex.s. c 5 § 6.]

*Reviser's note: "this act" [1975-'76 2nd ex.s. c 5], see note following RCW 41.58.005.

41.58.900 Effective dates—1975-'76 2nd ex.s. c 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on September 8, 1975, except for the provisions of sections 6 and 7 which shall be effective on January 1, 1976. [1975-'76 2nd ex.s. c 5 § 9.]

41.58.901 Effective date—1975 1st ex.s. c 296 §§ 4, 6, and 8 through 39. Sections 4, 6, and 8 through 39 of chapter 296, Laws of 1975 1st ex. sess. shall not be effective until January 1, 1976. [1975-'76 2nd ex.s. c 5 § 8.]

Chapter 41.59

EDUCATIONAL EMPLOYMENT RELATIONS ACT

Sections

41.59.010	Purpose.
41.59.020	Definitions.
41.59.060	Employee rights enumerated—Fees and dues, deduction from pay.
41.59.070	Election to ascertain exclusive bargaining representative, when—Run-off election—Decertification election.
41.59.080	Determination of bargaining unit—Standards.
41.59.090	Certification of exclusive bargaining representative—Scope of representation.

41.59.100	Union security provisions—Scope—Agency shop provision, collection of dues or fees.
41.59.110	Commission, rules and regulations of—Federal precedents as standard.
41.59.120	Resolving impasses in collective bargaining—Mediation—Fact-finding with recommendations—Other.
41.59.130	Binding arbitration procedures authorized.
41.59.140	Unfair labor practices for employer, employee organization, enumerated.
41.59.150	Commission to prevent unfair labor practices—Scope.
41.59.160	Applicability of administrative procedure act provisions to commission action.
41.59.170	Effective date of certain agreements—Increased benefits during agreement authorized, when.
41.59.180	Employees in specialized job category may be excluded, when.
41.59.900	Short title.
41.59.910	Construction of chapter—Effect on existing agreements—Collective bargaining agreement prevails where conflict.
41.59.920	Construction of chapter—Employee's rights preserved.
41.59.930	Construction of chapter—Employer's responsibilities and rights preserved.
41.59.935	Construction of chapter—Certain agreements subject to RCW 28A.150.410 and 28A.400.200.
41.59.940	Effective date—1975 1st ex.s. c 288.
41.59.950	Severability—1975 1st ex.s. c 288.

Reviser's note: Phrase "the commission" is used throughout chapter 41.59 RCW; 1975 1st ex.s. c 288 § 4, wherein the commission was created, was vetoed by the governor; reference to the proviso in RCW 41.59.020(3) below, together with amendments and repeals in 1975-'76 2nd ex.s. c 5 (codified in chapter 41.58 RCW) suggests commission to be that created in RCW 41.58.010.

41.59.010 Purpose. It is the purpose of this chapter to prescribe certain rights and obligations of the educational employees of the school districts of the state of Washington, and to establish procedures governing the relationship between such employees and their employers which are designed to meet the special requirements and needs of public employment in education. [1975 1st ex.s. c 288 § 2.]

41.59.020 Definitions. As used in this chapter:

(1) The term "employee organization" means any organization, union, association, agency, committee, council, or group of any kind in which employees participate, and which exists for the purpose, in whole or in part, of collective bargaining with employers.

(2) The term "collective bargaining" or "bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times in light of the time limitations of the budget-making process, and to bargain in good faith in an effort to reach agreement with respect to the wages, hours, and terms and conditions of employment: PROVIDED, That prior law, practice or interpretation shall be neither restrictive, expansive, nor determinative with respect to the scope of bargaining. A written contract incorporating any agreements reached shall be executed if requested by either party. The obligation to bargain does not compel either party to agree to a proposal or to make a concession.

In the event of a dispute between an employer and an exclusive bargaining representative over the matters that are terms and conditions of employment, the commission shall decide which item(s) are mandatory subjects for bargaining and which item(s) are nonmandatory.

(3) The term "commission" means the public employment relations commission established by RCW 41.58.010.

(4) The terms "employee" and "educational employee" means any certificated employee of a school district, except:

(a) The chief executive officer of the employer.

(b) The chief administrative officers of the employer, which shall mean the superintendent of the district, deputy superintendents, administrative assistants to the superintendent, assistant superintendents, and business manager. Title variation from all positions enumerated in this subsection (b) may be appealed to the commission for determination of inclusion in, or exclusion from, the term "educational employee".

(c) Confidential employees, which shall mean:

(i) Any person who participates directly on behalf of an employer in the formulation of labor relations policy, the preparation for or conduct of collective bargaining, or the administration of collective bargaining agreements, except that the role of such person is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment; and

(ii) Any person who assists and acts in a confidential capacity to such person.

(d) Unless included within a bargaining unit pursuant to RCW 41.59.080, any supervisor, which means any employee having authority, in the interest of an employer, to hire, assign, promote, transfer, layoff, recall, suspend, discipline, or discharge other employees, or to adjust their grievances, or to recommend effectively such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment, and shall not include any persons solely by reason of their membership on a faculty tenure or other governance committee or body. The term "supervisor" shall include only those employees who perform a preponderance of the above-specified acts of authority.

(e) Unless included within a bargaining unit pursuant to RCW 41.59.080, principals and assistant principals in school districts.

(5) The term "employer" means any school district.

(6) The term "exclusive bargaining representative" means any employee organization which has:

(a) Been selected or designated pursuant to the provisions of this chapter as the representative of the employees in an appropriate collective bargaining unit; or

(b) Prior to January 1, 1976, been recognized under a predecessor statute as the representative of the employees in an appropriate collective bargaining or negotiations unit.

(7) The term "person" means one or more individuals, organizations, unions, associations, partnerships, corporations, boards, committees, commissions, agencies, or other entities, or their representatives.

(8) The term "nonsupervisory employee" means all educational employees other than principals, assistant principals and supervisors. [1989 c 11 § 11; 1975 1st ex.s. c 288 § 3.]

Severability—1989 c 11: See note following RCW 9A.56.220.

41.59.060 Employee rights enumerated—Fees and dues, deduction from pay. (1) Employees shall have the

right to self-organization, to form, join, or assist employee organizations, to bargain collectively through representatives of their own choosing, and shall also have the right to refrain from any or all of such activities except to the extent that employees may be required to pay a fee to any employee organization under an agency shop agreement authorized in this chapter.

(2) The exclusive bargaining representative shall have the right to have deducted from the salary of employees, upon receipt of an appropriate authorization form which shall not be irrevocable for a period of more than one year, an amount equal to the fees and dues required for membership. Such fees and dues shall be deducted monthly from the pay of all appropriate employees by the employer and transmitted as provided for by agreement between the employer and the exclusive bargaining representative, unless an automatic payroll deduction service is established pursuant to law, at which time such fees and dues shall be transmitted as therein provided. If an agency shop provision is agreed to and becomes effective pursuant to RCW 41.59.100, except as provided in that section, the agency fee equal to the fees and dues required of membership in the exclusive bargaining representative shall be deducted from the salary of employees in the bargaining unit. [1975 1st ex.s. c 288 § 7.]

41.59.070 Election to ascertain exclusive bargaining representative, when—Run-off election—Decertification election. (1) Any employee organization may file a request with the commission for recognition as the exclusive representative. Such request shall allege that a majority of the employees in an appropriate collective bargaining unit wish to be represented for the purpose of collective bargaining by such organization, shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate, shall be supported by credible evidence demonstrating that at least thirty percent of the employees in the appropriate unit desire the organization requesting recognition as their exclusive representative, and shall indicate the name, address, and telephone number of any other interested employee organization, if known to the requesting organization.

(2) The commission shall determine the exclusive representative by conducting an election by secret ballot, except under the following circumstances:

(a) In instances where a serious unfair labor practice has been committed which interfered with the election process and precluded the holding of a fair election, the commission shall determine the exclusive bargaining representative by an examination of organization membership rolls or a comparison of signatures on organization bargaining authorization cards.

(b) In instances where there is then in effect a lawful written collective bargaining agreement between the employer and another employee organization covering any employees included in the unit described in the request for recognition, the request for recognition shall not be entertained unless it shall be filed within the time limits prescribed in subsection (3) of this section for decertification or a new recognition election.

(c) In instances where within the previous twelve months another employee organization has been lawfully

recognized or certified as the exclusive bargaining representative of any employees included in the unit described in the request for recognition, the request for recognition shall not be entertained.

(d) In instances where the commission has within the previous twelve months conducted a secret ballot election involving any employees included in the unit described in the request for recognition in which a majority of the valid ballots cast chose not to be represented by any employee organization, the request for recognition shall not be entertained.

(3) Whenever the commission conducts an election to ascertain the exclusive bargaining representative, the ballot shall contain the name of the proposed bargaining representative and of any other bargaining representative showing written proof of at least ten percent representation of the educational employees within the unit, together with a choice for any educational employee to designate that he or she does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot and neither of the three or more choices receives a majority of the valid ballots cast by the educational employees within the bargaining unit, a run-off election shall be held. The run-off ballot shall contain the two choices which receive the largest and second largest number of votes. No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question of representation may be raised except during the period not more than ninety nor less than sixty days prior to the expiration date of the agreement. In the event that a valid collective bargaining agreement, together with any renewals or extensions thereof, has been or will be in existence for three years, then the question of representation may be raised not more than ninety nor less than sixty days prior to the third anniversary date of the agreement or any renewals or extensions thereof as long as such renewals and extensions do not exceed three years; and if the exclusive bargaining representative is removed as a result of such procedure, the then existing collective bargaining agreement shall be terminable by the new exclusive bargaining representative so selected within sixty days after its certification or terminated on its expiration date, whichever is sooner, or if no exclusive bargaining representative is so selected, then the agreement shall be deemed to be terminated at its expiration date or as of such third anniversary date, whichever is sooner.

(4) Within the time limits prescribed in subsection (3) of this section, a petition may be filed signed by at least thirty percent of the employees of a collective bargaining unit, then represented by an exclusive bargaining representative, alleging that a majority of the employees in that unit do not wish to be represented by an employee organization, requesting that the exclusive bargaining representative be decertified, and indicating the name, address and telephone number of the exclusive bargaining representative and any other interested employee organization, if known. Upon the verification of the signatures on the petition, the commission shall conduct an election by secret ballot as prescribed by subsection (3) of this section. [1975 1st ex.s. c 288 § 8.]

41.59.080 Determination of bargaining unit—Standards. The commission, upon proper application for certification as an exclusive bargaining representative or upon petition for change of unit definition by the employer or any employee organization within the time limits specified in RCW 41.59.070(3), and after hearing upon reasonable notice, shall determine the unit appropriate for the purpose of collective bargaining. In determining, modifying or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the educational employees; the history of collective bargaining; the extent of organization among the educational employees; and the desire of the educational employees; except that:

(1) A unit including nonsupervisory educational employees shall not be considered appropriate unless it includes all such nonsupervisory educational employees of the employer; and

(2) A unit that includes only supervisors may be considered appropriate if a majority of the employees in such category indicate by vote that they desire to be included in such a unit; and

(3) A unit that includes only principals and assistant principals may be considered appropriate if a majority of such employees indicate by vote that they desire to be included in such a unit; and

(4) A unit that includes both principals and assistant principals and other supervisory employees may be considered appropriate if a majority of the employees in each category indicate by vote that they desire to be included in such a unit; and

(5) A unit that includes supervisors and/or principals and assistant principals and nonsupervisory educational employees may be considered appropriate if a majority of the employees in each category indicate by vote that they desire to be included in such a unit; and

(6) A unit that includes only employees in vocational-technical institutes or occupational skill centers may be considered to constitute an appropriate bargaining unit if the history of bargaining in any such school district so justifies; and

(7) Notwithstanding the definition of collective bargaining, a unit that contains only supervisors and/or principals and assistant principals shall be limited in scope of bargaining to compensation, hours of work, and the number of days of work in the annual employment contracts. [1975 1st ex.s. c 288 § 9.]

41.59.090 Certification of exclusive bargaining representative—Scope of representation. The employee organization which has been determined to represent a majority of the employees in a bargaining unit shall be certified by the commission as the exclusive bargaining representative of, and shall be required to represent all the employees within the unit without regard to membership in that bargaining representative: PROVIDED, That any employee at any time may present his grievance to the employer and have such grievance adjusted without the intervention of the exclusive bargaining representative, as long as such representative has been given an opportunity to be present at that adjustment and to make its views known, and as long as the adjustment is not inconsistent with the

terms of a collective bargaining agreement then in effect. [1975 1st ex.s. c 288 § 10.]

41.59.100 Union security provisions—Scope—Agency shop provision, collection of dues or fees. A collective bargaining agreement may include union security provisions including an agency shop, but not a union or closed shop. If an agency shop provision is agreed to, the employer shall enforce it by deducting from the salary payments to members of the bargaining unit the dues required of membership in the bargaining representative, or, for nonmembers thereof, a fee equivalent to such dues. All union security provisions must safeguard the right of nonassociation of employees based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee shall pay an amount of money equivalent to regular dues and fees to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the bargaining representative to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payment has been made. If the employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. [1975 1st ex.s. c 288 § 11.]

41.59.110 Commission, rules and regulations of—Federal precedents as standard. (1) The commission shall promulgate, revise, or rescind, in the manner prescribed by the administrative procedure act, chapter 34.05 RCW, such rules and regulations as it may deem necessary and appropriate to administer the provisions of this chapter, in conformity with the intent and purpose of this chapter, and consistent with the best standards of labor-management relations.

(2) The rules, precedents, and practices of the national labor relations board, provided they are consistent with this chapter, shall be considered by the commission in its interpretation of this chapter, and prior to adoption of any aforesaid commission rules and regulations. [1975 1st ex.s. c 288 § 12.]

41.59.120 Resolving impasses in collective bargaining—Mediation—Fact-finding with recommendations—Other. (1) Either an employer or an exclusive bargaining representative may declare that an impasse has been reached between them in collective bargaining and may request the commission to appoint a mediator for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If the commission determines that its assistance is needed, not later than five days after the receipt of a request therefor, it shall appoint a mediator in accordance with rules and regulations for such appointment prescribed by the commission. The mediator shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement. The mediator, without the consent of both parties, shall not make findings of fact or recommend terms of settlement. The services of the mediator, including, if any, per diem expenses, shall be

provided by the commission without cost to the parties. Nothing in this subsection (1) shall be construed to prevent the parties from mutually agreeing upon their own mediation procedure, and in the event of such agreement, the commission shall not appoint its own mediator unless failure to do so would be inconsistent with the effectuation of the purposes and policy of this chapter.

(2) If the mediator is unable to effect settlement of the controversy within ten days after his or her appointment, either party, by written notification to the other, may request that their differences be submitted to fact-finding with recommendations, except that the time for mediation may be extended by mutual agreement between the parties. Within five days after receipt of the aforesaid written request for fact-finding, the parties shall select a person to serve as fact-finder and obtain a commitment from that person to serve. If they are unable to agree upon a fact-finder or to obtain such a commitment within that time, either party may request the commission to designate a fact-finder. The commission, within five days after receipt of such request, shall designate a fact-finder in accordance with rules and regulations for such designation prescribed by the commission. The fact-finder so designated shall not be the same person who was appointed mediator pursuant to subsection (1) of this section without the consent of both parties.

The fact-finder, within five days after his appointment, shall meet with the parties or their representatives, or both, either jointly or separately, and make inquiries and investigations, hold hearings, and take such other steps as he may deem appropriate. For the purpose of such hearings, investigations and inquiries, the fact-finder shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. If the dispute is not settled within ten days after his appointment, the fact-finder shall make findings of fact and recommend terms of settlement within thirty days after his appointment, which recommendations shall be advisory only.

(3) Such recommendations, together with the findings of fact, shall be submitted in writing to the parties and the commission privately before they are made public. Either the commission, the fact-finder, the employer, or the exclusive bargaining representative may make such findings and recommendations public if the dispute is not settled within five days after their receipt from the fact-finder.

(4) The costs for the services of the fact-finder, including, if any, per diem expenses and actual and necessary travel and subsistence expenses, and any other incurred costs, shall be borne by the commission without cost to the parties.

(5) Nothing in this section shall be construed to prohibit an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining for that provided in this section or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the commission.

(6) Any fact-finder designated by an employer and an exclusive representative or the commission for the purposes of this section shall be deemed an agent of the state. [1975 1st ex.s. c 288 § 13.]

41.59.130 Binding arbitration procedures authorized. An employer and an exclusive bargaining representative who enter into a collective bargaining agreement may include in such agreement procedures for binding arbitration of such disputes as may arise involving the interpretation or application of such agreement. [1975 1st ex.s. c 288 § 14.]

41.59.140 Unfair labor practices for employer, employee organization, enumerated. (1) It shall be an unfair labor practice for an employer:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in RCW 41.59.060.

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: PROVIDED, That subject to rules and regulations made by the commission pursuant to RCW 41.59.110, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment or any term or condition of employment, but nothing contained in this subsection shall prevent an employer from requiring, as a condition of continued employment, payment of periodic dues and fees uniformly required to an exclusive bargaining representative pursuant to RCW 41.59.100;

(d) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under *this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It shall be an unfair labor practice for an employee organization:

(a) To restrain or coerce (i) employees in the exercise of the rights guaranteed in RCW 41.59.060: PROVIDED, That this paragraph shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (ii) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To refuse to bargain collectively with an employer, provided it is the representative of its employees subject to RCW 41.59.090.

(3) The expressing of any views, argument, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of *this chapter, if such expression contains no threat of reprisal or force or promise of benefit. [1975 1st ex.s. c 288 § 15.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 15] language here reads "this act" or "this 1975 act"; for codification of 1975 1st ex.s. c 288, see Codification Tables, Volume 0.

41.59.150 Commission to prevent unfair labor practices—Scope. (1) The commission is empowered to prevent any person from engaging in any unfair labor prac-

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tice as defined in RCW 41.59.140: PROVIDED, That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law, equity or otherwise.

(2) If the commission determines that any person has engaged in or is engaging in any such unfair labor practices as defined in RCW 41.59.140, then the commission shall issue and cause to be served upon such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action as will effectuate the purposes and policy of this chapter, such as the payment of damages and/or the reinstatement of employees.

(3) The commission may petition the superior court for the county in which the main office of the employer is located or wherein the person who has engaged or is engaging in such unfair labor practice resides or transacts business, for the enforcement of its order and for appropriate temporary relief. [1983 c 58 § 3; 1975 1st ex.s. c 288 § 16.]

41.59.160 Applicability of administrative procedure act provisions to commission action. Actions taken by or on behalf of the commission shall be pursuant to chapter 34.05 RCW, or rules and regulations adopted in accordance therewith, and the right of judicial review provided by chapter 34.05 RCW shall be applicable to all such actions and rules and regulations. [1975 1st ex.s. c 288 § 17.]

41.59.170 Effective date of certain agreements—Increased benefits during agreement authorized, when.

(1) Whenever a collective bargaining agreement between an employer and an exclusive bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the employer and an employee organization representing the same employees, the effective date of such collective bargaining agreement may be the day after the termination date of the previous collective bargaining agreement and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with such effective date as established by this subsection, and may also accrue beginning with the effective date of any individual employee contracts affected thereby.

(2) Any collective bargaining agreement may provide for the increase of any wages, salaries and other benefits during the term of such agreement or the term of any individual employee contracts concerned, in the event that the employer receives by increased appropriation or from other sources, additional moneys for such purposes. [1975 1st ex.s. c 288 § 18.]

41.59.180 Employees in specialized job category may be excluded, when. Notwithstanding the definition of "employee" in RCW 41.59.020, the commission may exclude from the coverage of *this chapter any specialized job category of an employer where a majority of the persons employed in that job category consists of noncertificated employees. At such time as a majority of such employees

are certificated, the job category may be considered an appropriate unit under *this chapter. [1975 1st ex.s. c 288 § 23.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 23] language here reads "this 1975 amendatory act"; for codification of 1975 1st ex.s. c 288, see Codification Tables, Volume 0.

41.59.900 Short title. This chapter may be cited as the educational employment relations act. [1975 1st ex.s. c 288 § 1.]

41.59.910 Construction of chapter—Effect on existing agreements—Collective bargaining agreement prevails where conflict. This chapter shall supersede existing statutes not expressly repealed to the extent that there is a conflict between a provision of this chapter and those other statutes. Except as otherwise expressly provided herein, nothing in this chapter shall be construed to annul, modify or preclude the renewal or continuation of any lawful agreement entered into prior to January 1, 1976 between an employer and an employee organization covering wages, hours, and terms and conditions of employment. Where there is a conflict between any collective bargaining agreement and any resolution, rule, policy or regulation of the employer or its agents, the terms of the collective bargaining agreement shall prevail. [1975 1st ex.s. c 288 § 19.]

41.59.920 Construction of chapter—Employee's rights preserved. Except as otherwise expressly provided herein, nothing contained in *this chapter shall be construed to deny or otherwise abridge any rights, privileges or benefits granted by law to employees. [1975 1st ex.s. c 288 § 20.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 20] language here reads "this 1975 act"; for codification of 1975 1st ex.s. c 288, see Codification Tables, Volume 0.

41.59.930 Construction of chapter—Employer's responsibilities and rights preserved. Nothing in *this chapter shall be construed to interfere with the responsibilities and rights of the employer as specified by federal and state law, including the employer's responsibilities to students, the public, and other constituent elements of the institution. [1975 1st ex.s. c 288 § 24.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 24] language here reads "this act"; for codification of 1975 1st ex.s. c 288, see Codification Tables, Volume 0.

41.59.935 Construction of chapter—Certain agreements subject to RCW 28A.150.410 and 28A.400.200. Nothing in this chapter shall be construed to grant employers or employees the right to reach agreements regarding salary or compensation increases in excess of those authorized in accordance with RCW 28A.150.410 and 28A.400.200. [1990 c 33 § 571; 1987 1st ex.s. c 2 § 206; 1981 c 16 § 3.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Intent—Severability—Effective dates—1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

Severability—1981 c 16: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder

of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 16 § 5.]

41.59.940 Effective date—1975 1st ex.s. c 288. Except for RCW 41.59.040, 41.59.050, 41.59.110 and 41.59.160 which shall take effect ninety days following enactment hereof, this chapter and RCW 28A.150.060 and 28A.405.100 as amended by chapter 288, Laws of 1975 1st ex. sess. shall take effect on January 1, 1976. Where the term "effective date of this chapter" is used elsewhere in this chapter it shall mean January 1, 1976. [1990 c 33 § 572; 1975 1st ex.s. c 288 § 26.]

Reviser's note: (1) Engrossed Substitute Senate Bill No. 2500, which is chapter 288, Laws of 1975 1st ex. sess., was passed by the senate May 28, 1975, passed by the house of representatives June 2, 1975, and approved by the governor July 2, 1975, with the exception of section 4 thereof, which was vetoed by the governor; it includes the repeal of chapter 28A.72 RCW in section 28 thereof.

(2) RCW 41.59.040 and 41.59.050 were repealed by 1979 ex.s. c 146 § 3.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

41.59.950 Severability—1975 1st ex.s. c 288. If any provision of *this chapter, or its application to any person or circumstance is held invalid, the remainder of *the chapter, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 288 § 25.]

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 25] language here reads "this 1975 act" or "the act"; for codification of 1975 1st ex.s. c 288, see Codification Tables, Volume 0.

Chapter 41.60

STATE EMPLOYEES' SUGGESTION AWARDS AND INCENTIVE PAY

Sections

- 41.60.010 Definitions.
- 41.60.015 Productivity board created—Members—Terms—Compensation.
- 41.60.020 Employee suggestion program—Rules for administration of chapter.
- 41.60.030 Employee suggestion program—Determination of award.
- 41.60.041 Employee suggestion program—Amount and payment of award—Transfer of funds to general fund.
- 41.60.050 Appropriations for administrative costs.
- 41.60.080 Employee suggestion program—Contests to encourage participation.
- 41.60.100 Employee teamwork incentive program—Applications.
- 41.60.110 Employee teamwork incentive program—Evaluation of savings.
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- 41.60.140 Incentive pay or awards not included in retirement calculations.
- 41.60.150 Recognition awards.
- 41.60.160 Persons ineligible for awards.
- 41.60.910 Severability—1975-'76 2nd ex.s. c 122.
- 41.60.911 Effective dates—1987 c 387.

41.60.010 Definitions. As used in this chapter:

- (1) "Board" means the productivity board.
- (2) "Employee suggestion program" means the program developed by the board under RCW 41.60.020.
- (3) "Teamwork incentive program" means the program developed by the board under RCW 41.60.100 through 41.60.120.

(4) "State employees" means present employees in state agencies and institutions of higher education except for elected officials, directors of such agencies and institutions, and their confidential secretaries and administrative assistants and others specifically ruled ineligible by the rules of the productivity board. [1993 c 467 § 1; 1987 c 387 § 1; 1983 c 54 § 1; 1982 c 167 § 6; 1977 ex.s. c 169 § 103; 1969 ex.s. c 152 § 3; 1965 ex.s. c 142 § 1.]

Effective date—1993 c 467: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 467 § 8.]

Severability—1982 c 167: See note following RCW 41.60.015.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

41.60.015 Productivity board created—Members—Terms—Compensation. (1) There is hereby created the productivity board. The board shall administer the employee suggestion program and the teamwork incentive program under this chapter.

(2) The board shall be composed of:

(a) The secretary of state who shall act as chairperson;
(b) The director of personnel appointed under the provisions of RCW 41.06.130 or the director's designee;

(c) The director of financial management or the director's designee;

(d) The *personnel director appointed under the provisions of **RCW 28B.16.060 or the director's designee;

(e) The director of general administration or the director's designee;

(f) Three persons with experience in administering incentives such as those used by industry, with the governor, lieutenant governor, and speaker of the house of representatives each appointing one person. The governor's appointee shall be a representative of an employee organization certified as an exclusive representative of at least one bargaining unit of classified employees, but no one organization may be represented for two consecutive terms;

(g) One person representing state agencies and institutions with employees subject to chapter 41.06 RCW, and one person representing those subject to **chapter 28B.16 RCW, both to be appointed by the governor; and

(h) In addition, the governor and board chairperson may jointly appoint persons to the board on an ad hoc basis. Ad hoc members shall serve in an advisory capacity and shall not have the right to vote.

Members under subsection (2) (f) and (g) of this section shall be appointed to serve three-year terms.

Members of the board appointed pursuant to subsection (2)(f) of this section may be compensated in accordance with RCW 43.03.240. Any board member who is not a state employee may be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060. [1993 c 467 § 2; 1987 c 387 § 2; 1985 c 114 § 1; 1984 c 287 § 72; 1983 c 54 § 2; 1982 c 167 § 1.]

Reviser's note: *(1) Powers, duties, and functions of the higher education personnel board and the state personnel board were transferred to the Washington personnel resources board by 1993 c 281, effective July 1, 1994.

** (2) Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.015 and 28B.16.240, which was recodified as RCW 41.06.382. The powers, duties, and functions of the state higher

education personnel board were transferred to the Washington personnel resources board.

Effective date—1993 c 467: See note following RCW 41.60.010.

Effective date—1985 c 114: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985." [1985 c 114 § 8.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Severability—1982 c 167: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 167 § 18.]

41.60.020 Employee suggestion program—Rules for administration of chapter. (1) The board shall formulate, establish, and maintain an employee suggestion program to encourage and reward meritorious suggestions by state employees that will promote efficiency and economy in the performance of any function of state government: PROVIDED, That the program shall include provisions for the processing of suggestions having multi-agency impact and post-implementation auditing of suggestions for fiscal accountability.

(2) The board shall prepare a topical list of all the productivity awards granted and disseminate this information to all the state government agencies that may be able to adapt them to their procedures.

(3) The board shall adopt rules and regulations necessary or appropriate for the proper administration and for the accomplishment of the purposes of this chapter. [1995 c 181 § 1; 1993 c 467 § 3; 1982 c 167 § 7; 1975-'76 2nd ex.s. c 122 § 1; 1969 ex.s. c 152 § 4; 1965 ex.s. c 142 § 2.]

Effective date—1993 c 467: See note following RCW 41.60.010.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.030 Employee suggestion program—Determination of award. The board shall make the final determination as to whether an employee suggestion award will be made and shall determine the nature and extent of the award.

No employee suggestion award may normally be made to an employee for a suggestion which is within the scope of the employee's regularly assigned responsibilities. [1982 c 167 § 8; 1965 ex.s. c 142 § 3.]

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.041 Employee suggestion program—Amount and payment of award—Transfer of funds to general fund. (1) Cash awards for suggestions generating net savings to the state shall be ten percent of the net savings.

(2) No award may be granted in excess of ten thousand dollars.

(3) If the suggestion is significantly modified when implemented, the percentage specified in subsection (1) of this section may be decreased at the option of the board.

(4) The board shall establish guidelines for making cash awards for suggestions for which benefits to the state are intangible or for which benefits cannot be calculated.

(5) Funds for the awards shall be drawn from the appropriation of the agency benefiting from the employee's suggestion. If the suggestion reduces costs to a

nonappropriated fund or reduces costs paid without appropriation from a nonappropriated portion of an appropriated fund, an award may be paid from the benefiting fund or account without appropriation.

(6) Awards may be paid to state employees for suggestions which generate new or additional money for the general fund or any other funds of the state. The director of financial management shall distribute moneys appropriated for this purpose with the concurrence of the productivity board. Transfers shall be made from other funds of the state to the general fund, in amounts equal to award payments made by the general fund, for suggestions generating new or additional money for those other funds. [1989 c 56 § 1; 1987 c 387 § 3; 1985 c 114 § 2; 1982 c 167 § 9.]

Effective date—1989 c 56: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 56 § 7.]

Effective date—1985 c 114: See note following RCW 41.60.015.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.050 Appropriations for administrative costs.

The legislature shall appropriate from the department of personnel service fund for the payment of administrative costs of the productivity board. However, during the 1991-93 fiscal biennium, the administrative costs of the productivity board shall be appropriated from the savings recovery account. [1991 sp.s. c 16 § 918; 1987 c 387 § 4; 1985 c 114 § 3; 1983 c 54 § 3; 1982 c 167 § 11; 1975-'76 2nd ex.s. c 122 § 3; 1969 ex.s. c 152 § 6; 1965 ex.s. c 142 § 5.]

Severability—Effective date—1991 sp.s. c 16: See notes following RCW 9.46.100.

Effective date—1985 c 114: See note following RCW 41.60.015.

Severability—1982 c 167: See note following RCW 41.60.015.

Department of personnel service fund: RCW 41.06.280.

41.60.080 Employee suggestion program—Contests to encourage participation. The chairman of the board may design and initiate contests between agencies and between agency suggestion evaluators to encourage participation in the suggestion program at management levels. Any tokens of recognition offered during these contests shall be nonmonetary and shall not be considered an award, or subject to RCW 41.60.030. [1982 c 167 § 12; 1975-'76 2nd ex.s. c 122 § 5.]

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.100 Employee teamwork incentive program—Applications. With the exception of agencies of the legislative and judicial branches, any organizational unit composed of employees in any agency or group of agencies of state government with the ability to identify costs, revenues, or both may apply to the board to participate in the teamwork incentive program. The application shall have the approval of the heads of the agency or agencies within which the unit is located.

Applications shall be in the form specified by the board and contain such information as the board requires. This may include, but is not limited to, quantitative measures which establish a data base of program output or perfor-

mance expectations, or both. This data base is used to evaluate savings in accordance with RCW 41.60.110(1).

The board shall evaluate the applications submitted. From those proposals which are considered to be reasonable and practical and which are found to include developed performance indicators which lend themselves to a judgment of success or failure, the board shall select the units to participate in the teamwork incentive program. [1993 c 467 § 4; 1989 c 56 § 2; 1987 c 387 § 5; 1985 c 114 § 4; 1982 c 167 § 2.]

Effective date—1993 c 467: See note following RCW 41.60.010.

Effective date—1989 c 56: See note following RCW 41.60.041.

Effective date—1985 c 114: See note following RCW 41.60.015.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.110 Employee teamwork incentive program—Evaluation of savings. (1) To qualify for a teamwork incentive program award for its employees, a unit selected shall demonstrate to the satisfaction of the board that it has operated during the period of participation at a lower cost or with an increase in revenue with no decrease in the level of services rendered.

(a) A unit completing its period of participation shall compare costs or revenues during that period of participation to (i) the expenditures or revenues for a comparable span of time immediately preceding the first period of participation, or (ii) an average derived from the unit's historical data, or (iii) engineered standards used in conjunction with an average derived from the unit's historical data, or (iv) anticipated revenue as based on statistical projections or historical data;

(b) A unit participating in the teamwork incentive program for two or more consecutive times may choose to compare its costs during the current period of participation with (i) its costs or revenues for the immediately preceding period, or (ii) an average of its costs or revenues for the preceding two or three comparable spans of time in the teamwork incentive program;

(c) For the purposes of (a) of this subsection, a unit's historical data shall be restricted to data generated during the period of three years or less immediately preceding the unit's first participation in the teamwork incentive program; and

(d) For the purposes of (b) of this subsection, a unit's costs or revenues for preceding periods of time may include the costs or revenues calculated under (a) (i), (ii), or (iii) of this subsection for the periods of time the unit participated in the teamwork incentive program.

(2) The board shall satisfy itself from documentation submitted by the organizational unit that the claimed cost of operation or level of higher revenue is real and not merely apparent and that it is not, in whole or in part, the result of:

(a) Chance;

(b) A lowering of the quality of the service rendered;

(c) Nonrecurrence of expenditures which were single outlay, or one-time expenditures, in the preceding comparable period of time;

(d) Stockpiling inventories in the immediately preceding period so as to reduce requirements in the eligible time period;

(e) Substitution of federal funds, other receipts, or nonstate funds for programs currently receiving state appropriations;

(f) Unreasonable postponement of payments of accounts payable until the period immediately following the eligible period of participation;

(g) Shifting of expenses to another unit of government; or

(h) Any other practice, event, or device which the board decides has caused a distortion which makes it falsely appear that a savings or increase in revenue gains or an increase in level of services has occurred.

(3) The board shall consider as legitimate efficiencies those reductions in expenditures or increases in revenue made possible by such items as the following:

(a) Reductions in overtime;

(b) Elimination of consultant fees;

(c) Less temporary help;

(d) Improved systems and procedures;

(e) Better deployment and utilization of personnel;

(f) Elimination of unnecessary travel;

(g) Elimination of unnecessary printing and mailing;

(h) Elimination of unnecessary payments for items such as advertising;

(i) Elimination of waste, duplication, and operations of doubtful value;

(j) Improved space utilization;

(k) Improved methods of collecting revenue or recovering money owed to the state; and

(l) Any other items determined by the board to represent cost savings or increased revenue. [1993 c 467 § 5; 1989 c 56 § 3; 1987 c 387 § 6; 1985 c 114 § 5; 1982 c 167 § 3.]

Effective date—1993 c 467: See note following RCW 41.60.010.

Effective date—1989 c 56: See note following RCW 41.60.041.

Effective date—1985 c 114: See note following RCW 41.60.015.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.120 Employee teamwork incentive program—Awards. At the conclusion of the eligible period, the board shall compare the expenditures or revenues for that period of each unit selected against the expenditures or revenues of that unit for the immediately preceding period or expenditures or revenues determined in accordance with RCW 41.60.110(1) (a) and (b) and, after making such adjustments as in the board's judgment are required to eliminate distortions, shall determine the amount, if any, that the unit has reduced the unit's cost of operations or increased its level of services or generated additional revenues to the state in the eligible period. Adjustments to eliminate distortions may include any legislative increases in employee compensation and inflationary increases in the cost of services, materials, and supplies. Adjustments to additional revenue may include changes in client populations and the effects of legal changes. If the board also determines that a unit qualifies for an award, the board shall award to the employees of that unit a sum up to twenty-five percent of the amount determined to be the savings or revenue increases to the state for the level of services rendered. The amount awarded shall be divided and distributed in accordance with board rules to the employees of the unit, except that employees who worked for that unit less than the full period during which the unit

conducted a teamwork incentive program shall receive only a pro rata share based on the fraction of the period worked for that unit. No individual share of the unit award may exceed the maximum award established by rule adopted by the board. Funds for this teamwork incentive award shall be drawn from the agencies in which the unit is located or from the benefiting fund or account without appropriation when additional revenue is generated to the fund or account.

Awards may be paid to teams for process changes which generate new or additional money for the general fund or any other funds of the state. The director of the office of financial management shall distribute moneys appropriated for this purpose with the concurrence of the productivity board. Transfers shall be made from other funds of the state to the general fund in amounts equal to award payments made by the general fund, for innovations generating new or additional money for those other funds. [1993 c 467 § 6; 1989 c 56 § 4; 1987 c 387 § 7; 1985 c 114 § 6; 1982 c 167 § 4.]

Effective date—1993 c 467: See note following RCW 41.60.010.

Effective date—1989 c 56: See note following RCW 41.60.041.

Effective date—1985 c 114: See note following RCW 41.60.015.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.140 Incentive pay or awards not included in retirement calculations. Incentive pay or awards provided under this chapter shall not be included for the purpose of computing a retirement allowance under any public retirement system of this state. [1982 c 167 § 10.]

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.150 Recognition awards. Other than suggestion awards and incentive pay unit awards, agencies shall have the authority to recognize employees for accomplishments including outstanding achievements, safety performance, and longevity. Recognition awards may not exceed one hundred dollars in value per award. Such awards may include, but not be limited to, cash or such items as pen and desk sets, plaques, pins, framed certificates, clocks, and calculators. Award costs shall be paid by the agency giving the award. [1989 c 56 § 5; 1985 c 114 § 7.]

Effective date—1989 c 56: See note following RCW 41.60.041.

Effective date—1985 c 114: See note following RCW 41.60.015.

41.60.160 Persons ineligible for awards. No award may be made under this chapter to any elected state official or state agency director. [1993 c 467 § 7; 1987 c 387 § 8.]

Effective date—1993 c 467: See note following RCW 41.60.010.

41.60.910 Severability—1975-'76 2nd ex.s. c 122. If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 122 § 9.]

41.60.911 Effective dates—1987 c 387. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1,

1987, except section 10 of this act which shall take effect immediately. [1987 c 387 § 11.]

Chapter 41.64

PERSONNEL APPEALS BOARD

Sections

- 41.64.010 Personnel appeals board—Created—Membership—Definitions.
- 41.64.020 Removal of members—Hearing.
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41.64.010 Personnel appeals board—Created—Membership—Definitions. (1) There is hereby created a "personnel appeals board," hereinafter in this chapter referred to as the "board," which shall consist of three members to be appointed by the governor, subject to confirmation by the senate. The first board shall be appointed within thirty days after May 19, 1981, for terms of two, four, and six years. Thereafter, appointments shall be made for six-year terms. A vacancy shall be filled by appointment by the governor for the unexpired term in which the vacancy exists. Each member shall continue to hold office after the expiration of the member's term until a successor has been appointed. Members may be reappointed to the board for successive terms. Persons appointed to the board shall be qualified by experience and training in the field of administrative procedures and merit principles. Such members:

(a) May not hold any other employment with the state;

(b) May not during the terms to which they are appointed be or become candidates for public office, hold any other public office or trust, engage in any occupation or business which interferes, or is inconsistent, with their duties as members of the board, serve on or under any committee of any political party, and may not have been officers of a political party for a period of one year immediately prior to their appointment; and

(c) May not for a period of one year after the termination of their membership on the board, act in a representative capacity before the board on any matter.

(2) Unless the context clearly indicates otherwise, the following definitions apply to this chapter:

(a) "Agency" means any agency as defined in RCW 41.06.020;

(b) For appeals filed on or after July 1, 1981, under RCW 41.64.090, "board" or "personnel appeals board"

means the personnel appeals board created by subsection (1) of this section;

(c) For purposes of RCW 41.64.080 through 41.64.140 for appeals filed before July 1, 1981, under RCW 41.06.170, as it existed prior to or after May 19, 1981, "board" or "personnel appeals board" means the *state personnel board created by RCW 41.06.110. [1981 c 311 § 1.]

***Reviser's note:** Powers, duties, and functions of the higher education personnel board and the state personnel board were transferred to the Washington personnel resources board by 1993 c 281 §§ 1 through 7.

41.64.020 Removal of members—Hearing. Any member of the board may be removed for incapacity, incompetence, neglect of duty, malfeasance, or misfeasance in office, upon specific written charges filed by the governor, who shall transmit such written charges to the member accused and to the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time and the procedure for the hearing, which shall be public. The decision of such tribunal shall be final and not subject to review by the supreme court. Removal of any member of the board by the tribunal disqualifies such member for reappointment. [1981 c 311 § 3.]

41.64.030 Compensation of members—Travel expenses—Disclosure of financial affairs. (1) The board shall operate on either a part-time or a full-time basis, as determined by the governor. If it is determined that the board shall operate on a full-time basis, each member of the board shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined that the board shall operate on a part-time basis, each member of the board shall be compensated in accordance with RCW 43.03.250. Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060.

(2) Members of the board shall report their financial affairs to the public disclosure commission pursuant to RCW 42.17.240 and 42.17.241. [1984 c 287 § 73; 1984 c 34 § 4; 1981 c 311 § 4.]

Reviser's note: This section was amended by 1984 c 287 § 73, effective July 1, 1985, and by 1984 c 34 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

41.64.040 Election of chairperson—Biennial meetings. The board shall, as soon as practicable after the initial appointment of its members, meet and elect from among its members a chairperson, and shall at least biennially thereafter meet and elect such a chairperson. [1981 c 311 § 5.]

41.64.050 Executive secretary—Appointment of assistants. The board may appoint and discharge an executive secretary who shall be exempt from the provisions of chapter 41.06 RCW. The executive secretary may appoint

and discharge such other clerical, professional, and technical assistants as may be necessary. The salary of the executive secretary shall be fixed by the governor pursuant to RCW 43.03.040, as now existing or hereafter amended. [1981 c 311 § 6.]

41.64.060 Location of principal office—Hearings—Procedure. The principal office of the board shall be at the state capital, but it may sit or hold hearings at any other place in the state. A majority of the board shall constitute a quorum for making orders or decisions, promulgating rules necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position on the board be vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law. [1981 c 311 § 7.]

41.64.070 Journal of official actions. The board shall maintain at its principal office a journal which shall contain all official actions of the board, with the exception of findings and decisions, together with the vote of each member on such actions. The journal shall be available for public inspection at the principal office of the board at all reasonable times. [1981 c 311 § 8.]

41.64.080 Employee appeals—Hearings examiners. The board may appoint one or more hearings examiners to preside over, conduct, and make recommended decisions, including findings of fact and conclusions of law in all cases of employee appeals to the board. The hearings examiner shall conduct hearings in the same manner and shall have the same authority as provided in hearings by the board. The recommended decisions shall be forthwith served upon the parties and transmitted to the board together with the record of the evidence. Within thirty days of service of the recommended decision, any party adversely affected may file exceptions, and thereafter all parties may present written and oral argument to the board, which shall consider the whole record or such portions thereof as may be cited by the parties. [1981 c 311 § 9.]

41.64.090 Employee appeals—Jurisdiction. (1) The board shall have jurisdiction to decide appeals filed on or after July 1, 1981, of employees under the jurisdiction of the Washington personnel resources board pursuant to RCW 41.06.170, as now or hereafter amended.

(2) The board shall have jurisdiction to decide appeals filed on or after July 1, 1993, of employees of institutions of higher education and related boards under the jurisdiction of the Washington personnel resources board pursuant to RCW 41.06.170. An appeal under this subsection by an employee of an institution of higher education or a related board shall be held in the county in which the institution is located or the county in which the person was employed when the appeal was filed. [1993 c 281 § 41; 1981 c 311 § 10.]

Effective date—1993 c 281: See note following RCW 41.06.022.

41.64.100 Employee appeals—Hearing—Decision to be rendered within ninety days, exception. (1) In all appeals over which the board has jurisdiction involving reduction, dismissal, suspension, or demotion, the board shall set the case for hearing, and the final decision, including an appeal to the board from the hearing examiner, if any, shall be rendered within ninety days from the date the appeal was first received: PROVIDED, That an extension may be permitted if agreed to by the employee and the employing agency. The board shall furnish the agency with a copy of the appeal in advance of the hearing.

(2) In all appeals made pursuant to *RCW 41.06.170(3), as now or hereafter amended, the decision of the board is final and not appealable to court. [1981 c 311 § 11.]

***Reviser's note:** RCW 41.06.170 was amended by 1993 c 281 § 31, changing subsection (3) to subsection (4).

41.64.110 Employee appeals—Hearing—Procedure—Official record. Hearings on such appeals shall be open to the public, except for cases in which the board determines there is substantial reason for not having an open hearing or in cases where the employee so requests, and shall be informal with technical rules of evidence not applying to the proceedings except the rules of privilege recognized by law. Both the employee and his or her appointing agency shall be notified reasonably in advance of the hearing and may select representatives of their choosing, present and cross-examine witnesses, and give evidence before the board. Members of the board or the executive secretary may, and shall at the request of either party, issue subpoenas and subpoenas duces tecum. All testimony shall be on oath administered by a member of the board. The board shall certify to the superior court the facts of any refusals to obey a subpoena, take the oath, or testify. The court shall summarily hear the evidence on such refusal and, if the evidence warrants, punish such refusal in the same manner and to the same extent as for contempt committed before, or in connection with the proceedings of, the court. The board shall prepare an official record of the hearing, including all testimony, recorded manually or by mechanical device, and exhibits; but it may not be required to transcribe such record unless requested by the employee, who shall be furnished with a complete transcript upon payment of a reasonable charge. However, payment of the cost of a transcript used on appeal shall await determination of the appeal and shall be made by the employing agency if the employee prevails. [1985 c 461 § 7; 1981 c 311 § 12.]

Severability—1985 c 461: See note following RCW 41.06.020.

41.64.120 Employee appeals—Findings of fact, conclusions of law, order—Notice to employee and employing agency. (1) Within thirty days after the conclusion of the hearing, the board shall make and fully record in its permanent records the following: (a) Findings of fact; (b) conclusions of law when the construction of a rule, regulation, or statute is in question; (c) reasons for the action taken; and (d) the board's order based thereon. The order is final, subject to action by the court on appeal as provided in this chapter.

(2) The board shall simultaneously send a copy of the findings, conclusions, and order by certified mail to the

employing agency and to the employee or the employee's designated representative. [1981 c 311 § 13.]

41.64.130 Employee appeals—Review by superior court—Grounds—Notice, service—Certified transcript.

(1) Within thirty days after the recording of the order and the mailing thereof, the employee may appeal the decision and order of the board on appeals made pursuant to RCW 41.06.170(2), as now or hereafter amended, to the superior court of Thurston county on one or more of the grounds that the order was:

(a) Founded on or contained an error of law, which shall specifically include error in construction or application of any pertinent rules or regulations;

(b) Contrary to a preponderance of the evidence as disclosed by the entire record with respect to any specified finding or findings of fact;

(c) Materially affected by unlawful procedure;

(d) Based on violation of any constitutional provision; or

(e) Arbitrary or capricious.

(2) Such grounds shall be stated in a written notice of appeal filed with the court, with copies thereof served on a member of the board or the executive secretary and on the employing agency, all within the time stated.

(3) Within thirty days after service of such notice, or within such further time as the court may allow, the board shall transmit to the court a certified transcript, with exhibits, of the hearing; but by stipulation between the employing agency and the employee the transcript may be shortened, and either party unreasonably refusing to stipulate to such limitation may be ordered by the court to pay the additional cost involved. The court may require or permit subsequent corrections or additions to the transcript. [1981 c 311 § 14.]

41.64.140 Employee appeals—Review by superior court—Procedure—Appellate review. (1) The court shall review the hearing without a jury on the basis of the transcript and exhibits, except that in case of alleged irregularities in procedure before the board not shown by the transcript the court may order testimony to be given thereon. The court shall upon request by either party hear oral argument and receive written briefs.

(2) The court may affirm the order of the board, remand the matter for further proceedings before the board, or reverse or modify the order if it finds that the objection thereto is well taken on any of the grounds stated. Appellate review of the order of the superior court may be sought as in other civil cases. [1988 c 202 § 42; 1981 c 311 § 15.]

Severability—1988 c 202: See note following RCW 2.24.050.

41.64.910 Severability—1981 c 311. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 c 311 § 24.]

Chapter 41.68

**REPARATIONS TO STATE EMPLOYEES
TERMINATED DURING WORLD WAR II**

Sections

- 41.68.010 Legislative finding.
- 41.68.020 Eligibility for reparation.
- 41.68.030 Submittal of claim.
- 41.68.040 Determination of eligibility.
- 41.68.050 Payment of reparation.

Redress authorized for municipal employees dismissed during World War II: RCW 41.04.580.

41.68.010 Legislative finding. The dismissal or termination of various state employees during World War II resulted from the promulgation of federal Executive Order 9066 which was based mainly on fear and suspicion rather than on factual justification. It is fair and just that reparations be made to those employees who were terminated from state employment during the wartime years because of these circumstances. The legislature therefore finds that equity and fairness will be served by authorizing the filing of claims with the state for salary losses suffered by the state employees directly affected, and by authorizing the payment thereof, subject to the provisions of this chapter. [1983 1st ex.s. c 15 § 1.]

41.68.020 Eligibility for reparation. Any state employee or the living surviving spouse of a state employee who, due to the promulgation of federal Executive Order 9066, was dismissed, terminated from a temporary position, or rejected during the person's probationary period, or who voluntarily resigned in lieu of dismissal from state government employment, and who incurred salary losses as a result thereof, is eligible to file a claim with the state for the reparation of those losses. [1983 1st ex.s. c 15 § 2.]

41.68.030 Submittal of claim. A claim under this chapter may be submitted to the department of personnel for the reparation of salary losses suffered during the years 1942 through 1947. The claim shall be supported by appropriate verification, such as the person's name at the time of the dismissal, the name of the employing department, and a social security number, or by evidence of official action of termination. The claimant shall also provide an address to which the department shall mail notification of its determination regarding the claimant's eligibility. [1983 1st ex.s. c 15 § 3.]

41.68.040 Determination of eligibility. (1) The department of personnel shall determine the eligibility of a claimant to receive reparations authorized by this chapter. The department shall then notify the claimant by mail of its determination regarding the claimant's eligibility.

(2) The department may adopt rules that will assist in the fair determination of eligibility and the processing of claims. The department, however, has no obligation to directly notify any person of possible eligibility for reparation of salary losses under this chapter. [1983 1st ex.s. c 15 § 4.]

41.68.050 Payment of reparation. A claimant under this chapter who is determined eligible by the department of personnel shall receive two thousand five hundred dollars each year for two years. All claims which the department determines are eligible for reparation shall be immediately forwarded to the state treasurer, who shall issue warrants in the appropriate amounts upon demand and verification of identity. If a claimant dies after filing a claim but before receiving full payment, payments shall be made to the claimant's estate upon demand and verification of identity. [1983 1st ex.s. c 15 § 5.]

Chapter 41.72

LAW ENFORCEMENT MEDAL OF HONOR

Sections

- 41.72.010 Law enforcement medal of honor established.
- 41.72.020 Law enforcement medal of honor committee established—Membership—Establishment of qualifications for award.
- 41.72.030 Law enforcement medal of honor awarded—When.
- 41.72.040 Law enforcement medal of honor may be awarded posthumously.
- 41.72.050 Law enforcement medal of honor—Design.

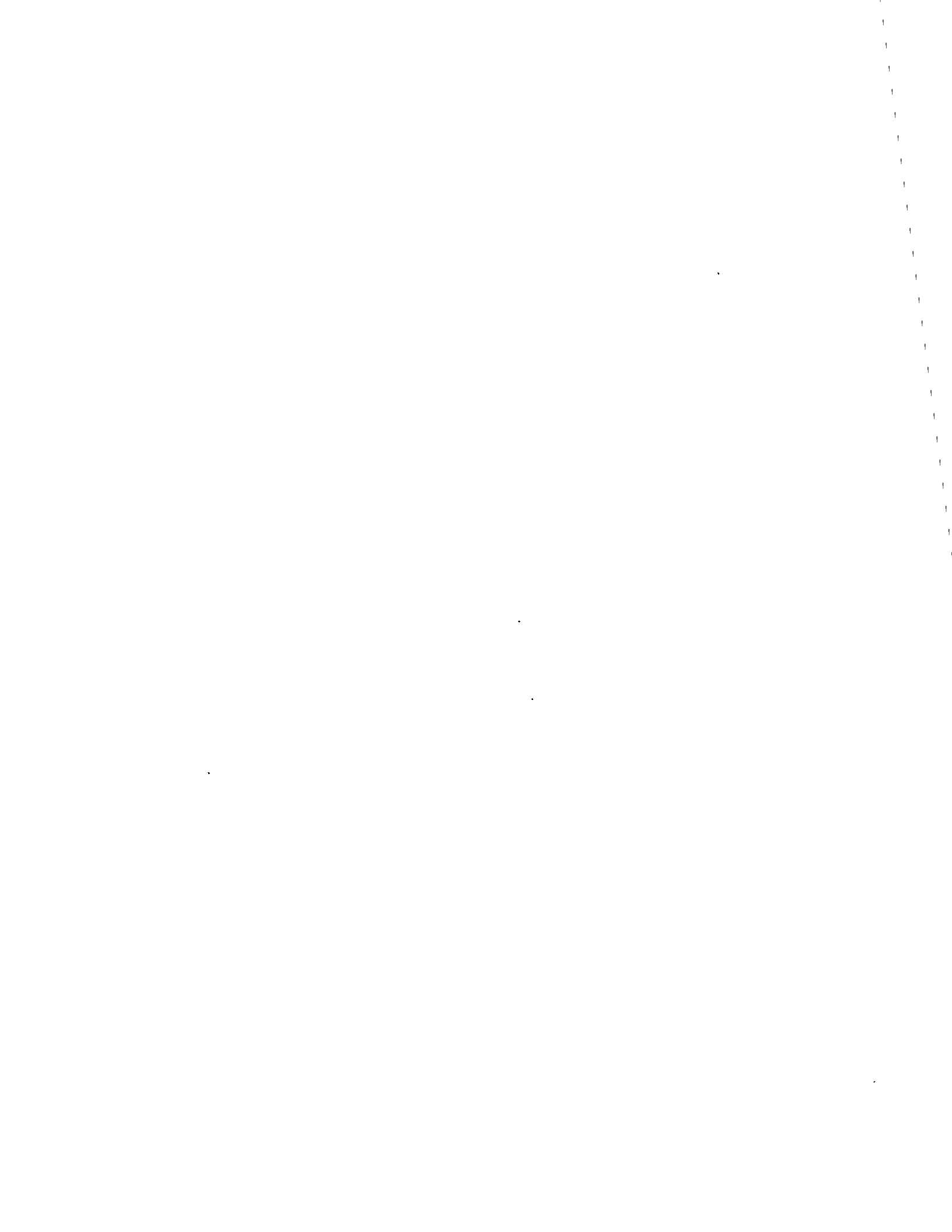
41.72.010 Law enforcement medal of honor established. There is established a decoration of the state law enforcement medal of honor with accompanying ribbons and appurtenances for award by the governor in the name of the state to any law enforcement officer who has been seriously injured or killed while in the performance of duty, or who has been distinguished by exceptionally meritorious conduct, upon nomination of the governor's state law enforcement medal of honor committee. [1994 c 89 § 1.]

41.72.020 Law enforcement medal of honor committee established—Membership—Establishment of qualifications for award. There is created the state law enforcement medal of honor committee for nominating candidates for the award of the state law enforcement medal of honor. The committee membership consists of a representative from the governor's office, the Washington state law enforcement association, the Washington state council of police officers, the Washington association of sheriffs and police chiefs, and the Washington state troopers association. The attorney general shall serve as chair of the committee and shall designate a secretary for the committee. The committee shall meet not less than semiannually to consider candidates for nomination. The committee shall adopt rules establishing the qualifications for the state law enforcement medal of honor, the protocol governing the decoration, and the appurtenances necessary to the implementation of this chapter. [1994 c 89 § 2.]

41.72.030 Law enforcement medal of honor awarded—When. The state law enforcement medal of honor shall be awarded to recipients during the national law enforcement recognition week. The governor may delegate the awarding of the medal to the lieutenant governor or the attorney general. [1994 c 89 § 3.]

41.72.040 Law enforcement medal of honor may be awarded posthumously. The state law enforcement medal of honor may be awarded posthumously to be presented to the representative of the deceased as may be deemed appropriate by the governor or the designees specified in RCW 41.72.030. [1994 c 89 § 4.]

41.72.050 Law enforcement medal of honor—Design. The decoration of the state law enforcement medal of honor shall be bronze and shall consist of a police shield overlaid by a sheriff's star with the seal of the state of Washington in the center and the words "law enforcement medal of honor" within the design and suspended from a ring attached by either a navy blue ribbon with a gold edge or a green ribbon with a gold edge. Such color choice shall be the recipient's. The reverse of the decoration shall be inscribed with the words "For exceptionally honorable and meritorious conduct in performing services as a law enforcement officer." [1994 c 89 § 5.]



Title 42

PUBLIC OFFICERS AND AGENCIES

Chapters

- 42.04 General provisions.
- 42.08 Official bonds.
- 42.12 Vacancies.
- 42.14 Continuity of government act.
- 42.16 Salaries and fees.
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- 42.20 Misconduct of public officers.
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- 42.24 Payment of claims for expenses, material, purchases—Advancements.
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- 42.40 State employee whistleblower protection.
- 42.41 Local government whistleblower protection.
- 42.44 Notaries public.
- 42.48 Release of records for research.
- 42.52 Ethics in public service.

Collection agencies retained to collect public debts: RCW 19.16.500.

County officers, general provisions: Chapter 36.16 RCW.

Credit card use by local governments: RCW 43.09.2855.

Elections: Title 29 RCW.

Hospitalization and medical aid for public employees and dependents—Premiums, governmental contributions authorized: RCW 41.04.180, 41.04.190.

Military leave for public employees: RCW 38.40.060.

Public employment, civil service and pensions: Title 41 RCW.

State officers, general provisions: Chapter 43.01 RCW.

Chapter 42.04 GENERAL PROVISIONS

Sections

- 42.04.020 Eligibility to hold office.
- 42.04.040 Proceedings to impeach, etc., preserved.
- 42.04.060 Offices to be open certain days and hours.
- 42.04.070 Compensation for unofficial services.

42.04.020 Eligibility to hold office. That no person shall be competent to qualify for or hold any elective public office within the state of Washington, or any county, district, precinct, school district, municipal corporation or other district or political subdivision, unless he be a citizen of the United States and state of Washington and an elector of such county, district, precinct, school district, municipality or other district or political subdivision. [1919 c 139 § 1; RRS

§ 9929. FORMER PART OF SECTION: Code 1881 § 3050 codified as RCW 42.04.021.]

Apple advertising commission, qualifications of members: RCW 15.24.020.

Attorney general, qualifications: RCW 43.10.010.

Cemetery board, qualifications of members: RCW 68.05.050.

Cities, council-manager plan, qualifications of city manager: RCW 35.18.040.

Cities and towns, residence qualifications of officials and employees: RCW 35.21.200.

County hospital board of trustees, eligibility: RCW 36.62.140.

Court administrator, qualifications: RCW 2.56.010.

Court commissioners, qualifications: RCW 2.24.010.

Dairy products commission, members, qualifications: RCW 15.44.030.

Electors, qualifications: State Constitution Art. 6 § 1 (Amendment 5).

Engineers and land surveyors' board of registration, qualifications: RCW 18.43.030.

Fire protection district commissioners, qualifications: RCW 52.14.010.

Fish and wildlife commission members, qualifications: RCW 77.04.040.

Flood control districts, qualifications of governing board: RCW 85.38.070.

Fruit commission, qualifications of members: RCW 15.28.030.

Hardwoods commission, qualifications: RCW 15.74.010.

Honey bee commission, qualifications: RCW 15.62.060.

Horse racing commission, qualifications: RCW 67.16.012.

Judges of superior court, eligibility: State Constitution Art. 4 § 17.

Judges of supreme court, eligibility: State Constitution Art. 4 § 17.

Legislators, eligibility: State Constitution Art. 2 § 7; Art. 2 § 14.

Mosquito control district board members, qualifications: RCW 17.28.120.

Municipal court judges, qualifications: RCW 35.20.170.

Precinct committee officers: RCW 29.42.040.

Prosecuting attorney, eligibility: RCW 36.27.010.

Public utility district commissioners, qualifications: RCW 54.12.010.

Religious qualification to hold public office or employment prohibited: State Constitution Art. 1 § 11 (Amendment 4).

Residence for eligibility to public office: State Constitution Art. 6 § 4.

School directors, qualifications: RCW 28A.315.490.

School teachers, qualifications: RCW 28A.410.025, 28A.405.040.

State board of education, eligibility: RCW 28A.305.060.

State hospitals for mentally ill, superintendents' powers: RCW 72.23.030.

State officers, eligibility: State Constitution Art. 3 § 25 (Amendment 31).

State schools for blind and deaf, qualifications of superintendents: RCW 72.40.020.

Subversive activities as disqualification from holding public office: Chapter 9.81 RCW.

Superior court reporters, qualifications: RCW 2.32.180.

Towns, eligibility of officers: RCW 35.27.080.

Utilities and transportation commission, qualifications: RCW 80.01.020.

Veterinary board members, qualifications: RCW 18.92.021.

Weed district director and electors, qualifications: RCW 17.04.070.

Wine commission, qualifications: RCW 15.88.030.

42.04.040 Proceedings to impeach, etc., preserved.
The omission to specify or affirm in *this act any ground of

forfeiture of a public office or other trust or special authority conferred by law, or any power conferred by law to impeach, remove, depose or suspend any public officer or other person holding any trust, appointment or other special authority conferred by law, shall not affect such forfeiture or power, or any proceeding authorized by law to carry into effect such impeachment, removal, deposition or suspension. [1909 c 249 § 45; RRS § 2297.]

***Reviser's note:** The term "this act" relates to the criminal code of 1909. For disposition of sections, see note following RCW 9.01.120.

Forfeiture of office for conviction of felony or malfeasance: RCW 9.92.120.

Impeachment and removal: State Constitution Art. 5.

Recall of elective officers: State Constitution Art. 1 § 33 (Amendment 8); chapter 29.82 RCW.

42.04.060 Offices to be open certain days and hours. All state elective and appointive officers shall keep their offices open for the transaction of business from eight o'clock a.m. to five o'clock p.m. of each business day from Monday through Friday, state legal holidays excepted. On Saturday, such offices may be closed.

This section shall not apply to the courts of record of this state or to their officers nor to the office of the attorney general and the lieutenant governor. [1973 2nd ex.s. c 1 § 2; 1955 ex.s. c 9 § 3. Prior: 1951 c 100 §§ 3, 4; 1941 c 113 § 1; Rem. Supp. 1941 § 9963-1.]

Office hours of city, county, precinct: RCW 35.21.175, 36.16.100.

42.04.070 Compensation for unofficial services. That the directors, trustees and commissioners of state institutions in this state, serving as such without any compensation, shall not be precluded by reason of holding such offices from receiving compensation for services not official rendered without being procured or brought about by use of such official position, or by reason thereof, but such officers shall be allowed to receive such reasonable compensation for services not official or connected with their respective offices as they would otherwise be allowed were they not such officers. [1891 c 109 § 1; RRS § 10966.]

Chapter 42.08 OFFICIAL BONDS

Sections

42.08.005 Official bonds—Payment of premiums.
OFFICIAL BONDS—CODE OF 1881

42.08.010 Scope of coverage.
42.08.020 Who may maintain action.
42.08.030 Leave of court required.
42.08.040 Judgment no bar to further action.
42.08.050 Recoveries limited to amount of bond.

OFFICIAL BONDS—1890 ACT

42.08.060 Form of official bonds.
42.08.070 Effect of bonds.
42.08.080 Who may bring action on bond.
42.08.090 Defective bonds validated.
42.08.100 Approval and filing.
42.08.110 Procedure when bond of county or township officer is insufficient.
42.08.120 Additional bond.
42.08.130 Remedy when bond of state officer becomes insufficient.
42.08.140 Force of additional bond.

42.08.150 Number of sureties.
42.08.160 Justification of sureties.
42.08.170 Liability of sureties.
42.08.180 Release of sureties.

Adjutant general, official bond: RCW 38.12.010.

Apple advertising commission treasurer, bond required: RCW 15.24.150.

Attorney general, official bonds: RCW 43.10.010, 43.10.020.

Cities, code city retaining second class form, bond of officers: RCW 35.23.835.

Cities, commission form, bonds required: RCW 35.17.100.

Cities, council-manager plan, bond of manager: RCW 35.18.050.

Cities, second class, bond required: RCW 35.23.081.

Commissioner of public lands, official bonds: RCW 79.01.064.

County clerk, new bond may be required: RCW 36.23.020.

County commissioners, official bond: RCW 36.32.060.

County officers, official bonds: RCW 36.16.050.

County sheriff, additional bond: RCW 36.28.030.

Dairy products commission treasurer, bond required: RCW 15.44.050.

Flood control districts, official bonds: RCW 86.09.301, 86.09.304, 86.09.307.

Fruit commission treasurer, bond required: RCW 15.28.190.

Horse racing commission, official bonds: RCW 67.16.012.

Insurance commissioner, official bond: RCW 48.02.030.

Irrigation districts, official bonds: RCW 87.03.082.

Liquor control board, official bond: RCW 66.08.014.

Municipal court judge, bond required: RCW 35.20.180.

Public printer, official bond: RCW 43.78.020.

Reclamation district directors, official bonds: RCW 89.30.259.

Reclamation districts, bond of secretary: RCW 89.30.262.

Secretary of state, official bond: RCW 43.07.010.

State administrative officers, official bonds: RCW 43.17.100.

State auditor, official bond: RCW 43.09.010.

State treasurer, official bond: RCW 43.08.020.

Superior court reporters, bond required: RCW 2.32.180.

Suretyship: Chapters 19.72, 48.28 RCW.

Towns, bond of officers: RCW 35.27.120.

Townships, official bonds: RCW 45.16.040 through 45.16.090, 45.24.040, 45.28.060, 45.32.090.

University of Washington, board of regents, secretary to give bond: RCW 28B.30.135.

Utilities and transportation commission, official bonds: RCW 80.01.020.

Washington State University, board of regents, bonds required: RCW 28B.30.100, 28B.30.130.

Weed district officers, bond required: RCW 17.04.070.

42.08.005 Official bonds—Payment of premiums.
See RCW 48.28.040.

OFFICIAL BONDS—CODE OF 1881

42.08.010 Scope of coverage. The official bond of a public officer, to the state, or to any county, city, town or other municipal or public corporation of like character therein, shall be deemed a security to the state, or to such county, city, town or other municipal or public corporation, as the case may be, and also to all persons severally, for the official delinquencies against which it is intended to provide. [Code 1881 § 652; 1877 p 135 § 655; 1869 p 152 § 592; RRS § 958.]

Bonds payable to state: RCW 42.08.060.

42.08.020 Who may maintain action. When a public officer by official misconduct or neglect of duty, shall forfeit his official bond or render his sureties therein liable upon such bond, any person injured by such misconduct or neglect, or who is by law entitled to the benefit of the security, may maintain an action at law thereon in his own name against the officer and his sureties to recover the amount to which he may by reason thereof be entitled. [Code 1881 § 653; 1877 p 135 § 656; 1869 p 152 § 593; RRS § 959.]

Action on official bond: RCW 42.08.080.

42.08.030 Leave of court required. Before an action can be commenced by a plaintiff, other than the state, or the municipal or public corporation named in the bond, leave shall be obtained of the court or judge thereof where the action is triable. Such leave shall be granted upon the production of a certified copy of the bond and an affidavit of the plaintiff, or some person in his behalf, showing the delinquency. But if the matter set forth in his affidavit be such that, if true, the party applying would clearly not be entitled to recover in the action, the leave shall not be granted. If it does not appear from the complaint that the leave herein provided for has been granted, the defendant, on motion, shall be entitled to judgment of nonsuit; if it does, the defendant may controvert the allegation, and if the issue be found in his favor, judgment shall be given accordingly. [Code 1881 § 654; 1877 p 136 § 657; 1869 p 152 § 594; RRS § 960.]

42.08.040 Judgment no bar to further action. A judgment in favor of a party for one delinquency shall not preclude the same or another party from maintaining another action on the same bond for another delinquency. [Code 1881 § 655; 1877 p 136 § 658; 1869 p 153 § 595; RRS § 961.]

42.08.050 Recoveries limited to amount of bond. In an action upon an official bond, if judgments have been recovered against the surety therein other than by confession, equal in the aggregate to the penalty or any part thereof of such bond, and if such recovery be established on the trial, judgment shall not be given against such surety for an amount exceeding such penalty, or such portion thereof as is not already recovered against him. [Code 1881 § 656; 1877 p 136 § 659; 1869 p 153 § 596; RRS § 962.]

Liability of sureties: RCW 42.08.170.

OFFICIAL BONDS—1890 ACT

42.08.060 Form of official bonds. All official bonds required by law of officers shall be in form, joint and several, and made payable to the state of Washington, in such penal sum and with such conditions as may be required by law. [1890 p 34 § 1; RRS § 9930.]

*Bonds deemed security to state, county, city, town, etc.: RCW 42.08.010.
County commissioner bond is payable to county: RCW 36.32.060.*

42.08.070 Effect of bonds. Every official bond executed by any officer pursuant to law shall be deemed and taken to be in force, and shall be obligatory upon the

principal and sureties therein for any and all breach of the condition or conditions thereof committed during the time such officer shall continue to discharge any of the duties of, or hold such office, and every such bond shall be deemed to be in force and obligatory upon the principal and sureties therein for the faithful discharge of all duties which may be required of such officer by any law enacted subsequent to the execution of such bond, and such condition shall be expressed therein. [1890 p 34 § 2; RRS § 9931.]

42.08.080 Who may bring action on bond. Every official bond executed by any officer pursuant to law, shall be in force and obligatory upon the principal and sureties therein, to and for the state of Washington, and to and for the use and benefit of all persons who may be injured or aggrieved by the wrongful act or default of such officer, in his official capacity, and any person so injured or aggrieved may bring suit on such bond in his or her own name without an assignment thereof. [1890 p 34 § 3; RRS § 9932.]

Action on official bond: RCW 42.08.020.

42.08.090 Defective bonds validated. Whenever any such official bond shall not contain the substantial matter or condition or conditions required by law, or there shall be any defect in the approval or filing thereof, such bond shall not be void so as to discharge such officer and his sureties, but they shall be bound to the state, or party interested, and the state or such party may, by action instituted in any court of competent jurisdiction, suggest the defect of such bond or such approval or filing, and recover his proper and equitable demand or damages from such officer, and the person or persons, who intended to become, and were included in such bond as sureties. [1890 p 35 § 4; RRS § 9933.]

42.08.100 Approval and filing. The official bonds of officers shall be approved and filed as follows, to wit: The official bond of the secretary of state shall be approved by the governor and filed in the office of the state auditor. The official bonds of all other state officers required by law to give bonds, except as otherwise expressly provided by law, shall be approved by the governor and filed in the office of the secretary of state.

The official bonds of all county and township officers, except the county superintendent of schools, shall be approved by the board of county commissioners, if in session, and if not in session, by the chairman of such board, and filed and recorded in the office of the county clerk of their respective counties: PROVIDED, That the bond of the county clerk shall be recorded in the office of the county auditor and filed in the office of the county treasurer. [1955 c 157 § 11. Prior: 1890 p 35 § 5; RRS § 9934.]

Contractor's bonds: Chapter 39.08 RCW.

Official bonds—Payment of premiums: RCW 48.28.040.

Surety insurance: Chapter 48.28 RCW.

42.08.110 Procedure when bond of county or township officer is insufficient. Whenever the sureties, or any one of them, in the official bond of any county or township officer shall die, remove from the state, become insolvent or insufficient, or the penalty of such bond shall become insufficient, on account of recoveries had thereon, or

otherwise, it shall be the duty of the board of county commissioners of the proper county, of their own motion, or on the showing of any person, supported by affidavit, to summon any such officer to appear before them at a stated time, not less than five days after service of such summons, and show cause why he should not execute an additional official bond with good and sufficient sureties. [1890 p 35 § 6; RRS § 9935.]

42.08.120 Additional bond. Should such officer, after due notice, fail to appear at the time appointed, the matter may be heard and determined in his absence; if after examination the board of county commissioners shall be of opinion that the bond of such officer has become insufficient from any cause whatever, they shall require an additional bond with such security as may be deemed necessary, which said additional bond shall be executed and filed within such time as the board of county commissioners may order; and if any such officer shall fail to execute and file such additional bond within the time prescribed by such order, his office shall become vacant. [1890 p 36 § 7; RRS § 9936.]
Failure to give or renew official bond a cause for vacation of office: RCW 42.12.010.

42.08.130 Remedy when bond of state officer becomes insufficient. Whenever the official bond of any state officer shall become insufficient from any cause whatever, the like proceedings may be had before the superior court of the county in which said state officer holds his office with reference thereto: PROVIDED, That such proceedings may be commenced by a written motion supported by affidavit. [1890 p 36 § 8; RRS § 9937.]

42.08.140 Force of additional bond. Every such additional bond shall be of like force and obligation upon the principal and sureties therein, and shall subject the officer and his sureties to the same liabilities as are prescribed respecting the original bonds of officers. [1890 p 36 § 9; RRS § 9938.]

42.08.150 Number of sureties. Unless otherwise expressly provided, there shall be at least two sureties upon the official bond of every officer. [1890 p 36 § 10; RRS § 9939.]

Corporate sureties: Chapter 48.28 RCW.

42.08.160 Justification of sureties. In all cases where official bonds are required or may be hereafter required, from state, county, township or precinct officers, the officer or officers whose duty it is or may be to approve such bonds, shall not accept or approve any such bonds except such bond be that of a surety company, unless the sureties thereon shall severally justify before an officer authorized to administer oaths as follows: (1) On a bond given by a state or county officer that he is a resident and freeholder within this state, and on a bond given by a township or precinct officer that he is a resident and freeholder within the county in which such township or precinct is situated. (2) That he is worth double the amount for which he becomes surety over and above all his debts and liabilities, in property situated within this state which is not exempt from seizure

and sale under execution. [1901 c 14 § 1; 1890 p 36 § 11; RRS § 9940.]

Qualification of individual sureties: RCW 19.72.030.

42.08.170 Liability of sureties. When the penal sum of any bond amounts to more than two thousand dollars, the sureties may become severally liable for portions, not less than five hundred dollars, of such penal sum, making in the aggregate at least two sureties for the whole penal sum. [1890 p 37 § 12; RRS § 9941.]

Recoveries limited to amount of bond: RCW 42.08.050.

42.08.180 Release of sureties. Release of sureties (1937 act), see chapter 19.72 RCW.

Chapter 42.12 VACANCIES

Sections

- 42.12.010 Causes of vacancy.
- 42.12.020 Resignations, to whom made.
- 42.12.030 Term of person elected to fill vacancy.
- 42.12.040 Vacancy in partisan elective office—Successor elected—When.
- 42.12.070 Filling nonpartisan vacancies.
Apple advertising commission, vacancies, how filled: RCW 15.24.050.
Attorney general, removal from office: State Constitution Art. 4 § 9.
Bond, failure to file additional bond causes vacancy: RCW 42.08.120.
City offices, vacancies, how filled
commission plan: RCW 35.17.020.
council-manager plan
council: RCW 35.18.020.
optional municipal code: RCW 35A.13.020.
mayor-council plan, optional municipal code: RCW 35A.12.050.
second class: RCW 35.23.101.
Congress, vacancies, how filled: RCW 29.68.080 through 29.68.120.
County, township, precinct, or road district offices, vacancies, how filled: State Constitution Art. 11 § 6.
County annexation review board, vacancies: RCW 35A.14.170.
County clerk, failure to file new bond vacates office: RCW 36.23.020, 42.08.120.
County commissioners
removal for misconduct: RCW 36.32.225.
vacancies, how filled: RCW 36.32.070.
County hospital board of trustees, vacancies, how filled: RCW 36.62.160.
County officers
conviction for taking illegal fees vacates office: RCW 36.18.180.
vacancies: RCW 29.15.230, 36.16.110, 36.16.115, 42.12.040.
County treasurer, suspension for misconduct: RCW 36.29.090.
Educational service district superintendent: Chapter 28A.310 RCW.
Engineers and land surveyors' board of registration, vacancies on: RCW 18.43.030.
Fire protection district commissioners, vacancies: RCW 52.14.050.
Flood control districts, vacancies in governing board: RCW 85.38.070.
Fruit commission, vacancies, how filled: RCW 15.28.080.
Governor
appointive state office, vacancies in, filled by: RCW 43.06.090.
vacancy in office of: State Constitution Art. 3 § 10 (Amendment 6).
Horse racing commission, vacancies: RCW 67.16.012.
Impeachment: State Constitution Art. 5.
Irrigation district directors, vacancies, how filled: RCW 87.03.081, 87.04.020.

Joint legislative audit and review committee, vacancies, how filled: RCW 44.28.020.

Judges

removal from office: State Constitution Art. 4 § 9.

vacancies, how filled

court of appeals: RCW 2.06.080.

district court: RCW 3.34.100.

superior court: State Constitution Art. 4 § 5; RCW 2.08.069, 2.08.120.

supreme court: State Constitution Art. 4, § 3; RCW 2.04.100.

Judicial officer's absence from state as forfeiting office: State Constitution Art. 4 § 8.

Legislators, expulsion of member: State Constitution Art. 2 § 9.

Legislators, vacancies, how filled: State Constitution Art. 2 § 15 (Amendment 52), RCW 42.12.040.

Liquor control board, vacancies, how filled: RCW 66.08.014.

Militia, vacancies, how filled: RCW 38.12.095 through 38.12.115.

Mosquito control districts, vacancies in board of trustees: RCW 17.28.130.

Partisan elective offices, vacancies, how filled: RCW 29.15.230.

Prosecuting attorney, removal from office: State Constitution Art. 4 § 9.

Public utility district commissioners, vacancies: RCW 54.12.010.

Recall proceedings, grounds: RCW 29.82.010.

Reclamation district directors, vacancies: RCW 89.30.256.

Regional universities—Trustees, appointment, terms, vacancies: RCW 28B.35.100.

School directors in second and third class districts, vacancies, how filled: RCW 28A.315.530.

State appointive office, vacancy in, how filled: State Constitution Art. 3 § 13; RCW 43.06.090.

State board of education, vacancies, how filled: RCW 28A.305.090.

State elective officers

recall: State Constitution Art. 1 § 33 (Amendment 8).

vacancy, successor elected: RCW 42.12.040.

State officers, removal from office: State Constitution Art. 5.

Statute law committee, vacancies, how filled: RCW 1.08.003.

The Evergreen State College—Trustees, appointment, terms, vacancies: RCW 28B.40.100.

Townships, vacancies in office, how filled: Chapter 45.20 RCW.

United States senators, vacancies, how filled: RCW 29.68.070.

University of Washington board of regents, vacancies, how filled: RCW 28B.20.100.

Utilities and transportation commission, vacancies, how filled: RCW 80.01.010.

Washington State University board of regents, vacancies: RCW 28B.30.100.

Water-sewer district commissioners, vacancies: RCW 57.12.020.

Weed district directors, vacancies, how filled: RCW 17.04.070.

42.12.010 Causes of vacancy. Every elective office shall become vacant on the happening of any of the following events:

- (1) The death of the incumbent;
- (2) His or her resignation. A vacancy caused by resignation shall be deemed to occur upon the effective date of the resignation;
- (3) His or her removal;
- (4) Except as provided in RCW 3.46.067 and 3.50.057, his or her ceasing to be a legally registered voter of the district, county, city, town, or other municipal or quasi municipal corporation from which he or she shall have been elected or appointed, including where applicable the council district, commissioner district, or ward from which he or she shall have been elected or appointed;

(5) His or her conviction of a felony, or of any offense involving a violation of his or her official oath;

(6) His or her refusal or neglect to take his or her oath of office, or to give or renew his or her official bond, or to deposit such oath or bond within the time prescribed by law;

(7) The decision of a competent tribunal declaring void his or her election or appointment; or

(8) Whenever a judgment shall be obtained against that incumbent for breach of the condition of his or her official bond. [1994 c 223 § 2; 1993 c 317 § 9; 1981 c 180 § 4; Code 1881 § 3063; 1866 p 28 § 2; RRS § 9950.]

Effective date—1994 c 223 § 2: "(1) Section 2 of this act shall take effect January 1, 1995.

*(2) Section 20 of this act shall take effect July 1, 1994." [1994 c 223 § 94.]

***Reviser's note:** The governor vetoed 1994 c 233 § 20.

Severability—Effective date—1993 c 317: See notes following RCW 3.46.155.

Severability—1981 c 180: See note following RCW 42.12.040.

42.12.020 Resignations, to whom made. Resignations shall be made as follows: By the state officers and members of the legislature, to the governor; by all county officers, to the county commissioners of their respective counties; by all other officers, holding their offices by appointment, to the body, board or officer that appointed them. [Code 1881 § 3062; 1865 p 28 § 1; RRS § 9949.]

Appointments to fill vacancies: State Constitution Art. 2 § 15 (Amendment 32).

42.12.030 Term of person elected to fill vacancy. Whenever any officer resigns his office before the expiration of his term, or the office becomes vacant from any other cause, and at a subsequent special election such vacancy is filled, the person so elected to fill such vacancy shall hold office for the remainder of the unexpired term. [1981 c 180 § 5; Code 1881 § 3066; 1866 p 30 § 6; RRS § 9951.]

Severability—1981 c 180: See note following RCW 42.12.040.

42.12.040 Vacancy in partisan elective office—Successor elected—When. If a vacancy occurs in any partisan elective office in the executive or legislative branches of state government or in any partisan county elective office before the fourth Tuesday prior to the primary for the next general election following the occurrence of the vacancy, a successor shall be elected to that office at that general election. Except during the last year of the term of office, if such a vacancy occurs on or after the fourth Tuesday prior to the primary for that general election, the election of the successor shall occur at the next succeeding general election. The elected successor shall hold office for the remainder of the unexpired term. This section shall not apply to any vacancy occurring in a charter county which has charter provisions inconsistent with this section. [1981 c 180 § 1.]

Reviser's note: 1981 c 180 § 1 directed that this section be added to chapter 29.18 RCW. Since that placement appears inappropriate, this section has been codified as part of chapter 42.12 RCW.

Severability—1981 c 180: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1981 c 180 § 6.]

County office, appointment of acting official: RCW 36.16.115.

Filing period, special: RCW 29.15.230.

42.12.070 Filling nonpartisan vacancies. A vacancy on an elected nonpartisan governing body of a special purpose district where property ownership is not a qualification to vote, a town, or a city other than a first class city or a charter code city, shall be filled as follows unless the provisions of law relating to the special district, town, or city provide otherwise:

(1) Where one position is vacant, the remaining members of the governing body shall appoint a qualified person to fill the vacant position.

(2) Where two or more positions are vacant and two or more members of the governing body remain in office, the remaining members of the governing body shall appoint a qualified person to fill one of the vacant positions, the remaining members of the governing body and the newly appointed person shall appoint another qualified person to fill another vacant position, and so on until each of the vacant positions is filled with each of the new appointees participating in each appointment that is made after his or her appointment.

(3) If less than two members of a governing body remain in office, the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person or persons to the governing body until the governing body has two members.

(4) If a governing body fails to appoint a qualified person to fill a vacancy within ninety days of the occurrence of the vacancy, the authority of the governing body to fill the vacancy shall cease and the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person to fill the vacancy.

(5) If the county legislative authority of the county fails to appoint a qualified person within one hundred eighty days of the occurrence of the vacancy, the county legislative authority or the remaining members of the governing body of the city, town, or special district may petition the governor to appoint a qualified person to fill the vacancy. The governor may appoint a qualified person to fill the vacancy after being petitioned if at the time the governor fills the vacancy the county legislative authority has not appointed a qualified person to fill the vacancy.

(6) As provided in RCW 29.15.190 and 29.21.410, each person who is appointed shall serve until a qualified person is elected at the next election at which a member of the governing body normally would be elected that occurs twenty-eight or more days after the occurrence of the vacancy. If needed, special filing periods shall be authorized as provided in RCW 29.15.170 and 29.15.180 for qualified persons to file for the vacant office. A primary shall be held to nominate candidates if sufficient time exists to hold a primary and more than two candidates file for the vacant office. Otherwise, a primary shall not be held and the person receiving the greatest number of votes shall be elected. The person elected shall take office immediately and serve the remainder of the unexpired term.

If an election for the position that became vacant would otherwise have been held at this general election date, only

one election to fill the position shall be held and the person elected to fill the succeeding term for that position shall take office immediately when qualified as defined in RCW 29.01.135 and shall service both the remainder of the unexpired term and the succeeding term. [1994 c 223 § 1.]

Chapter 42.14

CONTINUITY OF GOVERNMENT ACT

Sections

42.14.010	Definitions.
42.14.020	Office of governor.
42.14.030	Legislature.
42.14.035	Convening legislature at locations other than usual seat of government.
42.14.040	County commissioners.
42.14.050	City or town officers.
42.14.060	Appointed officers of the state.
42.14.070	Officers of political subdivisions.
42.14.075	Meetings of governing bodies of political subdivisions at other than usual places.
42.14.900	Short title.
42.14.910	Severability—1963 c 203.

Continuity of government: State Constitution Art. 2 § 42 (Amendment 39).

Microfilming of records to provide continuity of civil government: Chapter 40.10 RCW.

42.14.010 Definitions. Unless otherwise clearly required by the context, the following definitions apply:

(1) "Unavailable" means either that a vacancy in the office exists or that the lawful incumbent of the office is absent or unable to exercise the powers and discharge the duties of the office following an attack and a declaration of existing emergency by the governor or his successor.

(2) "Attack" means any acts of warfare taken by an enemy of the United States causing substantial damage or injury to persons or property in the United States and in the state of Washington. [1963 c 203 § 2.]

42.14.020 Office of governor. (1) In the event that all successors to the office of governor as provided by Article 3, section 10, as amended by amendment 6 of the Constitution of the state of Washington are unavailable following an enemy attack, the powers and duties of the office of governor shall be exercised and discharged by the speaker of the house of representatives.

(2) In the event the speaker of the house is unavailable, the powers and duties of the office of governor shall be exercised and discharged by the president pro tem of the senate.

(3) In the event that neither the speaker nor the president pro tem is available, the house of representatives and the senate in joint assembly shall elect an emergency interim governor. [1963 c 203 § 3.]

42.14.030 Legislature. In the event enemy attack reduces the number of legislators available for duty, then those legislators available for duty shall constitute the legislature and shall have full power to act in separate or joint assembly by majority vote of those present. In the event of an attack, (1) quorum requirements for the legislature shall be suspended, and (2) where the affirmative vote of a specified proportion of members for approval of a bill,

resolution or other action would otherwise be required, the same proportion of those voting thereon shall be sufficient. In the event of an attack, the governor shall call the legislature into session as soon as practicable, and in any case within thirty days following the inception of the attack. If the governor fails to issue such call, the legislature shall, on the thirtieth day from the date of inception of the attack, automatically convene at the place where the governor then has his office. Each legislator shall proceed to the place of session as expeditiously as practicable. At such session or at any session in operation at the inception of the attack, and at any subsequent sessions, limitations on the length of session and on the subjects which may be acted upon shall be suspended. [1963 c 203 § 4.]

42.14.035 Convening legislature at locations other than usual seat of government. Whenever, in the judgment of the governor, it becomes impracticable, due to an emergency resulting from enemy attack or natural disaster, to convene the legislature in the usual seat of government at Olympia, the governor may call the legislature into emergency session in any location within this or an adjoining state. The first order of business of any legislature so convened shall be the establishment of temporary emergency seats of government for the state. After any emergency relocation, the affairs of state government shall be lawfully conducted at such emergency temporary location or locations for the duration of the emergency. [1969 ex.s. c 106 § 1.]

42.14.040 County commissioners. In the event enemy attack reduces the number of county commissioners of any county, then those commissioners available for duty shall have full authority to act in all matters as a board of county commissioners. In the event no county commissioner is available for duty, then those elected county officials, except for the members of the county board of education, as are available for duty shall jointly act as the board of county commissioners and shall possess by majority vote the full authority of the board of county commissioners. [1963 c 203 § 5.]

42.14.050 City or town officers. In the event that the executive head of any city or town is unavailable by reason of enemy attack to exercise the powers and discharge the duties of the office, then those members of the city or town council or commission available for duty shall by majority vote select one of their number to act as the executive head of such city or town. In the event enemy attack reduces the number of city or town councilmembers or commission members, then those members available for duty shall have full power to act by majority vote of those present. [1981 c 213 § 8; 1963 c 203 § 6.]

42.14.060 Appointed officers of the state. The governor shall, subject to such rules and regulations as he may adopt, permit each appointed officer of the state to designate temporary interim successors to the office of such officer. [1963 c 203 § 7.]

42.14.070 Officers of political subdivisions. The legislative authority of each political subdivision, subject to

the provisions of this chapter, shall adopt rules and regulations providing for appointment of temporary interim successors to the elected and appointed offices of the political subdivisions. [1963 c 203 § 8.]

42.14.075 Meetings of governing bodies of political subdivisions at other than usual places. Whenever, due to a natural disaster, an attack or an attack is imminent, it becomes imprudent, inexpedient or impossible to conduct the affairs of a political subdivision at the regular or usual place or places, the governing body of the political subdivision may meet at any place within or without the territorial limits of the political subdivision on the call of the presiding official or any two members of the governing body. After any emergency relocation, the affairs of political subdivisions shall be lawfully conducted at such emergency temporary location or locations for the duration of the emergency. [1969 ex.s. c 106 § 2.]

42.14.900 Short title. This act shall be known as the "continuity of government act." [1963 c 203 § 1.]

42.14.910 Severability—1963 c 203. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1963 c 203 § 9.]

Chapter 42.16

SALARIES AND FEES

Sections

- 42.16.010 Salaries paid twice each month—Policies and procedures to assure full payment—Exceptions.
- 42.16.011 State payroll revolving account, agency payroll revolving fund—Use.
- 42.16.012 State payroll revolving account, agency payroll revolving fund—Disbursements—Sources.
- 42.16.013 Transfers to state payroll revolving account—Certification by agencies or director of financial management.
- 42.16.014 Disbursements by warrants—Certifications.
- 42.16.015 Cancellation of warrants—Transfer of increased balance amounts in state payroll revolving account.
- 42.16.016 Cancellation of warrants—Refund of increased balance amounts in agency payroll revolving fund.
- 42.16.017 Payroll preparation and accounting—Establishment of policies, procedures, and paydates.
- 42.16.020 Salaried officers not to receive witness fees—Exceptions.
- 42.16.030 Disposition of fees.
- 42.16.040 Official fees payable in advance.

Boards and commissions, state, part-time, compensation: RCW 43.03.220 through 43.03.260.

Cities

commission form, salaries: RCW 35.17.108.

council-manager plan, salaries: RCW 35.18.220.

optional municipal code

council-manager plan, compensation: RCW 35A.13.040.

mayor-council plan, compensation: RCW 35A.12.070.

Commissioner of public lands

fees: RCW 79.01.720.

salary: State Constitution Art. 3 § 23; RCW 43.03.010.

Compensation not to be increased or diminished during term of office: State Constitution Art. 2 § 13; Art. 2 § 25; Art. 3 § 25 (Amendment 31); Art. 4 § 13; Art. 11 § 8; Art. 28 § 1 (Amendment 20).

County officers, compensation: State Constitution Art. 11 § 8.

County officers, fees: Chapter 36.18 RCW.
County officers, salaries: Chapter 36.17 RCW.
County sheriff, fees payable in advance: RCW 36.28.040.
Court commissioners, salary: RCW 2.24.030.
Courts of limited jurisdiction, salaries and fees: State Constitution Art. 4 § 10 (Amendment 28).
Elected officials, executive branch, salaries: RCW 43.03.011.
Election officials, fees: RCW 29.45.120.
Judges, salaries: RCW 43.03.012.
Judicial officers, salaries, how paid, etc.: State Constitution Art. 4 § 13.
Justices of supreme court, salaries: State Constitution Art. 4 § 14.
Legislators, salaries: RCW 43.03.013.
Militia, salaries and pay: RCW 38.24.050.
Municipal court judges, salaries: RCW 35.20.160.
Reformatory chief executive officer, salary: RCW 72.01.060.
Secretary of state, fees: RCW 43.07.120.
Secretary of transportation, salary: RCW 47.01.041.
State appointive officers, governor may fix salaries, maximum: RCW 43.03.040.
State boards and commissions, part-time, compensation: RCW 43.03.220 through 43.03.260.
State committee on agency officials' salaries: RCW 43.03.028.
State elective officers, salaries: RCW 43.03.011.
Superior court reporters, salaries: RCW 2.32.210.
Supreme court reporter, salary: State Constitution Art. 4 § 18; Rules of court: SAR 17(1).
Townships, compensation of officers: Chapter 45.44 RCW.
University of Washington, disposition of fees: RCW 28B.15.210, 28B.15.220.
Utilities and transportation commission, salaries: RCW 80.01.010.
Washington State University, disposition of fees: RCW 28B.15.310.

42.16.010 Salaries paid twice each month—Policies and procedures to assure full payment—Exceptions. (1) Except as provided otherwise in subsection (2) of this section, all state officers and employees shall be paid for services rendered from the first day of the month through the fifteenth day of the month and for services rendered from the sixteenth day of the month through the last calendar day of the month. Paydates for these two pay periods shall be established by the director of financial management through the administrative hearing process and the official paydates shall be established six months prior to the beginning of each subsequent calendar year. Under no circumstance shall the paydate be established more than ten days after the pay period in which the wages are earned except when the designated paydate falls on Sunday, in which case the paydate shall not be later than the following Monday. Payment shall be deemed to have been made by the established paydates if: (a) The salary warrant is available at the geographic work location at which the warrant is normally available to the employee; or (b) the salary has been electronically transferred into the employee's account at the employee's designated financial institution; or (c) the salary warrants are mailed at least two days before the established paydate for those employees engaged in work in remote or varying locations from the geographic location at which the payroll is prepared, provided that the employee has requested payment by mail.

The office of financial management shall develop the necessary policies and operating procedures to assure that all

remuneration for services rendered including basic salary, shift differential, standby pay, overtime, penalty pay, salary due based on contractual agreements, and special pay provisions, as provided for by law, Washington personnel resources board rules, agency policy or rule, or contract, shall be available to the employee on the designated paydate. Overtime, penalty pay, and special pay provisions may be paid by the next following paydate if the postponement of payment is attributable to: The employee's not making a timely or accurate report of the facts which are the basis for the payment, or the employer's lack of reasonable opportunity to verify the claim.

Compensable benefits payable because of separation from state service shall be paid with the earnings for the final period worked unless the employee separating has not provided the agency with the proper notification of intent to terminate.

One-half of the employee's basic monthly salary shall be paid in each pay period. Employees paid on an hourly basis or employees who work less than a full pay period shall be paid for actual salary earned.

(2) Subsection (1) of this section shall not apply in instances where it would conflict with contractual rights or, with the approval of the office of financial management, to short-term, intermittent, noncareer state employees, to student employees of institutions of higher education, and to liquor control agency managers who are paid a percentage of monthly liquor sales. [1993 c 281 § 42; 1983 1st ex.s. c 28 § 1; 1979 c 151 § 68; 1969 c 59 § 1; 1967 ex.s. c 25 § 1; 1891 c 130 § 1; RRS § 10965.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Application—1983 1st ex.s. c 28: "This act applies to pay periods beginning January 1, 1984." [1983 1st ex.s. c 28 § 8.] For codification of 1983 1st ex.s. c 28, see Codification Tables, Volume 0.

Effective date—1967 ex.s. c 25: "This 1967 amendatory act shall take effect July 1, 1967: PROVIDED, That the budget director may by regulation postpone the operation of the act for any reasonable time, not extending beyond the 1967-1969 biennium, to facilitate an orderly transition in state payroll procedures." [1967 ex.s. c 25 § 9.] For codification of 1967 ex.s. c 25, see Codification Tables, Volume 0. "Budget director" redesignated "director of financial management"; see RCW 43.41.035 and 43.41.940.

42.16.011 State payroll revolving account, agency payroll revolving fund—Use. A state payroll revolving account and an agency payroll revolving fund are created in the state treasury, for the payment of compensation to employees and officers of the state and distribution of all amounts withheld therefrom pursuant to law and amounts authorized by employees to be withheld pursuant to law; also for the payment of the state's contributions for retirement and insurance and other employee benefits: PROVIDED, That the utilization of the state payroll revolving account shall be optional except for agencies whose payrolls are prepared under a centralized system established pursuant to regulations of the director of financial management: PROVIDED FURTHER, That the utilization of the agency payroll revolving fund shall be optional for agencies whose operations are funded in whole or part other than by funds appropriated from the state treasury. [1985 c 57 § 25; 1981 c 9 § 1; 1979 c 151 § 69; 1969 c 59 § 2; 1967 ex.s. c 25 § 2.]

Effective date—1985 c 57: See note following RCW 18.04.105.

Transfer from state payroll revolving fund: "All moneys in the state treasury to the credit of the state payroll revolving fund shall be transferred on the effective date of this act to the state payroll revolving account." [1981 c 9 § 7.] The effective date of 1981 c 9 was February 27, 1981.

42.16.012 State payroll revolving account, agency payroll revolving fund—Disbursements—Sources. The amounts to be disbursed from the state payroll revolving account from time to time on behalf of agencies utilizing such account shall be transferred thereto by the state treasurer from appropriated funds properly chargeable with the disbursement for the purposes set forth in RCW 42.16.011, on or before the day prior to scheduled disbursement. The amounts to be disbursed from the agency payroll revolving fund from time to time on behalf of agencies electing to utilize such fund shall be deposited therein by such agencies from funds held by the agency pursuant to law outside the state treasury and properly chargeable with the disbursement for the purposes set forth in RCW 42.16.011, on or before the day prior to scheduled disbursement. [1981 c 9 § 2; 1967 ex.s. c 25 § 3.]

42.16.013 Transfers to state payroll revolving account—Certification by agencies or director of financial management. The state treasurer shall make such transfers to the state payroll revolving account in the amounts to be disbursed as certified by the respective agencies: PROVIDED, That if the payroll is prepared on behalf of an agency from data authenticated and certified by the agency under a centralized system established pursuant to regulation of the director of financial management, the state treasurer shall make the transfer upon the certification of the head of the agency preparing the centralized payroll or his designee. [1981 c 9 § 3; 1979 c 151 § 70; 1969 c 59 § 3; 1967 ex.s. c 25 § 4.]

42.16.014 Disbursements by warrants—Certifications. Disbursements from the revolving account and fund created by RCW 42.16.010 through 42.16.017 shall be by warrant in accordance with the provisions of RCW 43.88.160: PROVIDED, That when the payroll is prepared under a centralized system established pursuant to regulations of the director of financial management, disbursements on behalf of the agency shall be certified by the head of the agency preparing the centralized payroll or his designee: PROVIDED FURTHER, That disbursements from a centralized paying agency representing amounts withheld, and/or contributions, for payment to any individual payee on behalf of several agencies, may be by single warrant representing the aggregate amounts payable by all such agencies to such payee. The procedure for disbursement and certification of these aggregate amounts shall be established by the director of financial management.

All payments to employees or other payees, from the revolving account and fund created by RCW 42.16.010 through 42.16.017, whether certified by an agency or by the director of financial management on behalf of such agency, shall be made wherever possible by a single warrant reflecting on its face the amount charged to each revolving account and fund. [1981 c 9 § 4; 1979 c 151 § 71; 1969 c 59 § 4; 1967 ex.s. c 25 § 5.]

42.16.015 Cancellation of warrants—Transfer of increased balance amounts in state payroll revolving account. All amounts increasing the balance in the state payroll revolving account, as a result of the cancellation of warrants issued therefrom shall be transferred by the state treasurer to the fund from which the canceled warrant would originally have been paid except for the provisions of RCW 42.16.010 through 42.16.017. [1981 c 9 § 5; 1967 ex.s. c 25 § 6.]

42.16.016 Cancellation of warrants—Refund of increased balance amounts in agency payroll revolving fund. All amounts increasing the balance in the agency payroll revolving fund, as a result of the cancellation of warrants issued therefrom shall be refunded by the state treasurer to the appropriate state agency. The refund shall be deposited by the agency to the fund from which such amount was originally withdrawn for deposit in the agency payroll revolving fund. [1967 ex.s. c 25 § 7.]

42.16.017 Payroll preparation and accounting—Establishment of policies, procedures, and paydates. The director of financial management shall adopt the necessary policies and procedures to implement RCW 42.16.010 through 42.16.017, including the establishment of paydates. Such paydates shall conform to RCW 42.16.010. The director of financial management shall have approval over all agency and state payroll systems and shall determine the payroll systems to be used by state agencies to insure the implementation of RCW 42.16.010 and 41.04.232: PROVIDED, That for purposes of the central personnel payroll system, the provisions of RCW 41.07.020 shall apply. The director shall provide a comprehensive report to the legislature on December 31, 1984, on the implementation of and compliance with RCW 42.16.010 and 41.04.232, including the timeliness of payments to state employees. [1983 1st ex.s. c 28 § 6; 1979 c 151 § 72; 1967 ex.s. c 25 § 8.]

Application—1983 1st ex.s. c 28: See note following RCW 42.16.010.

42.16.020 Salaried officers not to receive witness fees—Exceptions. No state, county, municipal or other public officer within the state of Washington, who receives from the state, or from any county or municipality therein, a fixed and stated salary as compensation for services rendered as such public officer shall be allowed or paid any per diem for attending or testifying on behalf of the state of Washington, or any county or municipality therein, at any trial or other judicial proceeding, in any state, county or municipal court within this state; nor shall such officer, in any case, be allowed nor paid any per diem for attending or testifying in any state or municipal court of this state, in regard to matters and information that have come to his knowledge in connection with and as a result of the performance of his duties as a public officer as aforesaid: Provided, This section shall not apply when any deduction shall be made from the regular salary of such officer by reason of his being in attendance upon the superior court, but in such cases regular witness fees shall be paid; and further, that if a public officer be subpoenaed and required to appear or testify in judicial proceedings in a county other than that in

which he resides, then said public officer shall be entitled to receive per diem and mileage as provided by statute in other cases; and, provided further, that this section shall not apply to police officers when called as witnesses in the superior courts during hours when they are off duty as such officers. A law enforcement officer who has issued a notice of traffic infraction is not entitled to receive witness fees or mileage in a contested traffic infraction case. [1981 c 19 § 3; 1903 c 10 § 1; 1901 c 101 § 1; RRS § 499.]

Severability—1981 c 19: See note following RCW 46.63.020.

42.16.030 Disposition of fees. All officers enumerated in *this section, who are paid a salary in lieu of fees, shall collect the fees herein prescribed for the use of the state or county, as the case may be, and shall pay the same into the state or county treasury, as the case may be, on the first Monday of each month. [1907 c 56 § 1, part; RRS § 4217. Prior: 1903 c 151 § 1, part; 1893 c 130 § 1, part.]

***Reviser's note:** The term "this section" refers to 1907 c 56 § 1, of which RCW 42.16.030 is but a part. The other parts of 1907 c 56 § 1, as amended, are codified as RCW 2.32.070 (supreme court clerk's fees), 2.40.010 (witnesses' fees), 36.18.020 (superior court clerks' fees), 36.18.040 (sheriff's fees), 36.18.010 (county auditor's fees), 36.18.030 (county coroner's fees), 2.36.150 (jurors' fees), 3.16.100 (constables' fees), and 42.28.090 (notaries' fees).

Daily remittance of moneys to state treasury required: RCW 43.01.050.

42.16.040 Official fees payable in advance. All fees are invariably due in advance where demanded by the officer required to perform any official act, and no officer shall be required to perform any official act unless his fees are paid when he demands the same: **PROVIDED**, This section shall not apply when the officer performs any official act for his county or the state. [Code 1881 § 2099; 1869 p 374 § 21; RRS § 505. Formerly codified as RCW 42.04.050.]

County officers, fees payable in advance: RCW 36.18.060.

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Chapter 42.17

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42.17.010 Declaration of policy. It is hereby declared by the sovereign people to be the public policy of the state of Washington:

(1) That political campaign and lobbying contributions and expenditures be fully disclosed to the public and that secrecy is to be avoided.

(2) That the people have the right to expect from their elected representatives at all levels of government the utmost of integrity, honesty, and fairness in their dealings.

(3) That the people shall be assured that the private financial dealings of their public officials, and of candidates for those offices, present no conflict of interest between the public trust and private interest.

(4) That our representative form of government is founded on a belief that those entrusted with the offices of government have nothing to fear from full public disclosure of their financial and business holdings, provided those officials deal honestly and fairly with the people.

(5) That public confidence in government at all levels is essential and must be promoted by all possible means.

(6) That public confidence in government at all levels can best be sustained by assuring the people of the impartiality and honesty of the officials in all public transactions and decisions.

(7) That the concept of attempting to increase financial participation of individual contributors in political campaigns is encouraged by the passage of the Revenue Act of 1971 by the Congress of the United States, and in consequence thereof, it is desirable to have implementing legislation at the state level.

(8) That the concepts of disclosure and limitation of election campaign financing are established by the passage of the Federal Election Campaign Act of 1971 by the Congress of the United States, and in consequence thereof it is desirable to have implementing legislation at the state level.

(9) That small contributions by individual contributors are to be encouraged, and that not requiring the reporting of small contributions may tend to encourage such contributions.

(10) That the public's right to know of the financing of political campaigns and lobbying and the financial affairs of elected officials and candidates far outweighs any right that these matters remain secret and private.

(11) That, mindful of the right of individuals to privacy and of the desirability of the efficient administration of government, full access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to the sound governance of a free society.

The provisions of this chapter shall be liberally construed to promote complete disclosure of all information respecting the financing of political campaigns and lobbying, and the financial affairs of elected officials and candidates, and full access to public records so as to assure continuing public confidence of fairness of elections and governmental processes, and so as to assure that the public interest will be fully protected. In promoting such complete disclosure, however, this chapter shall be enforced so as to insure that the information disclosed will not be misused for arbitrary and capricious purposes and to insure that all persons reporting under this chapter will be protected from harassment and unfounded allegations based on information they have freely disclosed. [1975 1st ex.s. c 294 § 1; 1973 c 1 § 1 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.020 Definitions. (1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(2) "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.

(3) "Ballot proposition" means any "measure" as defined by RCW 29.01.110, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency prior to its circulation for signatures.

(4) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

(5) "Bona fide political party" means:

(a) An organization that has filed a valid certificate of nomination with the secretary of state under chapter 29.24 RCW;

(b) The governing body of the state organization of a major political party, as defined in RCW 29.01.090, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(c) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.

(6) "Depository" means a bank designated by a candidate or political committee pursuant to RCW 42.17.050.

(7) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17.050, to perform the duties specified in that section.

(8) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or

(d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

(9) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

(10) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

(11) "Commission" means the agency established under RCW 42.17.350.

(12) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind: PROVIDED, That for the purpose of compliance with RCW 42.17.241, the term "compensation" shall not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

(13) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

(14)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, or their agents;

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising prepared by a candidate, a political committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Standard interest on money deposited in a political committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts towards any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

(15) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

(16) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters: PROVIDED, That an election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

(17) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

(18) "Election cycle" means the period beginning on the first day of December after the date of the last previous general election for the office that the candidate seeks and ending on November 30th after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on November 30th after the special election.

(19) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. The term "expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported.

(20) "Final report" means the report described as a final report in RCW 42.17.080(2).

(21) "General election" means the election that results in the election of a person to a state office. It does not include a primary.

(22) "Gift," is as defined in RCW 42.52.010.

(23) "Immediate family" includes the spouse, dependent children, and other dependent relatives, if living in the household. For the purposes of RCW 42.17.640 through 42.17.790, "immediate family" means an individual's spouse, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse and the spouse of any such person.

(24) "Independent expenditure" means an expenditure that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the

candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of five hundred dollars or more. A series of expenditures, each of which is under five hundred dollars, constitutes one independent expenditure if their cumulative value is five hundred dollars or more.

(25)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family as defined for purposes of RCW 42.17.640 through 42.17.790, or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

(26) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

(27) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

(28) "Lobbyist" includes any person who lobbies either in his or her own or another's behalf.

(29) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he or she is compensated for acting as a lobbyist.

(30) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

(31) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.

(32) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of

appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

(33) "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

(34) "Primary" means the procedure for nominating a candidate to state office under chapter 29.18 or 29.21 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29.18 or 29.21 RCW.

(35) "Public office" means any federal, state, county, city, town, school district, port district, special district, or other state political subdivision elective office.

(36) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

(37) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29.82.015 and ending thirty days after the recall election.

(38) "State legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

(39) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

(40) "State official" means a person who holds a state office.

(41) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate prior to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065.

(42) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and

other documents including existing data compilations from which information may be obtained or translated.

As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires. [1995 c 397 § 1; 1992 c 139 § 1; 1991 sp.s. c 18 § 1; 1990 c 139 § 2. Prior: 1989 c 280 § 1; 1989 c 175 § 89; 1984 c 34 § 5; 1979 ex.s. c 50 § 1; 1977 ex.s. c 313 § 1; 1975 1st ex.s. c 294 § 2; 1973 c 1 § 2 (Initiative Measure No. 276, approved November 7, 1972).]

Legislative intent—1990 c 139: "The provisions of this act which repeal the reporting requirements established by chapter 423, Laws of 1987 for registered lobbyists and employers of lobbyists are not intended to alter, expand, or restrict whatsoever the definition of "lobby" or "lobbying" contained in RCW 42.17.020 as it existed prior to the enactment of chapter 423, Laws of 1987." [1990 c 139 § 1.]

Effective date—1989 c 280: "This act shall take effect January 1, 1990." [1989 c 280 § 14.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Effective date—1977 ex.s. c 313: "This 1977 amendatory act shall take effect on January 1, 1978." [1977 ex.s. c 313 § 9.]

Severability—1977 ex.s. c 313: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 313 § 8.]

CAMPAIGN FINANCING

42.17.030 Applicability—Exceptions. The provisions of this chapter relating to the financing of election campaigns shall apply in all election campaigns other than (1) for precinct committee officer; (2) for a federal elective office; and (3) for an office of a political subdivision of the state that does not encompass a whole county and that contains fewer than five thousand registered voters as of the date of the most recent general election in the subdivision, unless required by RCW 42.17.405(2) through (5). [1987 c 295 § 18; 1986 c 12 § 1; 1985 c 367 § 2; 1977 ex.s. c 313 § 2; 1973 c 1 § 3 (Initiative Measure No. 276, approved November 7, 1972).]

Effective date—Severability—1977 ex.s. c 313: See notes following RCW 42.17.020.

Cemetery district commissioners exempt from chapter: RCW 68.52.140, 68.52.220.

42.17.040 Obligation of political committees to file statement of organization. (1) Every political committee, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, shall file a statement of organization with the commission and with the county auditor or elections officer of the county in which the candidate resides, or in the case of any other political committee, the county in which the treasurer resides. A political committee organized within the last three weeks before an election and having the expectation of receiving contributions or making expenditures during and for that election campaign shall file a statement of organization within three business days after its organization or when it first has the expectation of receiving contributions or making expenditures in the election campaign.

(2) The statement of organization shall include but not be limited to:

- (a) The name and address of the committee;
- (b) The names and addresses of all related or affiliated committees or other persons, and the nature of the relationship or affiliation;
- (c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders;
- (d) The name and address of its treasurer and depository;
- (e) A statement whether the committee is a continuing one;
- (f) The name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing, and, if the committee is supporting the entire ticket of any party, the name of the party;
- (g) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition;
- (h) What distribution of surplus funds will be made, in accordance with RCW 42.17.095, in the event of dissolution;
- (i) The street address of the place and the hours during which the committee will make available for public inspection its books of account and all reports filed in accordance with RCW 42.17.080; and
- (j) Such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter.

(3) Any material change in information previously submitted in a statement of organization shall be reported to the commission and to the appropriate county elections officer within the ten days following the change. [1989 c 280 § 2; 1982 c 147 § 1; 1977 ex.s. c 336 § 1; 1975 1st ex.s. c 294 § 3; 1973 c 1 § 4 (Initiative Measure No. 276, approved November 7, 1972).]

Effective date—1989 c 280: See note following RCW 42.17.020.

Severability—1977 ex.s. c 336: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 336 § 8.] For codification of 1977 ex.s. c 336, see Codification Tables, Volume 0.

Effective date—1973 c 1: See RCW 42.17.900.

42.17.050 Treasurer—Depositories. (1) Each candidate, within two weeks after becoming a candidate, and each political committee, at the time it is required to file a statement of organization, shall designate and file with the commission and the appropriate county elections officer the names and addresses of:

- (a) One legally competent individual, who may be the candidate, to serve as a treasurer; and
- (b) A bank, mutual savings bank, savings and loan association, or credit union doing business in this state to serve as depository and the name of the account or accounts maintained in it.

(2) A candidate, a political committee, or a treasurer may appoint as many deputy treasurers as is considered necessary and may designate not more than one additional depository in each other county in which the campaign is conducted. The candidate or political committee shall file the names and addresses of the deputy treasurers and additional depositories with the commission and the appropriate county elections officer.

(3) A candidate may not knowingly establish, use, direct, or control more than one political committee for the purpose of supporting that candidate during a particular election campaign. This does not prohibit: (a) In addition to a candidate's having his or her own political committee, the candidate's participation in a political committee established to support a slate of candidates which includes the candidate; or (b) joint fund-raising efforts by candidates when a separate political committee is established for that purpose and all contributions are disbursed to and accounted for on a pro rata basis by the benefiting candidates.

(4)(a) A candidate or political committee may at any time remove a treasurer or deputy treasurer or change a designated depository.

(b) In the event of the death, resignation, removal, or change of a treasurer, deputy treasurer, or depository, the candidate or political committee shall designate and file with the commission and the appropriate county elections officer the name and address of any successor.

(5) No treasurer, deputy treasurer, or depository may be deemed to be in compliance with the provisions of this chapter until his name and address is filed with the commission and the appropriate county elections officer. [1989 c 280 § 3; 1985 c 367 § 3; 1982 c 147 § 2; 1973 c 1 § 5 (Initiative Measure No. 276, approved November 7, 1972).]

Effective date—1989 c 280: See note following RCW 42.17.020.

42.17.060 Deposit of contributions—Investment of campaign funds, qualifications—Unidentified contributions—Cash contributions. (1) All monetary contributions received by a candidate or political committee shall be deposited by the treasurer or deputy treasurer in a depository in an account established and designated for that purpose. Such deposits shall be made within five business days of receipt of the contribution.

(2) Political committees which support or oppose more than one candidate or ballot proposition, or exist for more than one purpose, may maintain multiple separate bank accounts within the same designated depository for such purpose: PROVIDED, That each such account shall bear the same name followed by an appropriate designation which accurately identifies its separate purpose: AND PROVIDED FURTHER, That transfers of funds which must be reported under *RCW 42.17.090(1)(d) may not be made from more than one such account.

(3) Nothing in this section prohibits a candidate or political committee from investing funds on hand in a depository in bonds, certificates, tax-exempt securities, or savings accounts or other similar instruments in financial institutions or mutual funds other than the depository: PROVIDED, That the commission and the appropriate county elections officer is notified in writing of the initiation and the termination of the investment: PROVIDED FURTHER, That the principal of such investment when terminated together with all interest, dividends, and income derived from the investment are deposited in the depository in the account from which the investment was made and properly reported to the commission and the appropriate county elections officer prior to any further disposition or expenditure thereof.

(4) Accumulated unidentified contributions, other than those made by persons whose names must be maintained on a separate and private list by a political committee's treasurer pursuant to RCW 42.17.090(1)(b), which total in excess of one percent of the total accumulated contributions received in the current calendar year or three hundred dollars (whichever is more), may not be deposited, used, or expended, but shall be returned to the donor, if his identity can be ascertained. If the donor cannot be ascertained, the contribution shall escheat to the state, and shall be paid to the state treasurer for deposit in the state general fund.

(5) A contribution of more than fifty dollars in currency may not be accepted unless a receipt, signed by the contributor and by the candidate, treasurer, or deputy treasurer, is prepared and made a part of the campaign's or political committee's financial records. [1989 c 280 § 4; 1987 c 268 § 1; 1985 c 367 § 4; 1982 c 147 § 3; 1977 ex.s. c 313 § 3; 1975 1st ex.s. c 294 § 4; 1973 c 1 § 6 (Initiative Measure No. 276, approved November 7, 1972).]

***Reviser's note:** RCW 42.17.090 was amended by 1989 c 280 § 9, and the previous subsection (1)(d) was redesignated as subsection (1)(e).

Effective date—1989 c 280: See note following RCW 42.17.020.

Effective date—Severability—1977 ex.s. c 313: See notes following RCW 42.17.020.

42.17.065 Filing and reporting by continuing political committee. (1) In addition to the provisions of this section, a continuing political committee shall file and report on the same conditions and at the same times as any other committee in accordance with the provisions of RCW 42.17.040, 42.17.050, and 42.17.060.

(2) A continuing political committee shall file with the commission and the auditor or elections officer of the county in which the committee maintains its office or headquarters and if there is no such office or headquarters then in the county in which the committee treasurer resides a report on the tenth day of the month detailing its activities for the preceding calendar month in which the committee has received a contribution or made an expenditure: PROVIDED, That such report shall only be filed if either the total contributions received or total expenditures made since the last such report exceed two hundred dollars. The report shall be on a form supplied by the commission and shall include the following information:

(a) The information required by RCW 42.17.090;

(b) Each expenditure made to retire previously accumulated debts of the committee; identified by recipient, amount, and date of payments;

(c) Such other information as the commission shall by rule prescribe.

(3) If a continuing political committee shall make a contribution in support of or in opposition to a candidate or ballot proposition within sixty days prior to the date on which such candidate or ballot proposition will be voted upon, such continuing political committee shall report pursuant to RCW 42.17.080.

(4) A continuing political committee shall file reports as required by this chapter until it is dissolved, at which time a final report shall be filed. Upon submitting a final report, the duties of the campaign treasurer shall cease and there shall be no obligation to make any further reports.

(5) The campaign treasurer shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of any election, for which the committee has received any contributions or made any expenditures, the books of account shall be kept current within one business day and shall be open for public inspection for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040, at the principal campaign headquarters or, if there is no campaign headquarters, at the address of the campaign treasurer or such other place as may be authorized by the commission.

(6) All reports filed pursuant to this section shall be certified as correct by the campaign treasurer.

(7) The campaign treasurer shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred. [1989 c 280 § 5; 1982 c 147 § 4; 1975 1st ex.s. c 294 § 5.]

Effective date—1989 c 280: See note following RCW 42.17.020.

42.17.067 Fund-raising activities—Alternative reporting method. (1) Fund-raising activities which meet the standards of subsection (2) of this section may be reported in accordance with the provisions of this section in lieu of reporting in accordance with RCW 42.17.080.

(2) Standards:

(a) The activity consists of one or more of the following:

(i) The retail sale of goods or services at a reasonable approximation of the fair market value of each item or service sold at the activity; or

(ii) A gambling operation which is licensed, conducted, or operated in accordance with the provisions of chapter 9.46 RCW; or

(iii) A gathering where food and beverages are purchased, where the price of admission or the food and beverages is no more than twenty-five dollars; or

(iv) A concert, dance, theater performance, or similar entertainment event where the price of admission is no more than twenty-five dollars; or

(v) An auction or similar sale where the total fair market value of items donated by any person for sale is no more than fifty dollars; and

(b) No person responsible for receiving money at such activity knowingly accepts payments from a single person at or from such an activity to the candidate or committee aggregating more than fifty dollars unless the name and address of the person making such payment together with the amount paid to the candidate or committee are disclosed in the report filed pursuant to subsection (6) of this section; and

(c) Such other standards as shall be established by rule of the commission to prevent frustration of the purposes of this chapter.

(3) All funds received from a fund-raising activity which conforms with subsection (2) of this section shall be

deposited within five business days of receipt by the treasurer or deputy treasurer in the depository.

(4) At the time reports are required under RCW 42.17.080, the treasurer or deputy treasurer making the deposit shall file with the commission and the appropriate county elections officer a report of the fund-raising activity which shall contain the following information:

(a) The date of the activity;

(b) A precise description of the fund-raising methods used in the activity; and

(c) The total amount of cash receipts from persons, each of whom paid no more than fifty dollars.

(5) The treasurer or deputy treasurer shall certify the report is correct.

(6) The treasurer shall report pursuant to RCW 42.17.080 and 42.17.090: (a) The name and address and the amount contributed of each person who contributes goods or services with a fair market value of more than fifty dollars to a fund-raising activity reported under subsection (4) of this section, and (b) the name and address of each person whose identity can be ascertained, and the amount paid, from whom were knowingly received payments to the candidate or committee aggregating more than fifty dollars at or from such a fund-raising activity. [1989 c 280 § 6; 1982 c 147 § 5; 1975-'76 2nd ex.s. c 112 § 9.]

Effective date—1989 c 280: See note following RCW 42.17.020.

42.17.070 Expenditures—Authorization of and restrictions on. No expenditures may be made or incurred by any candidate or political committee except on the authority of the treasurer or the candidate, and a record of all such expenditures shall be maintained by the treasurer.

No expenditure of more than fifty dollars may be made in currency unless a receipt, signed by the recipient and by the candidate or treasurer, is prepared and made a part of the campaign's or political committee's financial records. [1989 c 280 § 7; 1985 c 367 § 5; 1973 c 1 § 7 (Initiative Measure No. 276, approved November 7, 1972).]

Effective date—1989 c 280: See note following RCW 42.17.020.

42.17.080 Candidates' and treasurers' duty to report contributions and expenditures. (1) On the day the treasurer is designated, each candidate or political committee shall file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the treasurer resides, in addition to any statement of organization required under RCW 42.17.040 or 42.17.050, a report of all contributions received and expenditures made prior to that date, if any.

(2) At the following intervals each treasurer shall file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the committee maintains its office or headquarters, and if there is no office or headquarters then in the county in which the treasurer resides, a report containing the information required by RCW 42.17.090:

(a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election: PROVIDED, That this report shall not be required following a primary election from:

(i) A candidate whose name will appear on the subsequent general election ballot; or

(ii) Any continuing political committee; and

(c) On the tenth day of each month in which no other reports are required to be filed under this section: PROVIDED, That such report shall only be filed if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

When there is no outstanding debt or obligation, and the campaign fund is closed, and the campaign is concluded in all respects, and in the case of a political committee, the committee has ceased to function and has dissolved, the treasurer shall file a final report. Upon submitting a final report, the duties of the treasurer shall cease and there shall be no obligation to make any further reports.

The report filed twenty-one days before the election shall report all contributions received and expenditures made as of the end of the fifth business day before the date of the report. The report filed seven days before the election shall report all contributions received and expenditures made as of the end of the one business day before the date of the report. Reports filed on the tenth day of the month shall report all contributions received and expenditures made from the closing date of the last report filed through the last day of the month preceding the date of the current report.

(3) For the period beginning the first day of the fourth month preceding the date on which the special or general election is held and ending on the date of that election, each Friday the treasurer shall file with the commission and the appropriate county elections officer a report of each bank deposit made during the previous seven calendar days. The report shall contain the name of each person contributing the funds so deposited and the amount contributed by each person. However, contributions of no more than twenty-five dollars in the aggregate from any one person may be deposited without identifying the contributor. A copy of the report shall be retained by the treasurer for his or her records. In the event of deposits made by a deputy treasurer, the copy shall be forwarded to the treasurer for his or her records. Each report shall be certified as correct by the treasurer or deputy treasurer making the deposit.

(4) The treasurer or candidate shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of the election the books of account shall be kept current within one business day and shall be open for public inspection for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040, at the principal headquarters or, if there is no headquarters, at the address of the treasurer or such other place as may be authorized by the commission. The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for

not less than five calendar years following the year during which the transaction occurred.

(5) All reports filed pursuant to subsections (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.

(6) Copies of all reports filed pursuant to this section shall be readily available for public inspection for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040, at the principal headquarters or, if there is no headquarters, at the address of the treasurer or such other place as may be authorized by the commission.

(7) The commission shall adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports. [1995 c 397 § 2; 1989 c 280 § 8; 1986 c 28 § 1; 1982 c 147 § 6; 1975 1st ex.s. c 294 § 6; 1973 c 1 § 8 (Initiative Measure No. 276, approved November 7, 1972).]

Effective date—1989 c 280: See note following RCW 42.17.020.

42.17.090 Contents of report. (1) Each report required under RCW 42.17.080 (1) and (2) shall disclose the following:

(a) The funds on hand at the beginning of the period;

(b) The name and address of each person who has made one or more contributions during the period, together with the money value and date of such contributions and the aggregate value of all contributions received from each such person during the campaign or in the case of a continuing political committee, the current calendar year: PROVIDED, That pledges in the aggregate of less than one hundred dollars from any one person need not be reported: PROVIDED FURTHER, That the income which results from a fund-raising activity conducted in accordance with RCW 42.17.067 may be reported as one lump sum, with the exception of that portion of such income which was received from persons whose names and addresses are required to be included in the report required by RCW 42.17.067: PROVIDED FURTHER, That contributions of no more than twenty-five dollars in the aggregate from any one person during the election campaign may be reported as one lump sum so long as the campaign treasurer maintains a separate and private list of the name, address, and amount of each such contributor: PROVIDED FURTHER, That the money value of contributions of postage shall be the face value of such postage;

(c) Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or political committee made by any person, together with the names and addresses of the lender and each person liable directly, indirectly or contingently and the date and amount of each such loan, promissory note, or security instrument;

(d) All other contributions not otherwise listed or exempted;

(e) The name and address of each candidate or political committee to which any transfer of funds was made, together with the amounts and dates of such transfers;

(f) The name and address of each person to whom an expenditure was made in the aggregate amount of more than

fifty dollars during the period covered by this report, and the amount, date, and purpose of each such expenditure. A candidate for state executive or state legislative office or the political committee of such a candidate shall report this information for an expenditure under one of the following categories, whichever is appropriate: (i) Expenditures for the election of the candidate; (ii) expenditures for nonreimbursed public office-related expenses; (iii) expenditures required to be reported under (e) of this subsection; or (iv) expenditures of surplus funds and other expenditures. The report of such a candidate or committee shall contain a separate total of expenditures for each category and a total sum of all expenditures. Other candidates and political committees need not report information regarding expenditures under the categories listed in (i) through (iv) of this subsection or under similar such categories unless required to do so by the commission by rule. The report of such an other candidate or committee shall also contain the total sum of all expenditures;

(g) The name and address of each person to whom any expenditure was made directly or indirectly to compensate the person for soliciting or procuring signatures on an initiative or referendum petition, the amount of such compensation to each such person, and the total of the expenditures made for this purpose. Such expenditures shall be reported under this subsection (1)(g) whether the expenditures are or are not also required to be reported under (f) of this subsection;

(h) The name and address of any person and the amount owed for any debt, obligation, note, unpaid loan, or other liability in the amount of more than two hundred fifty dollars or in the amount of more than fifty dollars that has been outstanding for over thirty days;

(i) The surplus or deficit of contributions over expenditures;

(j) The disposition made in accordance with RCW 42.17.095 of any surplus funds;

(k) Such other information as shall be required by the commission by rule in conformance with the policies and purposes of this chapter; and

(l) Funds received from a political committee not otherwise required to report under this chapter (a "nonreporting committee"). Such funds shall be forfeited to the state of Washington unless the nonreporting committee has filed or within ten days following such receipt files with the commission a statement disclosing: (i) Its name and address; (ii) the purposes of the nonreporting committee; (iii) the names, addresses, and titles of its officers or if it has no officers, the names, addresses, and titles of its responsible leaders; (iv) the name, office sought, and party affiliation of each candidate in the state of Washington whom the nonreporting committee is supporting, and, if such committee is supporting the entire ticket of any party, the name of the party; (v) the ballot proposition supported or opposed in the state of Washington, if any, and whether such committee is in favor of or opposed to such proposition; (vi) the name and address of each person residing in the state of Washington or corporation which has a place of business in the state of Washington who has made one or more contributions in the aggregate of more than twenty-five dollars to the nonreporting committee during the current calendar year, together with the money value and date of such contribu-

tions; (vii) the name and address of each person in the state of Washington to whom an expenditure was made by the nonreporting committee on behalf of a candidate or political committee in the aggregate amount of more than fifty dollars, the amount, date, and purpose of such expenditure, and the total sum of such expenditures; (viii) such other information as the commission may prescribe by rule, in keeping with the policies and purposes of this chapter. A nonreporting committee incurring an obligation to file additional reports in a calendar year may satisfy the obligation by filing with the commission a letter providing updating or amending information.

(2) The treasurer and the candidate shall certify the correctness of each report. [1993 c 256 § 6; 1989 c 280 § 9. Prior: 1986 c 228 § 1; 1986 c 12 § 2; 1983 c 96 § 1; 1982 c 147 § 7; 1977 ex.s. c 336 § 2; 1975-'76 2nd ex.s. c 112 § 3; 1975 1st ex.s. c 294 § 7; 1973 c 1 § 9 (Initiative Measure No. 276, approved November 7, 1972).]

Severability—Effective date—1993 c 256: See notes following RCW 29.79.500.

Effective date—1989 c 280: See note following RCW 42.17.020.

Severability—1977 ex.s. c 336: See note following RCW 42.17.040.

Appearance of fairness doctrine—Application to candidates for public office—Campaign contributions: RCW 42.36.040, 42.36.050.

42.17.095 Disposal of surplus funds. The surplus funds of a candidate, or of a political committee supporting or opposing a candidate, may only be disposed of in any one or more of the following ways:

(1) Return the surplus to a contributor in an amount not to exceed that contributor's original contribution;

(2) Transfer the surplus to the candidate's personal account as reimbursement for lost earnings incurred as a result of that candidate's election campaign. Such lost earnings shall be verifiable as unpaid salary or, when the candidate is not salaried, as an amount not to exceed income received by the candidate for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the candidate or the candidate's political committee. The committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090;

(3) Transfer the surplus without limit to a political party or to a caucus political committee;

(4) Donate the surplus to a charitable organization registered in accordance with chapter 19.09 RCW;

(5) Transmit the surplus to the state treasurer for deposit in the general fund; or

(6) Hold the surplus in the campaign depository or depositories designated in accordance with RCW 42.17.050 for possible use in a future election campaign for the same office last sought by the candidate and report any such disposition in accordance with RCW 42.17.090: **PROVIDED,** That if the candidate subsequently announces or publicly files for office, information as appropriate is reported to the commission in accordance with RCW 42.17.040 through 42.17.090. If a subsequent office is not sought the surplus held shall be disposed of in accordance with the requirements of this section.

(7) Hold the surplus campaign funds in a separate account for nonreimbursed public office-related expenses or

as provided in this section, and report any such disposition in accordance with RCW 42.17.090. The separate account required under this subsection shall not be used for deposits of campaign funds that are not surplus.

(8) No candidate or authorized committee may transfer funds to any other candidate or other political committee.

The disposal of surplus funds under this section shall not be considered a contribution for purposes of this chapter. [1995 c 397 § 31; 1993 c 2 § 20 (Initiative Measure No. 134, approved November 3, 1992); 1982 c 147 § 8; 1977 ex.s. c 336 § 3.]

Severability—1977 ex.s. c 336: See note following RCW 42.17.040.

42.17.100 Special reports—Independent expenditures. (1) For the purposes of this section and RCW 42.17.550 the term "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17.060, 42.17.080, or 42.17.090. "Independent expenditure" does not include: An internal political communication primarily limited to the contributors to a political party organization or political action committee, or the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person.

(2) Within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a local ballot proposition, the county of residence for the person making the expenditure) an initial report of all independent expenditures made during the campaign prior to and including such date.

(3) At the following intervals each person who is required to file an initial report pursuant to subsection (2) of this section shall file with the commission and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a ballot proposition, the county of residence for the person making the expenditure) a further report of the independent expenditures made since the date of the last report:

(a) On the twenty-first day and the seventh day preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election; and

(c) On the tenth day of each month in which no other reports are required to be filed pursuant to this section. However, the further reports required by this subsection (3) shall only be filed if the reporting person has made an independent expenditure since the date of the last previous report filed.

The report filed pursuant to paragraph (a) of this subsection (3) shall be the final report, and upon submitting such final report the duties of the reporting person shall cease, and there shall be no obligation to make any further reports.

(4) All reports filed pursuant to this section shall be certified as correct by the reporting person.

(5) Each report required by subsections (2) and (3) of this section shall disclose for the period beginning at the end of the period for the last previous report filed or, in the case of an initial report, beginning at the time of the first independent expenditure, and ending not more than one business day before the date the report is due:

(a) The name and address of the person filing the report;

(b) The name and address of each person to whom an independent expenditure was made in the aggregate amount of more than fifty dollars, and the amount, date, and purpose of each such expenditure. If no reasonable estimate of the monetary value of a particular independent expenditure is practicable, it is sufficient to report instead a precise description of services, property, or rights furnished through the expenditure and where appropriate to attach a copy of the item produced or distributed by the expenditure;

(c) The total sum of all independent expenditures made during the campaign to date; and

(d) Such other information as shall be required by the commission by rule in conformance with the policies and purposes of this chapter. [1995 c 397 § 28; 1989 c 280 § 10; 1985 c 367 § 6; 1982 c 147 § 9; 1975-'76 2nd ex.s. c 112 § 4; 1973 c 1 § 10 (Initiative Measure No. 276, approved November 7, 1972).]

Effective date—1989 c 280: See note following RCW 42.17.020.

42.17.105 Special reports, late contributions or totals over five hundred dollars—Certain late contributions prohibited. (1) Campaign treasurers shall prepare and deliver to the commission a special report regarding any contribution or aggregate of contributions which: Exceeds five hundred dollars; is from a single person or entity; and is received during a special reporting period.

Any political committee making a contribution or an aggregate of contributions to a single entity which exceeds five hundred dollars shall also prepare and deliver to the commission the special report if the contribution or aggregate of contributions is made during a special reporting period.

For the purposes of subsections (1) through (7) of this section:

(a) Each of the following intervals is a special reporting period: (i) The interval beginning after the period covered by the last report required by RCW 42.17.080 and 42.17.090 to be filed before a primary and concluding on the end of

the day before that primary; and (ii) the interval composed of the twenty-one days preceding a general election; and

(b) An aggregate of contributions includes only those contributions received from a single entity during any one special reporting period or made by the contributing political committee to a single entity during any one special reporting period.

(2) If a campaign treasurer files a special report under this section for one or more contributions received from a single entity during a special reporting period, the treasurer shall also file a special report under this section for each subsequent contribution of any size which is received from that entity during the special reporting period. If a political committee files a special report under this section for a contribution or contributions made to a single entity during a special reporting period, the political committee shall also file a special report for each subsequent contribution of any size which is made to that entity during the special reporting period.

(3) Except as provided in subsection (4) of this section, the special report required by this section shall be delivered electronically or in written form, including but not limited to mailgram, telegram, or nightletter. The special report required of a contribution recipient by subsection (1) of this section shall be delivered to the commission within forty-eight hours of the time, or on the first working day after: The contribution exceeding five hundred dollars is received by the candidate or treasurer; the aggregate received by the candidate or treasurer first exceeds five hundred dollars; or the subsequent contribution that must be reported under subsection (2) of this section is received by the candidate or treasurer. The special report required of a contributor by subsection (1) of this section or RCW 42.17.175 shall be delivered to the commission, and the candidate or political committee to whom the contribution or contributions are made, within twenty-four hours of the time, or on the first working day after: The contribution is made; the aggregate of contributions made first exceeds five hundred dollars; or the subsequent contribution that must be reported under subsection (2) of this section is made.

(4) The special report may be transmitted orally by telephone to the commission to satisfy the delivery period required by subsection (3) of this section if the written form of the report is also mailed to the commission and post-marked within the delivery period established in subsection (3) of this section or the file transfer date of the electronic filing is within the delivery period established in subsection (3) of this section.

(5) The special report shall include at least:

- (a) The amount of the contribution or contributions;
- (b) The date or dates of receipt;
- (c) The name and address of the donor;
- (d) The name and address of the recipient; and
- (e) Any other information the commission may by rule require.

(6) Contributions reported under this section shall also be reported as required by other provisions of this chapter.

(7) The commission shall prepare daily a summary of the special reports made under this section and RCW 42.17.175.

(8) It is a violation of this chapter for any person to make, or for any candidate or political committee to accept

from any one person, contributions reportable under RCW 42.17.090 in the aggregate exceeding fifty thousand dollars for any campaign for state-wide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee.

(9) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17.135. [1995 c 397 § 4; 1991 c 157 § 1; 1989 c 280 § 11; 1986 c 228 § 2; 1985 c 359 § 1; 1983 c 176 § 1.]

Effective date—1989 c 280: See note following RCW 42.17.020.

42.17.110 Commercial advertisers—Documents and books open for public inspection—Delivery of copies to commission upon request. (1) Each commercial advertiser who has accepted or provided political advertising during the election campaign shall maintain open for public inspection during the campaign and for a period of no less than three years after the date of the applicable election, during normal business hours, documents and books of account which shall specify:

- (a) The names and addresses of persons from whom it accepted political advertising;
- (b) The exact nature and extent of the advertising services rendered; and
- (c) The consideration and the manner of paying that consideration for such services.

(2) Each commercial advertiser which must comply with subsection (1) of this section shall deliver to the commission, upon its request, copies of such information as must be maintained open for public inspection pursuant to subsection (1) of this section. [1975-'76 2nd ex.s. c 112 § 5; 1973 c 1 § 11 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.120 Identification of contributions and communications. No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment. [1975 1st ex.s. c 294 § 8; 1973 c 1 § 12 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.125 Personal use of contributions—When permitted. Contributions received and reported in accordance with RCW 42.17.060 through 42.17.090 may only be transferred to the personal account of a candidate, or of a treasurer or other individual or expended for such individual's personal use under the following circumstances:

- (1) Reimbursement for or loans to cover lost earnings incurred as a result of campaigning or services performed for the political committee. Such lost earnings shall be verifiable as unpaid salary, or when the individual is not salaried,

as an amount not to exceed income received by the individual for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the individual or the individual's political committee. The political committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090.

(2) Reimbursement for direct out-of-pocket election campaign and postelection campaign related expenses made by the individual. To receive reimbursement from the political committee, the individual shall provide the political committee with written documentation as to the amount, date, and description of each expense, and the political committee shall include a copy of such information when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090.

(3) Repayment of loans made by the individual to political committees, which repayment shall be reported pursuant to RCW 42.17.090. However, contributions may not be used to reimburse a candidate for loans totaling more than three thousand dollars made by the candidate to the candidate's own political committee or campaign. [1995 c 397 § 29; 1993 c 2 § 21 (Initiative Measure No. 134, approved November 3, 1992); 1989 c 280 § 12; 1985 c 367 § 7; 1977 ex.s. c 336 § 6.]

Effective date—1989 c 280: See note following RCW 42.17.020.

Severability—1977 ex.s. c 336: See note following RCW 42.17.040.

42.17.128 Use of public funds for political purposes. Public funds, whether derived through taxes, fees, penalties, or any other sources, shall not be used to finance political campaigns for state or local office. [1993 c 2 § 24 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.130 Forbids use of public office or agency facilities in campaigns. No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency: **PROVIDED,** That the foregoing provisions of this section shall not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency. [1979 ex.s. c 265 § 2; 1975-'76 2nd ex.s. c 112 § 6; 1973 c 1 § 13 (Initiative Measure No. 276, approved November 7, 1972).]

Disposition of violations before January 1, 1995: "Any violations occurring prior to January 1, 1995, of any of the following laws shall be disposed of as if chapter 154, Laws of 1994 were not enacted and such laws continued in full force and effect: RCW 42.17.130, chapter 42.18 RCW, chapter 42.21 RCW, and chapter 42.22 RCW." [1994 c 154 § 2.6.]

42.17.131 Exemption from RCW 42.17.130. RCW 42.17.130 does not apply to any person who is a state officer or state employee as defined in RCW 42.52.010. [1994 c 154 § 317.]

Parts and captions not law—Effective date—Severability—1994 c 154: See RCW 42.52.902, 42.52.904, and 42.52.905.

42.17.132 Restrictions on mailings by incumbents. During the twelve-month period preceding the last day for certification of the election results for a state legislator's election to office, the legislator may not mail to a constituent at public expense a letter, newsletter, brochure, or other piece of literature except as provided in this section.

The legislator may mail one mailing no later than thirty days after the start of a regular legislative session and one mailing no later than sixty days after the end of a regular legislative session of identical newsletters to constituents.

The legislator may mail an individual letter to an individual constituent who (1) has contacted the legislator regarding the subject matter of the letter during the legislator's current term of office; or (2) holds a governmental office with jurisdiction over the subject matter of the letter.

A violation of this section constitutes use of the facilities of a public office for the purpose of assisting a campaign under RCW 42.52.180.

The house of representatives and senate shall specifically limit expenditures per member for the total cost of mailings, including but not limited to production costs, printing costs, and postage. [1995 c 397 § 5; 1993 c 2 § 25 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.135 Earmarked contributions. A candidate or political committee receiving a contribution earmarked for the benefit of another candidate or political committee shall:

(1) Report the contribution as required in RCW 42.17.080 and 42.17.090;

(2) Complete a report, entitled "Earmarked contributions," on a form prescribed by the commission by rule, which identifies the name and address of the person who made the contribution, the candidate or political committee for whose benefit the contribution is earmarked, the amount of the contribution, and the date on which the contribution was received; and

(3) Notify the commission and the candidate or political committee for whose benefit the contribution is earmarked regarding the receipt of the contribution by mailing or delivering to the commission and to the candidate or committee a copy of the "Earmarked contributions" report.

Such notice shall be given within two working days of receipt of the contribution.

A candidate or political committee receiving notification of an earmarked contribution under subsection (3) of this section shall report the contribution, once the contribution is received by the candidate or committee, in the same manner as the receipt of any other contribution is disclosed in reports required by RCW 42.17.080 and 42.17.090. [1989 c 280 § 13; 1986 c 228 § 3.]

Effective date—1989 c 280: See note following RCW 42.17.020.

LOBBYIST REPORTING

42.17.150 Registration of lobbyists. (1) Before doing any lobbying, or within thirty days after being employed as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the commission a lobbyist registration statement, in such detail as the commission shall prescribe, showing:

(a) His name, permanent business address, and any temporary residential and business addresses in Thurston county during the legislative session;

(b) The name, address and occupation or business of the lobbyist's employer;

(c) The duration of his employment;

(d) His compensation for lobbying; how much he is to be paid for expenses, and what expenses are to be reimbursed;

(e) Whether the person from whom he receives said compensation employs him solely as a lobbyist or whether he is a regular employee performing services for his employer which include but are not limited to the influencing of legislation;

(f) The general subject or subjects of his legislative interest;

(g) A written authorization from each of the lobbyist's employers confirming such employment;

(h) The name and address of the person who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept under this chapter;

(i) If the lobbyist's employer is an entity (including, but not limited to, business and trade associations) whose members include, or which as a representative entity undertakes lobbying activities for, businesses, groups, associations, or organizations, the name and address of each member of such entity or person represented by such entity whose fees, dues, payments, or other consideration paid to such entity during either of the prior two years have exceeded five hundred dollars or who is obligated to or has agreed to pay fees, dues, payments, or other consideration exceeding five hundred dollars to such entity during the current year.

(2) Any lobbyist who receives or is to receive compensation from more than one person for his services as a lobbyist shall file a separate notice of representation with respect to each such person; except that where a lobbyist whose fee for acting as such in respect to the same legislation or type of legislation is, or is to be, paid or contributed to by more than one person then such lobbyist may file a single statement, in which he shall detail the name, business address and occupation of each person so paying or contributing, and the amount of the respective payments or contributions made by each such person.

(3) Whenever a change, modification, or termination of the lobbyist's employment occurs, the lobbyist shall, within one week of such change, modification or termination, furnish full information regarding the same by filing with the commission an amended registration statement.

(4) Each lobbyist who has registered shall file a new registration statement, revised as appropriate, on the second Monday in January of each odd-numbered year, and failure to do so shall terminate his registration. [1987 c 201 § 1; 1982 c 147 § 10; 1973 c 1 § 15 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.155 Photograph and information—Booklet—Publication. Each lobbyist shall at the time he or she registers submit to the commission a recent photograph of himself or herself of a size and format as determined by rule of the commission, together with the name of the lobbyist's employer, the length of his or her employment as a lobbyist before the legislature, a brief biographical description, and any other information he or she may wish to submit not to exceed fifty words in length. Such photograph and information shall be published at least biennially in a booklet form by the commission for distribution to legislators and the public. [1995 c 397 § 6; 1985 c 367 § 8; 1982 c 147 § 11; 1975 1st ex.s. c 294 § 21.]

42.17.160 Exemption from registration. The following persons and activities shall be exempt from registration and reporting under RCW 42.17.150, 42.17.170, and 42.17.200:

(1) Persons who limit their lobbying activities to appearing before public sessions of committees of the legislature, or public hearings of state agencies;

(2) Activities by lobbyists or other persons whose participation has been solicited by an agency under RCW 34.05.310(2);

(3) News or feature reporting activities and editorial comment by working members of the press, radio, or television and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station, or television station;

(4) Persons who lobby without compensation or other consideration for acting as a lobbyist: PROVIDED, Such person makes no expenditure for or on behalf of any member of the legislature or elected official or public officer or employee of the state of Washington in connection with such lobbying. The exemption contained in this subsection is intended to permit and encourage citizens of this state to lobby any legislator, public official, or state agency without incurring any registration or reporting obligation provided they do not exceed the limits stated above. Any person exempt under this subsection (4) may at his or her option register and report under this chapter;

(5) Persons who restrict their lobbying activities to no more than four days or parts thereof during any three-month period and whose total expenditures during such three-month period for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington in connection with such lobbying do not exceed twenty-five dollars: PROVIDED, That the commission shall promulgate regulations to

require disclosure by persons exempt under this subsection or their employers or entities which sponsor or coordinate the lobbying activities of such persons if it determines that such regulations are necessary to prevent frustration of the purposes of this chapter. Any person exempt under this subsection (5) may at his or her option register and report under this chapter;

(6) The governor;

(7) The lieutenant governor;

(8) Except as provided by RCW 42.17.190(1), members of the legislature;

(9) Except as provided by RCW 42.17.190(1), persons employed by the legislature for the purpose of aiding in the preparation or enactment of legislation or the performance of legislative duties;

(10) Elected officials, and officers and employees of any agency reporting under RCW 42.17.190(4) as now or hereafter amended. [1995 c 397 § 32; 1982 c 147 § 12; 1977 ex.s. c 313 § 4; 1975 1st ex.s. c 294 § 9; 1973 c 1 § 16 (Initiative Measure No. 276, approved November 7, 1972).]

Effective date—Severability—1977 ex.s. c 313: See notes following RCW 42.17.020.

42.17.170 Reporting by lobbyists. (1) Any lobbyist registered under RCW 42.17.150 and any person who lobbies shall file with the commission periodic reports of his or her activities signed by the lobbyist. The reports shall be made in the form and manner prescribed by the commission. They shall be due monthly and shall be filed within fifteen days after the last day of the calendar month covered by the report.

(2) Each such monthly periodic report shall contain:

(a) The totals of all expenditures for lobbying activities made or incurred by such lobbyist or on behalf of such lobbyist by the lobbyist's employer during the period covered by the report. Such totals for lobbying activities shall be segregated according to financial category, including compensation; food and refreshments; living accommodations; advertising; travel; contributions; and other expenses or services. Each individual expenditure of more than twenty-five dollars for entertainment shall be identified by date, place, amount, and the names of all persons in the group partaking in or of such entertainment including any portion thereof attributable to the lobbyist's participation therein, and shall include amounts actually expended on each person where calculable, or allocating any portion of the expenditure to individual participants.

Notwithstanding the foregoing, lobbyists are not required to report the following:

(i) Unreimbursed personal living and travel expenses not incurred directly for lobbying;

(ii) Any expenses incurred for his or her own living accommodations;

(iii) Any expenses incurred for his or her own travel to and from hearings of the legislature;

(iv) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance.

(b) In the case of a lobbyist employed by more than one employer, the proportionate amount of such expenditures in each category incurred on behalf of each of his employers.

(c) An itemized listing of each such expenditure, whether contributed by the lobbyist personally or delivered or transmitted by the lobbyist, in the nature of a contribution of money or of tangible or intangible personal property to any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition, or for or on behalf of any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition. All contributions made to, or for the benefit of, any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition shall be identified by date, amount, and the name of the candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition receiving, or to be benefited by each such contribution.

(d) The subject matter of proposed legislation or other legislative activity or rule-making under chapter 34.05 RCW, the state Administrative Procedure Act, and the state agency considering the same, which the lobbyist has been engaged in supporting or opposing during the reporting period, unless exempt under RCW 42.17.160(2).

(e) Such other information relevant to lobbying activities as the commission shall by rule prescribe. Information supporting such activities as are required to be reported is subject to audit by the commission.

(f) A listing of each payment for an item specified in RCW 42.52.150(5) in excess of fifty dollars and each item specified in RCW 42.52.010(9) (d) and (f) made to a state elected official, state officer, or state employee. Each item shall be identified by recipient, date, and approximate value of the item.

(g) The total expenditures made during the reporting period by the lobbyist for lobbying purposes, whether through or on behalf of a lobbyist or otherwise. As used in this subsection, "expenditures" includes amounts paid or incurred during the reporting period for (i) political advertising as defined in RCW 42.17.020; and (ii) public relations, telemarketing, polling, or similar activities if such activities, directly or indirectly, are intended, designed, or calculated to influence legislation or the adoption or rejection of a rule, standard, or rate by an agency under the administrative procedure act. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(3) If a state elected official or a member of such an official's immediate family is identified by a lobbyist in such a report as having received from the lobbyist an item specified in RCW 42.52.150(5) or 42.52.010(9) (d) or (f), the lobbyist shall transmit to the official a copy of the completed form used to identify the item in the report at the same time the report is filed with the commission.

(4) The commission may adopt rules to vary the content of lobbyist reports to address specific circumstances, consistent with this section. [1995 c 397 § 33; 1991 sp.s. c 18 § 2; 1990 c 139 § 3; 1989 c 175 § 90; 1987 c 423 § 1; 1985 c 367 § 9; 1982 c 147 § 13; 1977 ex.s. c 313 § 5; 1975 1st ex.s. c 294 § 10; 1973 c 1 § 17 (Initiative Measure No. 276, approved November 7, 1972).]

Effective date—1995 c 397 § 33: "Section 33 of this act takes effect September 1, 1995." [1995 c 397 § 36.]

Legislative intent—1990 c 139: See note following RCW 42.17.020.

Effective date—1989 c 175: See note following RCW 34.05.010.

Effective date—Severability—1977 ex.s. c 313: See notes following RCW 42.17.020.

42.17.172 Notification to person named in report.

When a listing or a report of contributions is made to the commission under RCW 42.17.170(2)(c), a copy of the listing or report must be given to the candidate, elected official, professional staff member of the legislature, or officer or employee of an agency, or a political committee supporting or opposing a ballot proposition named in the listing or report. [1993 c 2 § 32 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.175 Special reports—Late contributions or totals over five hundred dollars. Any lobbyist registered under RCW 42.17.150, any person who lobbies, and any lobbyist's employer making a contribution or an aggregate of contributions to a single entity that exceeds five hundred dollars during a special reporting period before a primary or general election, as such period is specified in RCW 42.17.105(1), shall file one or more special reports for the contribution or aggregate of contributions and for subsequent contributions made during that period under the same circumstances and to the same extent that a contributing political committee must file such a report or reports under RCW 42.17.105. Such a special report shall be filed in the same manner provided under RCW 42.17.105 for a special report of a contributing political committee. [1991 c 157 § 2; 1985 c 359 § 2.]

42.17.180 Reports by employers of registered lobbyists, other persons. (1) Every employer of a lobbyist registered under this chapter during the preceding calendar year and every person other than an individual that made contributions aggregating to more than ten thousand dollars or independent expenditures aggregating to more than five hundred dollars during the preceding calendar year shall file with the commission on or before the last day of February of each year a statement disclosing for the preceding calendar year the following information:

(a) The name of each state elected official and the name of each candidate for state office who was elected to the office and any member of the immediate family of those persons to whom the person reporting has paid any compensation in the amount of five hundred dollars or more during the preceding calendar year for personal employment or professional services, including professional services rendered by a corporation, partnership, joint venture, association, union, or other entity in which the person holds any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more, the value of the compensation in accordance with the reporting provisions set out in RCW 42.17.241(2), and the consideration given or performed in exchange for the compensation.

(b) The name of each state elected official, successful candidate for state office, or members of his immediate family to whom the person reporting made expenditures, directly or indirectly, either through a lobbyist or otherwise, the amount of the expenditures and the purpose for the

expenditures. For the purposes of this subsection, the term expenditure shall not include any expenditure made by the employer in the ordinary course of business if the expenditure is not made for the purpose of influencing, honoring, or benefiting the elected official, successful candidate, or member of his immediate family, as an elected official or candidate.

(c) The total expenditures made by the person reporting for lobbying purposes, whether through or on behalf of a registered lobbyist or otherwise.

(d) All contributions made to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a state-wide ballot proposition. Such contributions shall be identified by the name and the address of the recipient and the aggregate amount contributed to each such recipient.

(e) The name and address of each registered lobbyist employed by the person reporting and the total expenditures made by such person for each such lobbyist for lobbying purposes.

(f) The names, offices sought, and party affiliations of candidates for state offices supported or opposed by independent expenditures of the person reporting and the amount of each such expenditure.

(g) The identifying proposition number and a brief description of any state-wide ballot proposition supported or opposed by expenditures not reported under (d) of this subsection and the amount of each such expenditure.

(h) Such other information as the commission prescribes by rule.

(2)(a) Except as provided in (b) of this subsection, an employer of a lobbyist registered under this chapter shall file a special report with the commission if the employer makes a contribution or contributions aggregating more than one hundred dollars in a calendar month to any one of the following: A candidate, elected official, officer or employee of an agency, or political committee. The report shall identify the date and amount of each such contribution and the name of the candidate, elected official, agency officer or employee, or political committee receiving the contribution or to be benefited by the contribution. The report shall be filed on a form prescribed by the commission and shall be filed within fifteen days after the last day of the calendar month during which the contribution was made.

(b) The provisions of (a) of this subsection do not apply to a contribution which is made through a registered lobbyist and reportable under RCW 42.17.170. [1993 c 2 § 27 (Initiative Measure No. 134, approved November 3, 1992); 1990 c 139 § 4; 1987 c 423 § 2; 1984 c 34 § 6; 1975 1st ex.s. c 294 § 11; 1973 c 1 § 18 (Initiative Measure No. 276, approved November 7, 1972).]

Legislative intent—1990 c 139: See note following RCW 42.17.020.

42.17.190 Legislative activities of state agencies, other units of government, elective officials, employees.

(1) The house of representatives and the senate shall report annually: The total budget; the portion of the total attributed to staff; and the number of full-time and part-time staff positions by assignment, with dollar figures as well as number of positions.

(2) Unless authorized by subsection (3) of this section or otherwise expressly authorized by law, no public funds may be used directly or indirectly for lobbying: PROVIDED, This does not prevent officers or employees of an agency from communicating with a member of the legislature on the request of that member; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations which are deemed necessary for the efficient conduct of the public business or actually made in the proper performance of their official duties: PROVIDED FURTHER, That this subsection does not apply to the legislative branch.

(3) Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to (a) providing information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency or (b) advocating the official position or interests of the agency to any elected official or officer or employee of any agency: PROVIDED, That public funds may not be expended as a direct or indirect gift or campaign contribution to any elected official or officer or employee of any agency. For the purposes of this subsection, the term "gift" means a voluntary transfer of any thing of value without consideration of equal or greater value, but does not include informational material transferred for the sole purpose of informing the recipient about matters pertaining to official agency business. This section does not permit the printing of a state publication which has been otherwise prohibited by law.

(4) No elective official or any employee of his or her office or any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, in any effort to support or oppose an initiative to the legislature. "Facilities of a public office or agency" has the same meaning as in RCW 42.17.130 and 42.52.180. The provisions of this subsection shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose an initiative to the legislature so long as (i) any required notice of the meeting includes the title and number of the initiative to the legislature, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any initiative to the legislature at an open press conference or in response to a specific inquiry;

(c) Activities which are part of the normal and regular conduct of the office or agency;

(d) Activities conducted regarding an initiative to the legislature that would be permitted under RCW 42.17.130 and 42.52.180 if conducted regarding other ballot measures.

(5) Each state agency, county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district which expends public funds for lobbying shall file with the commission, except as exempted by (d) of this subsection, quarterly statements providing the following information for the quarter just completed:

(a) The name of the agency filing the statement;

(b) The name, title, and job description and salary of each elected official, officer, or employee who lobbied, a general description of the nature of the lobbying, and the proportionate amount of time spent on the lobbying;

(c) A listing of expenditures incurred by the agency for lobbying including but not limited to travel, consultant or other special contractual services, and brochures and other publications, the principal purpose of which is to influence legislation;

(d) For purposes of this subsection the term "lobbying" does not include:

(i) Requests for appropriations by a state agency to the office of financial management pursuant to chapter 43.88 RCW nor requests by the office of financial management to the legislature for appropriations other than its own agency budget requests;

(ii) Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study, recommendation, or report by an agency on a particular subject;

(iii) Official reports including recommendations submitted to the legislature on an annual or biennial basis by a state agency as required by law;

(iv) Requests, recommendations, or other communication between or within state agencies or between or within local agencies;

(v) Any other lobbying to the extent that it includes:

(A) Telephone conversations or preparation of written correspondence;

(B) In-person lobbying on behalf of an agency of no more than four days or parts thereof during any three-month period by officers or employees of that agency and in-person lobbying by any elected official of such agency on behalf of such agency or in connection with the powers, duties, or compensation of such official: PROVIDED, That the total expenditures of nonpublic funds made in connection with such lobbying for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington do not exceed fifteen dollars for any three-month period: PROVIDED FURTHER, That the exemption under this subsection is in addition to the exemption provided in (A) of this subsection;

(C) Preparation or adoption of policy positions.

The statements shall be in the form and the manner prescribed by the commission and shall be filed within one month after the end of the quarter covered by the report.

(6) In lieu of reporting under subsection (5) of this section any county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district may determine and so notify the public disclosure commission, that elected officials, officers, or employees who on behalf of any such local agency engage in lobbying reportable under subsection (5) of this section shall register and report such reportable lobbying in the same manner as a lobbyist who is required to register and report under RCW 42.17.150 and 42.17.170. Each such local agency shall report as a lobbyist employer pursuant to RCW 42.17.180.

(7) The provisions of this section do not relieve any elected official or officer or employee of an agency from complying with other provisions of this chapter, if such

elected official, officer, or employee is not otherwise exempted.

(8) The purpose of this section is to require each state agency and certain local agencies to report the identities of those persons who lobby on behalf of the agency for compensation, together with certain separately identifiable and measurable expenditures of an agency's funds for that purpose. This section shall be reasonably construed to accomplish that purpose and not to require any agency to report any of its general overhead cost or any other costs which relate only indirectly or incidentally to lobbying or which are equally attributable to or inseparable from nonlobbying activities of the agency.

The public disclosure commission may adopt rules clarifying and implementing this legislative interpretation and policy. [1995 c 397 § 7; 1986 c 239 § 1; 1979 ex.s. c 265 § 1; 1977 ex.s. c 313 § 6; 1975 1st ex.s. c 294 § 12; 1973 c 1 § 19 (Initiative Measure No. 276, approved November 7, 1972).]

Effective date—Severability—1977 ex.s. c 313: See notes following RCW 42.17.020.

42.17.200 Grass roots lobbying campaigns. (1) Any person who has made expenditures, not reported by a registered lobbyist under RCW 42.17.170 or by a candidate or political committee under RCW 42.17.065 or 42.17.080, exceeding five hundred dollars in the aggregate within any three-month period or exceeding two hundred dollars in the aggregate within any one-month period in presenting a program addressed to the public, a substantial portion of which is intended, designed, or calculated primarily to influence legislation shall be required to register and report, as provided in subsection (2) of this section, as a sponsor of a grass roots lobbying campaign.

(2) Within thirty days after becoming a sponsor of a grass roots lobbying campaign, the sponsor shall register by filing with the commission a registration statement, in such detail as the commission shall prescribe, showing:

(a) The sponsor's name, address, and business or occupation, and, if the sponsor is not an individual, the names, addresses, and titles of the controlling persons responsible for managing the sponsor's affairs;

(b) The names, addresses, and business or occupation of all persons organizing and managing the campaign, or hired to assist the campaign, including any public relations or advertising firms participating in the campaign, and the terms of compensation for all such persons;

(c) The names and addresses of each person contributing twenty-five dollars or more to the campaign, and the aggregate amount contributed;

(d) The purpose of the campaign, including the specific legislation, rules, rates, standards, or proposals that are the subject matter of the campaign;

(e) The totals of all expenditures made or incurred to date on behalf of the campaign, which totals shall be segregated according to financial category, including but not limited to the following: Advertising, segregated by media, and in the case of large expenditures (as provided by rule of the commission), by outlet; contributions; entertainment, including food and refreshments; office expenses including rent and the salaries and wages paid for staff and secretarial assistance, or the proportionate amount thereof paid or

incurred for lobbying campaign activities; consultants; and printing and mailing expenses.

(3) Every sponsor who has registered under this section shall file monthly reports with the commission, which reports shall be filed by the tenth day of the month for the activity during the preceding month. The reports shall update the information contained in the sponsor's registration statement and in prior reports and shall show contributions received and totals of expenditures made during the month, in the same manner as provided for in the registration statement.

(4) When the campaign has been terminated, the sponsor shall file a notice of termination with the final monthly report, which notice shall state the totals of all contributions and expenditures made on behalf of the campaign, in the same manner as provided for in the registration statement. [1990 c 139 § 5; 1985 c 367 § 10; 1973 c 1 § 20 (Initiative Measure No. 276, approved November 7, 1972).]

Legislative intent—1990 c 139: See note following RCW 42.17.020.

42.17.210 Employment of legislators, board or commission members, or state employees—Statement, contents and filing. If any person registered or required to be registered as a lobbyist under this chapter employs, or if any employer of any person registered or required to be registered as a lobbyist under this chapter, employs any member of the legislature, or any member of any state board or commission, or any employee of the legislature, or any full-time state employee, if such new employee shall remain in the partial employ of the state or any agency thereof, then the new employer shall file a statement under oath with the commission setting out the nature of the employment, the name of the person to be paid thereunder, and the amount of pay or consideration to be paid thereunder. The statement shall be filed within fifteen days after the commencement of such employment. [1973 c 1 § 21 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.220 Employment of unregistered persons. It shall be a violation of this chapter for any person to employ for pay or any consideration, or pay or agree to pay any consideration to, a person to lobby who is not registered under this chapter except upon condition that such person register as a lobbyist as provided by this chapter, and such person does in fact so register as soon as practicable. [1973 c 1 § 22 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.230 Lobbyists' duties, restrictions. A person required to register as a lobbyist under this chapter shall also have the following obligations, the violation of which shall constitute cause for revocation of his registration, and may subject such person, and such person's employer, if such employer aids, abets, ratifies, or confirms any such act, to other civil liabilities, as provided by this chapter:

(1) Such persons shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the financial reports required to be made under this chapter for a period of at least five years from the date of the filing of the statement containing such items, which accounts, bills, receipts, books, papers, and documents shall

be made available for inspection by the commission at any time: PROVIDED, That if a lobbyist is required under the terms of his employment contract to turn any records over to his employer, responsibility for the preservation of such records under this subsection shall rest with such employer.

(2) In addition, a person required to register as a lobbyist shall not:

(a) Engage in any activity as a lobbyist before registering as such;

(b) Knowingly deceive or attempt to deceive any legislator as to any fact pertaining to any pending or proposed legislation;

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its defeat;

(d) Knowingly represent an interest adverse to any of his employers without first obtaining such employer's written consent thereto after full disclosure to such employer of such adverse interest;

(e) Exercise any undue influence, extortion, or unlawful retaliation upon any legislator by reason of such legislator's position with respect to, or his vote upon, any pending or proposed legislation;

(f) Enter into any agreement, arrangement, or understanding according to which his or her compensation, or any portion thereof, is or will be contingent upon the success of any attempt to influence legislation. [1987 c 201 § 2; 1982 c 147 § 14; 1973 c 1 § 23 (Initiative Measure No. 276, approved November 7, 1972).]

REPORTING OF PUBLIC OFFICIALS' FINANCIAL AFFAIRS

42.17.240 Elected and appointed officials, candidates, and appointees—Reports of financial affairs and gifts. (1) Every elected official and every executive state officer shall after January 1st and before April 15th of each year file with the commission a statement of financial affairs for the preceding calendar year. However, any local elected official whose term of office expires immediately after December 31st shall file the statement required to be filed by this section for the year that ended on that December 31st.

(2) Every candidate shall within two weeks of becoming a candidate file with the commission a statement of financial affairs for the preceding twelve months.

(3) Every person appointed to a vacancy in an elective office or executive state officer position shall within two weeks of being so appointed file with the commission a statement of financial affairs for the preceding twelve months.

(4) A statement of a candidate or appointee filed during the period from January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year.

(5) No individual may be required to file more than once in any calendar year.

(6) Each statement of financial affairs filed under this section shall be sworn as to its truth and accuracy.

(7) Every elected official and every executive state officer shall file with their statement of financial affairs a statement certifying that they have read and are familiar with RCW 42.17.130 or 42.52.180, whichever is applicable.

(8) For the purposes of this section, the term "executive state officer" includes those listed in RCW 42.17.2401.

(9) This section does not apply to incumbents or candidates for a federal office or the office of precinct committee officer. [1995 c 397 § 8; 1993 c 2 § 31 (Initiative Measure No. 134, approved November 3, 1992); 1989 c 158 § 1; 1987 c 295 § 19. Prior: 1984 c 125 § 14; 1984 c 34 § 1; 1983 c 161 § 27; 1982 c 10 § 9; prior: 1981 c 311 § 20; 1981 c 67 § 15; 1979 ex.s. c 265 § 3; 1979 c 151 § 73; prior: 1975-'76 2nd ex.s. c 112 § 7; 1975-'76 2nd ex.s. c 104 § 1 (Ref. Bill No. 36); 1975 1st ex.s. c 294 § 13; 1973 c 1 § 24 (Initiative Measure No. 276, approved November 7, 1972).]

Temporary exemption: "Persons identified as executive officers under RCW 42.17.2401(4), who were appointed to their positions before July 23, 1989, and who were not required to file a statement of financial affairs at the time of their appointment, are exempt from the requirements of RCW 42.17.240 until they are reappointed to such positions." [1989 c 158 § 4.]

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Severability—Effective dates—1983 c 161: See RCW 43.180.903 and 43.180.904.

Severability—1982 c 10: See note following RCW 6.13.080.

Severability—1981 c 311: See RCW 41.64.910.

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

Cemetery district commissioners exempt from chapter: RCW 68.52.140, 68.52.220.

42.17.2401 "Executive state officer" defined. For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the administrator of the *office of marine safety, the administrator of the Washington basic health plan, the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of community, trade, and economic development, the secretary of corrections, the director of ecology, the commissioner of employment security, the chairman of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the director of the interagency committee for outdoor recreation, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises,

the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, board of trustees of each community college, each member of the state board for community and technical colleges, state convention and trade center board of directors, committee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, interagency committee for outdoor recreation, state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, marine oversight board, Pacific Northwest electric power and conservation planning council, parks and recreation commission, personnel appeals board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines hearing board, public employees' benefits board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission. [1996 c 186 § 504. Prior: 1995 c 399 § 60; 1995 c 397 § 10; prior: 1993 sp.s. c 2 § 18; 1993 c 492 § 488; 1993 c 281 § 43; 1991 c 200 § 404; 1991 c 3 § 293; prior: 1989 1st ex.s. c 9 § 812; 1989 c 279 § 22; 1989 c 158 § 2; 1988 c 36 § 13; 1987 c 504 § 14; 1985 c 6 § 8; 1984 c 34 § 2.]

***Reviser's note:** The office of marine safety was transferred to the department of ecology and renamed the integrated oil spill prevention and response program by 1995 2nd sp.s. c 14 § 515, effective January 1, 1996, until June 30, 1997.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability—1993 sp.s. c 2: See RCW 43.300.901.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective date—1993 c 281: See note following RCW 41.06.022.

Effective dates—Severability—1991 c 200: See RCW 90.56.901 and 90.56.904.

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

Report—Severability—1989 c 279: See RCW 43.163.900 and 43.163.901.

Alphabetization—1989 c 158 § 2: "When section 2 of this act is codified, the code reviser shall arrange the names of the agencies in each subsection in alphabetical order." [1989 c 158 § 3.] The names of the agencies in the above section have been arranged according to the first distinctive word of each agency's name.

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

42.17.241 Contents of report. (1) The statement of financial affairs required by RCW 42.17.240 shall disclose for the reporting individual and each member of his or her immediate family:

(a) Occupation, name of employer, and business address; and

(b) Each bank or savings account or insurance policy in which any such person or persons owned a direct financial interest that exceeded five thousand dollars at any time during the reporting period; each other item of intangible personal property in which any such person or persons owned a direct financial interest, the value of which exceeded five hundred dollars during the reporting period; the name, address, and nature of the entity; and the nature and highest value of each such direct financial interest during the reporting period; and

(c) The name and address of each creditor to whom the value of five hundred dollars or more was owed; the original amount of each debt to each such creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each such debt; and the security given, if any, for each such debt: PROVIDED, That debts arising out of a "retail installment transaction" as defined in chapter 63.14 RCW (Retail Installment Sales Act) need not be reported; and

(d) Every public or private office, directorship, and position held as trustee; and

(e) All persons for whom any legislation, rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation: PROVIDED, That for the purposes of this subsection, "compensation" does not include payments made to the person reporting by the governmental entity for which such person serves as an elected official or state executive officer or professional staff member for his service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid; and

(f) The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in any form of a total value of five hundred dollars or more; the value of the compensation; and the consideration given or performed in exchange for the compensation; and

(g) The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and with respect to each such entity: (i) With respect to a governmental unit in which the official seeks or holds any office or position, if the entity has received compensation in any form during the preceding twelve months from the governmental unit, the value of the compensation and the consideration given or performed in exchange for the compensation; (ii) the name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which the entity has received compensation in any form in the amount of two thousand five hundred dollars or more during the preceding twelve months and the consideration given or performed in exchange for the compensation: PROVIDED, That the term "compensation" for purposes of this subsection (1)(g)(ii) does not include payment for water and other utility services at rates approved by the Washington state utilities and transportation commission or the legislative authority of the public entity providing the service: PROVIDED, FURTHER, That with respect to any bank or commercial lending institution in which is held any office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every director and officer of the bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by the bank or commercial lending institution from the governmental entity for which the individual is an official or candidate or professional staff member, or all interest paid by a borrower on loans from and all interest paid to a depositor by the bank or commercial lending institution if the interest exceeds six hundred dollars; and

(h) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for that interest; and

(i) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for that interest, and the name and address of the person furnishing the consideration; and

(j) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which a direct financial interest was held: PROVIDED, That if a description of the property has been included in a report previously filed, the property may be listed, for purposes of this provision, by reference to the previously filed report; and

(k) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds five thousand dollars, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation, partnership, firm, or enterprise a ten percent or greater ownership interest was held; and

(l) A list of each occasion, specifying date, donor, and amount, at which food and beverage in excess of fifty dollars was accepted under RCW 42.52.150(5); [and]

(m) A list of each occasion, specifying date, donor, and amount, at which items specified in RCW 42.52.010(9) (d) and (f) were accepted; [and]

(n) Such other information as the commission may deem necessary in order to properly carry out the purposes and policies of this chapter, as the commission shall prescribe by rule.

(2) Where an amount is required to be reported under subsection (1) (a) through (m) of this section, it shall be sufficient to comply with the requirement to report whether the amount is less than one thousand dollars, at least one thousand dollars but less than five thousand dollars, at least five thousand dollars but less than ten thousand dollars, at least ten thousand dollars but less than twenty-five thousand dollars, or twenty-five thousand dollars or more. An amount of stock may be reported by number of shares instead of by market value. No provision of this subsection may be interpreted to prevent any person from filing more information or more detailed information than required.

(3) Items of value given to an official's or employee's spouse or family member are attributable to the official or employee, except the item is not attributable if an independent business, family, or social relationship exists between the donor and the spouse or family member. [1995 c 397 § 9; 1984 c 34 § 3; 1979 ex.s. c 126 § 4.]

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

42.17.242 Concealing identity of source of payment prohibited—Exception. No payment shall be made to any person required to report under RCW 42.17.240 and no payment shall be accepted by any such person, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the payment or in any other manner so as to effect concealment except that the commission may issue categorical and specific exemptions to the reporting of the actual source when there is an undisclosed principal for recognized legitimate business purposes. [1977 ex.s. c 336 § 4.]

Severability—1977 ex.s. c 336: See note following RCW 42.17.040.

42.17.243 Public office fund—What constitutes, restrictions on use—Reporting of—Disposal of remaining funds.

Reviser's note: RCW 42.17.243 was amended by 1991 sp.s. c 18 § 4 without reference to its repeal by 1993 c 2 § 35 (Initiative Measure No. 134). It has been decodified for publication purposes pursuant to RCW 1.12.025.

REPORTING BY PUBLIC TREASURERS

42.17.245 Public accounts of governmental entities held by financial institutions—Statements and reports—Contents—Filing. After January 1st and before April 15th of each calendar year, the state treasurer, each county, public utility district, and port district treasurer, and each treasurer of an incorporated city or town whose population exceeds one thousand shall file with the commission:

(1) A statement under oath that no public funds under that treasurer's control were invested in any institution where the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest; or

(2) A report disclosing for the previous calendar year: (a) The name and address of each financial institution in which the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest which holds or has held during the reporting period public accounts of the governmental entity for which the treasurer is responsible; (b) the aggregate sum of time and demand deposits held in each such financial institution on December 31; and (c) the highest balance held at any time during such reporting period: PROVIDED, That the state treasurer shall disclose the highest balance information only upon request under RCW 42.17.250 through 42.17.330. The statement or report required by this section shall be filed either with the statement required under RCW 42.17.240 or separately. [1983 c 213 § 1; 1981 c 102 § 1; 1975-'76 2nd ex.s. c 112 § 10.]

PUBLIC RECORDS

42.17.250 Duty to publish procedures. (1) Each state agency shall separately state and currently publish in the Washington Administrative Code and each local agency shall prominently display and make available for inspection and copying at the central office of such local agency, for guidance of the public:

(a) Descriptions of its central and field organization and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain copies of agency decisions;

(b) Statements of the general course and method by which its operations are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure;

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(e) Each amendment or revision to, or repeal of any of the foregoing.

(2) Except to the extent that he has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published or displayed and not so published

or displayed. [1973 c 1 § 25 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.251 Construction. The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. The public records subdivision of this chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy. [1992 c 139 § 2.]

42.17.255 Invasion of privacy, when. A person's "right to privacy," "right of privacy," "privacy," or "personal privacy," as these terms are used in this chapter, is invaded or violated only if disclosure of information about the person: (1) Would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public. The provisions of this chapter dealing with the right to privacy in certain public records do not create any right of privacy beyond those rights that are specified in this chapter as express exemptions from the public's right to inspect, examine, or copy public records. [1987 c 403 § 2.]

Intent—1987 c 403: "The legislature intends to restore the law relating to the release of public records largely to that which existed prior to the Washington Supreme Court decision in *In Re Rosier*," 105 Wn.2d 606 (1986). The intent of this legislation is to make clear that: (1) Absent statutory provisions to the contrary, agencies possessing records should in responding to requests for disclosure not make any distinctions in releasing or not releasing records based upon the identity of the person or agency which requested the records, and (2) agencies having public records should rely only upon statutory exemptions or prohibitions for refusal to provide public records. Further, to avoid unnecessary confusion, "privacy" as used in RCW 42.17.255 is intended to have the same meaning as the definition given that word by the Supreme Court in *Hearst v. Hoppe*," 90 Wn.2d 123, 135 (1978)." [1987 c 403 § 1.]

Severability—1987 c 403: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 403 § 7.]

42.17.258 Disclaimer of public liability. No public agency, public official, public employee, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of a public record if the public agency, public official, public employee, or custodian acted in good faith in attempting to comply with the provisions of this chapter. [1992 c 139 § 11.]

42.17.260 Documents and indexes to be made public. (1) Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of this section, RCW 42.17.310, 42.17.315, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by RCW 42.17.310 and 42.17.315, an agency shall delete identifying details in a manner consistent with RCW 42.17.310 and 42.17.315 when it makes available or publishes any public record; however,

in each case, the justification for the deletion shall be explained fully in writing.

(2) For informational purposes, each agency shall publish and maintain a current list containing every law, other than those listed in this chapter, that the agency believes exempts or prohibits disclosure of specific information or records of the agency. An agency's failure to list an exemption shall not affect the efficacy of any exemption.

(3) Each local agency shall maintain and make available for public inspection and copying a current index providing identifying information as to the following records issued, adopted, or promulgated after January 1, 1973:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(4) A local agency need not maintain such an index, if to do so would be unduly burdensome, but it shall in that event:

(a) Issue and publish a formal order specifying the reasons why and the extent to which compliance would unduly burden or interfere with agency operations; and

(b) Make available for public inspection and copying all indexes maintained for agency use.

(5) Each state agency shall, by rule, establish and implement a system of indexing for the identification and location of the following records:

(a) All records issued before July 1, 1990, for which the agency has maintained an index;

(b) Final orders entered after June 30, 1990, that are issued in adjudicative proceedings as defined in RCW 34.05.010(1) and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(c) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(d) Interpretive statements as defined in RCW 34.05.010(8) that were entered after June 30, 1990; and

(e) Policy statements as defined in RCW 34.05.010(14) that were entered after June 30, 1990.

Rules establishing systems of indexing shall include, but not be limited to, requirements for the form and content of the index, its location and availability to the public, and the

schedule for revising or updating the index. State agencies that have maintained indexes for records issued before July 1, 1990, shall continue to make such indexes available for public inspection and copying. Information in such indexes may be incorporated into indexes prepared pursuant to this subsection. State agencies may satisfy the requirements of this subsection by making available to the public indexes prepared by other parties but actually used by the agency in its operations. State agencies shall make indexes available for public inspection and copying. State agencies may charge a fee to cover the actual costs of providing individual mailed copies of indexes.

(6) A public record may be relied on, used, or cited as precedent by an agency against a party other than an agency and it may be invoked by the agency for any other purpose only if—

(a) It has been indexed in an index available to the public; or

(b) Parties affected have timely notice (actual or constructive) of the terms thereof.

(7) Each agency shall establish, maintain, and make available for public inspection and copying a statement of the actual per page cost or other costs, if any, that it charges for providing photocopies of public records and a statement of the factors and manner used to determine the actual per page cost or other costs, if any.

(a) In determining the actual per page cost for providing photocopies of public records, an agency may include all costs directly incident to copying such public records including the actual cost of the paper and the per page cost for use of agency copying equipment. In determining other actual costs for providing photocopies of public records, an agency may include all costs directly incident to shipping such public records, including the cost of postage or delivery charges and the cost of any container or envelope used.

(b) In determining the actual per page cost or other costs for providing copies of public records, an agency may not include staff salaries, benefits, or other general administrative or overhead charges, unless those costs are directly related to the actual cost of copying the public records. Staff time to copy and mail the requested public records may be included in an agency's costs.

(8) An agency need not calculate the actual per page cost or other costs it charges for providing photocopies of public records if to do so would be unduly burdensome, but in that event: The agency may not charge in excess of fifteen cents per page for photocopies of public records or for the use of agency equipment to photocopy public records and the actual postage or delivery charge and the cost of any container or envelope used to mail the public records to the requestor.

(9) This chapter shall not be construed as giving authority to any agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall not do so unless specifically authorized or directed by law: **PROVIDED, HOWEVER,** That lists of applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational

organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: PROVIDED FURTHER, That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.05 RCW, the Administrative Procedure Act. [1995 c 397 § 11; 1995 c 341 § 1; 1992 c 139 § 3; 1989 c 175 § 36; 1987 c 403 § 3; 1975 1st ex.s. c 294 § 14; 1973 c 1 § 26 (Initiative Measure No. 276, approved November 7, 1972).]

Reviser's note: This section was amended by 1995 c 341 § 1 and by 1995 c 397 § 11, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1989 c 175: See note following RCW 34.05.010.

Intent—Severability—1987 c 403: See notes following RCW 42.17.255.

Exemption for registered trade names: RCW 19.80.065.

42.17.261 Public information access policy task force. A public information access policy task force is hereby created. The task force shall be composed of: The state librarian or the librarian's designee; the director of the department of information services or the director's designee; four members who are representatives of state and local governmental agencies, appointed by the governor; five representatives of the general public who have experience accessing information electronically or have particular interest in the policies that should govern access to information from public agencies, appointed by the governor; two members of the house of representatives, one from each political party, appointed by the speaker of the house of representatives; two members of the senate, one from each political party, appointed by the president of the senate; and, at the option of the chief justice of the state's supreme court, one representative of the state's judicial branch appointed by the chief justice. The state librarian or the librarian's designee and the director of information services or the director's designee shall serve as the cochairs of the task force. The department of information services and the state library shall provide staff support for the task force.

The purpose of the task force is to identify specific means of encouraging and establishing widespread, public, electronic access to the public records held by state government and by local governments. For the purposes of the task force's study and recommendations, providing such access to the public does not include providing the type of services beyond access, and beyond providing assistance with that access, that would be provided by a vendor for commercial purposes, including but not limited to providing such services by means of a geographic information system.

The task force shall cease to exist on June 30, 1996. [1994 c 40 § 4.]

Recommendations: "(1) By December 1, 1994, the task force shall provide its initial recommendations to the legislature and the governor regarding: Protecting the privacy of the citizenry and complying with statutory nondisclosure requirements while providing to the public electronic access to records; the status and availability of records for electronic access; and the availability of various means of electronically linking individual citizens to the records they seek. The initial report shall identify implementation strategies for records found to be immediately available for such access.

(2) By December 1, 1995, the task force shall provide its final recommendations to the legislature and governor. The recommendations shall be consistent with the recommendations provided under subsection (1)

of this section and shall include an implementation strategy for providing widespread, public, electronic access to the public records held by state and local governmental entities, deadlines for implementation, and findings as to costs.

(3) Nothing in this section or RCW 42.17.261 precludes records from being made available to the public electronically prior to the dates established for the initial and final reports of the task force." [1994 c 40 § 5.]

Findings—Severability—Effective date—1994 c 40: See notes following RCW 42.17.367.

42.17.270 Facilities for copying—Availability of public records. Public records shall be available for inspection and copying, and agencies shall, upon request for identifiable public records, make them promptly available to any person. Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate *RCW 42.17.260(5) or other statute which exempts or prohibits disclosure of specific information or records to certain persons. Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency. Agencies shall honor requests received by mail for identifiable public records unless exempted by provisions of this chapter. [1987 c 403 § 4; 1975 1st ex.s. c 294 § 15; 1973 c 1 § 27 (Initiative Measure No. 276, approved November 7, 1972).]

***Reviser's note:** RCW 42.17.260 was amended by 1989 c 175 § 36, changing subsection (5) to subsection (6). RCW 42.17.260 was subsequently amended by 1992 c 139 § 3, changing subsection (6) to subsection (7). RCW 42.17.260 was subsequently amended by 1995 c 341 § 1, changing subsection (7) to subsection (9).

Intent—Severability—1987 c 403: See notes following RCW 42.17.255.

42.17.280 Times for inspection and copying. Public records shall be available for inspection and copying during the customary office hours of the agency, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives: PROVIDED, That if the entity does not have customary office hours of at least thirty hours per week, the public records shall be available from nine o'clock a.m. to noon and from one o'clock p.m. to four o'clock p.m. Monday through Friday, excluding legal holidays, unless the person making the request and the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives or its representative agree on a different time. [1995 c 397 § 12; 1973 c 1 § 28 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.290 Protection of public records—Public access. Agencies shall adopt and enforce reasonable rules and regulations, and the office of the secretary of the senate and the office of the chief clerk of the house of representatives shall adopt reasonable procedures allowing for the time, resource, and personnel constraints associated with legislative sessions, consonant with the intent of this chapter to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions

of the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives. Such rules and regulations shall provide for the fullest assistance to inquirers and the most timely possible action on requests for information. Nothing in this section shall relieve agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives from honoring requests received by mail for copies of identifiable public records.

If a public record request is made at a time when such record exists but is scheduled for destruction in the near future, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives shall retain possession of the record, and may not destroy or erase the record until the request is resolved. [1995 c 397 § 13; 1992 c 139 § 4; 1975 1st ex.s. c 294 § 16; 1973 c 1 § 29 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.295 Destruction of information relating to employee misconduct. Nothing in this chapter prevents an agency from destroying information relating to employee misconduct or alleged misconduct, in accordance with RCW 41.06.450, to the extent necessary to ensure fairness to the employee. [1982 c 208 § 13.]

Severability—1982 c 208: See RCW 42.40.900.

42.17.300 Charges for copying. No fee shall be charged for the inspection of public records. No fee shall be charged for locating public documents and making them available for copying. A reasonable charge may be imposed for providing copies of public records and for the use by any person of agency equipment or equipment of the office of the secretary of the senate or the office of the chief clerk of the house of representatives to copy public records, which charges shall not exceed the amount necessary to reimburse the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives for its actual costs directly incident to such copying. Agency charges for photocopies shall be imposed in accordance with the actual per page cost or other costs established and published by the agency. In no event may an agency charge a per page cost greater than the actual per page cost as established and published by the agency. To the extent the agency has not determined the actual per page cost for photocopies of public records, the agency may not charge in excess of fifteen cents per page. [1995 c 397 § 14; 1995 c 341 § 2; 1973 c 1 § 30 (Initiative Measure No. 276, approved November 7, 1972).]

Reviser's note: This section was amended by 1995 c 341 § 2 and by 1995 c 397 § 14, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

42.17.305 Other provisions not superseded. The provisions of RCW 42.17.260 (7) and (8) and 42.17.300 that establish or allow agencies to establish the costs charged for photocopies of public records do not supersede other statutory provisions, other than in this chapter, authorizing or governing fees for copying public records. [1995 c 341 § 3.]

42.17.310 Certain personal and other records exempt. (1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to

information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under *RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and

residential telephone number of a health care provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(aa) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the

superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld. [1996 c 305 § 2; 1996 c 253 § 302; 1996 c 191 § 88; 1996 c 80 § 1; 1995 c 267 § 6. Prior: 1994 c 233 § 2; 1994 c 182 § 1; prior: 1993 c 360 § 2; 1993 c 320 § 9; 1993 c 280 § 35; prior: 1992 c 139 § 5; 1992 c 71 § 12; 1991 c 301 § 13; 1991 c 87 § 13; 1991 c 23 § 10; 1991 c 1 § 1; 1990 2nd ex.s. c 1 § 1103; 1990 c 256 § 1; prior: 1989 1st ex.s. c 9 § 407; 1989 c 352 § 7; 1989 c 279 § 23; 1989 c 238 § 1; 1989 c 205 § 20; 1989 c 189 § 3; 1989 c 11 § 12; prior: 1987 c 411 § 10; 1987 c 404 § 1; 1987 c 370 § 16; 1987 c 337 § 1; 1987 c 107 § 2; prior: 1986 c 299 § 25; 1986 c 276 § 7; 1985 c 414 § 8; 1984 c 143 § 21; 1983 c 133 § 10; 1982 c 64 § 1; 1977 ex.s. c 314 § 13; 1975-'76 2nd ex.s. c 82 § 5; 1975 1st ex.s. c 294 § 17; 1973 c 1 § 31 (Initiative Measure No. 276, approved November 7, 1972).]

Reviser's note: (1) This section was amended by 1996 c 80 § 1, 1996 c 191 § 88, 1996 c 253 § 302, and by 1996 c 305 § 2, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

***2)** RCW 81.34.070 was repealed by 1991 c 49 § 1.

Severability—1996 c 305: See note following RCW 28B.85.020.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 43.292.005.

Captions not law—Severability—Effective dates—1995 c 267: See notes following RCW 43.70.052.

Effective date—1994 c 233: See note following RCW 70.123.075.

Effective date—1994 c 182: "This act shall take effect July 1, 1994." [1994 c 182 § 2.]

Effective date—1993 c 360: See note following RCW 18.130.085.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding—1991 c 301: See note following RCW 10.99.020.

Effective date—1991 c 87: See note following RCW 18.64.350.

Effective dates—1991 c 23: See RCW 40.24.900.

Effective dates—1990 2nd ex.s. c 1: See note following RCW 84.52.010.

Severability—1990 2nd ex.s. c 1: See note following RCW 82.14.300.

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

Report—Severability—1989 c 279: See RCW 43.163.900 and 43.163.901.

Severability—1989 c 11: See note following RCW 9A.56.220.

Severability—1987 c 411: See RCW 69.45.900.

Severability—Effective date—1986 c 299: See RCW 28C.10.900 and 28C.10.902.

Severability—1986 c 276: See RCW 53.31.901.

Basic health plan records: RCW 70.47.150.

Exemptions from public inspection

accounting records of special inquiry judge: RCW 10.29.090.

bill drafting service of code reviser's office: RCW 1.08.027, 44.68.060.

certificate submitted by physically or mentally disabled person seeking a driver's license: RCW 46.20.041.

commercial fertilizers, sales reports: RCW 15.54.362.

criminal records: Chapter 10.97 RCW.

employer information: RCW 50.13.060.

family and children's ombudsman: RCW 43.06A.050.

joint legislative service center, information: RCW 44.68.060.

medical quality assurance commission, reports required to be filed with: RCW 18.71.0195.

organized crime

advisory board files: RCW 10.29.030.

investigative information: RCW 43.43.856.

salary and fringe benefit survey information: RCW 41.06.160.

42.17.311 Duty to disclose or withhold information—Otherwise provided. Nothing in RCW 42.17.310(1) (t) through (v) shall affect a positive duty of an agency to disclose or a positive duty to withhold information which duty to disclose or withhold is contained in any other law. [1991 c 23 § 11; 1990 c 256 § 2; 1987 c 404 § 3.]

Effective dates—1991 c 23: See RCW 40.24.900.

42.17.312 Medical records—Health care information. Chapter 70.02 RCW applies to public inspection and copying of health care information of patients. [1991 c 335 § 902.]

Application and construction—Short title—Severability—Captions not law—1991 c 335: See RCW 70.02.901 through 70.02.904.

42.17.313 Application for license or small loan endorsement under chapter 31.45 RCW—Certain information exempt. Information in an application for licensing or a small loan endorsement under chapter 31.45 RCW regarding the personal residential address, telephone number of the applicant, or financial statement is exempt from disclosure under this chapter. [1995 c 18 § 8; 1991 c 355 § 22.]

Effective date, implementation—1991 c 355: See RCW 31.45.900.

42.17.314 Electrical utility records, request by law enforcement agency. A law enforcement authority may not request inspection or copying of records of any person, which belong to a public utility district or a municipally owned electrical utility, unless the authority provides the public utility district or municipally owned electrical utility with a written statement in which the authority states that it suspects that the particular person to whom the records pertain has committed a crime and the authority has a reasonable belief that the records could determine or help determine whether the suspicion might be true. Information obtained in violation of this rule is inadmissible in any criminal proceeding. [1987 c 403 § 6.]

Intent—Severability—1987 c 403: See notes following RCW 42.17.255.

42.17.315 Certain records obtained by colleges, universities, libraries, or archives exempt. Notwithstanding the provisions of RCW 42.17.260 through 42.17.340, as now or hereafter amended, no state college, university, library, or archive shall be required by chapter 42.17 RCW to make available for public inspection and copying any records or documents obtained by said college, university, library, or archive through or concerning any gift, grant, conveyance, bequest, or devise, the terms of which restrict or regulate public access to such records or documents: PROVIDED, That this section shall not apply to any public

records as defined in RCW 40.14.010. [1975 1st ex.s. c 294 § 22.]

42.17.316 Certain records of impaired physician program exempt. The disclosure requirements of this chapter shall not apply to records of the committee obtained in an action under RCW 18.71.300 through 18.71.340. [1994 sp.s. c 9 § 726; 1987 c 416 § 7.]

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Effective date—1987 c 416: See note following RCW 18.71.300.

42.17.317 Information on commercial fertilizer distribution exempt. Information provided under RCW 15.54.362 is exempt from disclosure under this chapter. [1987 c 45 § 15.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

42.17.318 Information on concealed pistol licenses exempt. The license applications under RCW 9.41.070 are exempt from the disclosure requirements of this chapter. Copies of license applications or information on the applications may be released to law enforcement or corrections agencies. [1988 c 219 § 2.]

42.17.319 Certain records of investment opportunities office exempt. Notwithstanding the provisions of RCW 42.17.260 through 42.17.340, no financial or proprietary information supplied by investors or entrepreneurs under chapter 43.330 RCW shall be made available to the public. [1993 c 280 § 36; 1989 c 312 § 7.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1989 c 312: See note following RCW 43.31.403.

42.17.31901 Identity of child victims of sexual assault exempt. Information revealing the identity of child victims of sexual assault who are under age eighteen is confidential and not subject to public disclosure. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. [1992 c 188 § 6.]

Findings—Intent—Severability—1992 c 188: See notes following RCW 7.69A.020.

42.17.31902 Infant mortality review. Notwithstanding the provisions of RCW 42.17.250 through 42.17.340, no local health department may be required under this chapter to make available for public inspection or copying any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department pursuant to RCW 70.05.170. This section shall not apply to published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information. [1992 c 179 § 2.]

42.17.31903 Identification of viators regulated by the insurance commissioner exempt. The names and individual identification data of all viators regulated by the insurance commissioner under chapter 48.102 RCW are exempt from the disclosure and reporting requirements of this chapter. [1995 c 161 § 15.]

Short title—1995 c 161: See RCW 48.102.900.

42.17.31904 Insurance antifraud plans exempt. Information provided under RCW 48.30A.045 through 48.30A.060 are exempt from disclosure under this chapter. [1995 c 285 § 15.]

Effective date—1995 c 285: See RCW 48.30A.900.

42.17.31905 Insurance information on certain material transactions exempt. Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625 is exempt from disclosure under this chapter. [1995 c 86 § 25.]

42.17.31906 Fireworks records exempt. All records obtained and all reports produced, as required under chapter 70.77 RCW, are not subject to the disclosure requirements under this chapter. [1995 c 61 § 30.]

Severability—Effective date—1995 c 61: See notes following RCW 70.77.111.

42.17.31907 Agricultural business and commodity commission records exempt. The following agricultural business and commodity commission records are exempt from the disclosure requirements of this chapter:

(1) Production or sales records required to determine assessment levels and actual assessment payments to commodity commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, and 16.67 RCW or required by the department of agriculture under RCW 15.13.310(4) or 15.49.370(6);

(2) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture; and

(3) Financial and commercial information and records supplied by persons to commodity commissions formed under chapters 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, and 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information. [1996 c 80 § 3.]

42.17.31908 Business information gathered under certain regulatory activities exempt. The disclosure requirements of this chapter do not apply to information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business. [1996 c 102 § 1.]

42.17.31909 American ginseng dealers—Certain information exempt. Except under *section 3 of this act, information obtained regarding the purchases, sales, or production of an individual American ginseng dealer is exempt from disclosure under this chapter. [1996 c 188 § 6.]

*Reviser's note: The reference to section 3 of this act appears to be erroneous. Section 2 of this act, codified as RCW 15.17.115, was apparently intended.

42.17.320 Prompt responses required. Responses to requests for public records shall be made promptly by agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives. Within five business days of receiving a public record request, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives must respond by either (1) providing the record; (2) acknowledging that the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives has received the request and providing a reasonable estimate of the time the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives will require to respond to the request; or (3) denying the public record request. Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives need not respond to it. Denials of requests must be accompanied by a written statement of the specific reasons therefor. Agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall establish mechanisms for the most prompt possible review of decisions denying inspection, and such review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final agency action or final action by the office of the secretary of the senate or the office of the chief clerk of the house of representatives for the purposes of judicial review. [1995 c 397 § 15; 1992 c 139 § 6; 1975 1st ex.s. c 294 § 18; 1973 c 1 § 32 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.325 Review of agency denial. Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter. The attorney general shall provide the person with his or her written opinion on whether the record is exempt.

Nothing in this section shall be deemed to establish an attorney-client relationship between the attorney general and

a person making a request under this section. [1992 c 139 § 10.]

42.17.330 Court protection of public records. The examination of any specific public record may be enjoined if, upon motion and affidavit by an agency or its representative or a person who is named in the record or to whom the record specifically pertains, the superior court for the county in which the movant resides or in which the record is maintained, finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions. An agency has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested. However, this option does not exist where the agency is required by law to provide such notice. [1992 c 139 § 7; 1975 1st ex.s. c 294 § 19; 1973 c 1 § 33 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.340 Judicial review of agency actions. (1) Upon the motion of any person having been denied an opportunity to inspect or copy a public record by an agency, the superior court in the county in which a record is maintained may require the responsible agency to show cause why it has refused to allow inspection or copying of a specific public record or class of records. The burden of proof shall be on the agency to establish that refusal to permit public inspection and copying is in accordance with a statute that exempts or prohibits disclosure in whole or in part of specific information or records.

(2) Upon the motion of any person who believes that an agency has not made a reasonable estimate of the time that the agency requires to respond to a public record request, the superior court in the county in which a record is maintained may require the responsible agency to show that the estimate it provided is reasonable. The burden of proof shall be on the agency to show that the estimate it provided is reasonable.

(3) Judicial review of all agency actions taken or challenged under RCW 42.17.250 through 42.17.320 shall be de novo. Courts shall take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others. Courts may examine any record in camera in any proceeding brought under this section. The court may conduct a hearing based solely on affidavits.

(4) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not less than five dollars and not to exceed one hundred dollars for each day that he was denied the right to inspect or copy said public record. [1992 c 139 § 8; 1987 c 403 § 5; 1975 1st ex.s. c 294 § 20; 1973 c 1 § 34 (Initiative Measure No. 276, approved November 7, 1972).]

Intent—Severability—1987 c 403: See notes following RCW 42.17.255.

42.17.341 Application of RCW 42.17.340. The procedures in RCW 42.17.340 govern denials of an opportunity to inspect or copy a public record by the office of the secretary of the senate or the office of the chief clerk of the house of representatives. [1995 c 397 § 16.]

42.17.348 Explanatory pamphlet. The attorney general's office shall publish, and update when appropriate, a pamphlet, written in plain language, explaining the provisions of the public records subdivision of this chapter. [1992 c 139 § 9.]

ADMINISTRATION AND ENFORCEMENT

42.17.350 Public disclosure commission—Established—Membership—Compensation, travel expenses. There is hereby established a "public disclosure commission" which shall be composed of five members who shall be appointed by the governor, with the consent of the senate. All appointees shall be persons of the highest integrity and qualifications. No more than three members shall have an identification with the same political party. The original members shall be appointed within sixty days after January 1, 1973. The term of each member shall be five years except that the original five members shall serve initial terms of one, two, three, four, and five years, respectively, as designated by the governor. No member of the commission, during his tenure, shall (1) hold or campaign for elective office; (2) be an officer of any political party or political committee; (3) permit his name to be used, or make contributions, in support of or in opposition to any candidate or proposition; (4) participate in any way in any election campaign; or (5) lobby or employ or assist a lobbyist: PROVIDED, That a member or the staff of the commission may lobby to the limited extent permitted by RCW 42.17.190 on matters directly affecting this chapter. No member shall be eligible for appointment to more than one full term. A vacancy on the commission shall be filled within thirty days of the vacancy by the governor, with the consent of the senate, and the appointee shall serve for the remaining term of his predecessor. A vacancy shall not impair the powers of the remaining members to exercise all of the powers of the commission. Three members of the commission shall constitute a quorum. The commission shall elect its own chairman and adopt its own rules of procedure in the manner provided in chapter 34.05 RCW. Any member of the commission may be removed by the governor, but only upon grounds of neglect of duty or misconduct in office.

Members shall be compensated in accordance with RCW 43.03.250 and in addition shall be reimbursed for travel expenses incurred while engaged in the business of the commission as provided in RCW 43.03.050 and 43.03.060. The compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created pursuant to the general laws of this state. [1984 c 287 § 74; 1982 c 147 § 15; 1975-'76 2nd ex.s. c 112 § 8; 1975-'76 2nd ex.s. c 34 § 93; 1975 1st ex.s.

c 294 § 23; 1973 c 1 § 35 (Initiative Measure No. 276, approved November 7, 1972).]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

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

42.17.360 Commission—Duties. The commission shall:

(1) Develop and provide forms for the reports and statements required to be made under this chapter:

(2) Prepare and publish a manual setting forth recommended uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter;

(3) Compile and maintain a current list of all filed reports and statements;

(4) Investigate whether properly completed statements and reports have been filed within the times required by this chapter;

(5) Upon complaint or upon its own motion, investigate and report apparent violations of this chapter to the appropriate law enforcement authorities;

(6) Prepare and publish an annual report to the governor as to the effectiveness of this chapter and its enforcement by appropriate law enforcement authorities; and

(7) Enforce this chapter according to the powers granted it by law. [1973 c 1 § 36 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.365 Audits and investigations. The commission shall conduct a sufficient number of audits and field investigations so as to provide a statistically valid finding regarding the degree of compliance with the provisions of this chapter by all required filers. [1993 c 2 § 29 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.367 Electronic access to commission documents. By January 1, 1995, the public disclosure commission shall design a program for electronic access to public documents filed with the commission. The program may include on-line access to the commission's magic and electronic bulletin board systems, providing information for the internet system, fax-request service, automated telephone service, electronic filing of reports, and other service delivery options. Documents available in the program shall include, but are not limited to, public documents filed with the public disclosure commission, including, but not limited to, commission meeting schedules, financial affairs reports, contribution reports, expenditure reports, and gift reports. Implementation of the program is contingent on the availability of funds. [1994 c 40 § 2.]

Findings—1994 c 40: "The legislature finds that government information is a strategic resource and needs to be managed as such and that broad public access to nonrestricted public information and records must be guaranteed. The legislature further finds that reengineering government processes along with capitalizing on advancements made in digital technology can build greater efficiencies in government service delivery. The legislature further finds that providing citizen electronic access to presently available public documents will allow increased citizen involvement in state policies and empower citizens to participate in state policy decision making." [1994 c 40 § 1.]

Severability—1994 c 40: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 40 § 6.]

Effective date—1994 c 40: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 21, 1994]." [1994 c 40 § 7.]

42.17.370 Commission—Additional powers. The commission is empowered to:

(1) Adopt, promulgate, amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint and set, within the limits established by the committee on agency officials' salaries under RCW 43.03.028, the compensation of an executive director who shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor shall it delegate authority to determine whether an actual violation of this chapter has occurred or to assess penalties for such violations;

(3) Prepare and publish such reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(4) Make from time to time, on its own motion, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence and require the production of any books, papers, correspondence, memorandums, or other records relevant or material for the purpose of any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt and promulgate a code of fair campaign practices;

(8) Relieve, by rule, candidates or political committees of obligations to comply with the provisions of this chapter relating to election campaigns, if they have not received contributions nor made expenditures in connection with any election campaign of more than one thousand dollars;

(9) Adopt rules prescribing reasonable requirements for keeping accounts of and reporting on a quarterly basis costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. The term "legislative information," for the purposes of this subsection, means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his

or her regular examination of each agency under chapter 43.09 RCW shall review the rules, accounts, and reports and make appropriate findings, comments, and recommendations in his or her examination reports concerning those agencies;

(10) After hearing, by order approved and ratified by a majority of the membership of the commission, suspend or modify any of the reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report or any member of his or her immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section. Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding and no request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted. The commission shall adopt administrative rules governing the proceedings. Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order; and

(11) Revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter (reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials), the revisions shall equally affect all thresholds within each category. Revisions shall be adopted as rules under chapter 34.05 RCW. The first revision authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold through December 1985;

(12) Develop and provide to filers a system for certification of reports required under this chapter which are transmitted by facsimile or electronically to the commission. Implementation of the program is contingent on the availability of funds. [1995 c 397 § 17; 1994 c 40 § 3; 1986 c

155 § 11; 1985 c 367 § 11; 1984 c 34 § 7; 1977 ex.s. c 336 § 7; 1975 1st ex.s. c 294 § 25; 1973 c 1 § 37 (Initiative Measure No. 276, approved November 7, 1972).]

Findings—Severability—Effective date—1994 c 40: See notes following RCW 42.17.367.

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

Severability—1977 ex.s. c 336: See note following RCW 42.17.040.

42.17.375 Reports filed with county elections official—Rules governing. With regard to the reports required by this chapter to be filed with a county auditor or county elections official, the commission shall adopt rules governing the arrangement, handling, indexing, and disclosing of those reports by the county auditor or county elections official. The rules shall ensure ease of access by the public to the reports and shall include, but not be limited to, requirements for indexing the reports by the names of candidates or political committees and by the ballot proposition for or against which a political committee is receiving contributions or making expenditures. [1983 c 294 § 1.]

42.17.380 Secretary of state, attorney general—Duties. (1) The office of the secretary of state shall be designated as a place where the public may file papers or correspond with the commission and receive any form or instruction from the commission.

(2) The attorney general, through his office, shall supply such assistance as the commission may require in order to carry out its responsibilities under this chapter. The commission may employ attorneys who are neither the attorney general nor an assistant attorney general to carry out any function of the attorney general prescribed in this chapter. [1982 c 35 § 196; 1975 1st ex.s. c 294 § 26; 1973 c 1 § 38 (Initiative Measure No. 276, approved November 7, 1972).]

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

42.17.390 Civil remedies and sanctions. One or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

(1) If the court finds that the violation of any provision of this chapter by any candidate or political committee probably affected the outcome of any election, the result of said election may be held void and a special election held within sixty days of such finding. Any action to void an election shall be commenced within one year of the date of the election in question. It is intended that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

(2) If any lobbyist or sponsor of any grass roots lobbying campaign violates any of the provisions of this chapter, his registration may be revoked or suspended and he may be enjoined from receiving compensation or making expenditures for lobbying: PROVIDED, HOWEVER, That imposition of such sanction shall not excuse said lobbyist from filing statements and reports required by this chapter.

(3) Any person who violates any of the provisions of this chapter may be subject to a civil penalty of not more than ten thousand dollars for each such violation. However,

a person or entity who violates RCW 42.17.640 may be subject to a civil penalty of ten thousand dollars or three times the amount of the contribution illegally made or accepted, whichever is greater.

(4) Any person who fails to file a properly completed statement or report within the time required by this chapter may be subject to a civil penalty of ten dollars per day for each day each such delinquency continues.

(5) Any person who fails to report a contribution or expenditure may be subject to a civil penalty equivalent to the amount he failed to report.

(6) The court may enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act required herein. [1993 c 2 § 28 (Initiative Measure No. 134, approved November 3, 1992); 1973 c 1 § 39 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.395 Violations—Determination by commission—Procedure. (1) The commission may (a) determine whether an actual violation of this chapter has occurred; and (b) issue and enforce an appropriate order following such determination.

(2) The commission, in cases where it chooses to determine whether an actual violation of this chapter has occurred, shall hold a hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW, to make such determination. Any order that the commission issues under this section shall be pursuant to such hearing.

(3) In lieu of holding a hearing or issuing an order under this section, the commission may refer the matter to the attorney general or other enforcement agency as provided in RCW 42.17.360.

(4) The person against whom an order is directed under this section shall be designated as the respondent. The order may require the respondent to cease and desist from the activity that constitutes a violation and in addition, or alternatively, may impose one or more of the remedies provided in *RCW 42.17.390(1) (b), (c), (d), or (e): PROVIDED, That no individual penalty assessed by the commission may exceed one thousand dollars, and in any case where multiple violations are involved in a single complaint or hearing, the maximum aggregate penalty may not exceed two thousand five hundred dollars.

(5) An order issued by the commission under this section shall be subject to judicial review under the Administrative Procedure Act, chapter 34.05 RCW. If the commission's order is not satisfied and no petition for review is filed within thirty days as provided in RCW 34.05.542, the commission may petition a court of competent jurisdiction of any county in which a petition for review could be filed under that section, for an order of enforcement. Proceedings in connection with the commission's petition shall be in accordance with RCW 42.17.397. [1989 c 175 § 91; 1985 c 367 § 12; 1982 c 147 § 16; 1975-'76 2nd ex.s. c 112 § 12.]

***Reviser's note:** RCW 42.17.390 was amended by 1993 c 2 § 28, and subsection (1) (b), (c), (d), and (e) was changed to subsections (2), (3), (4), and (5).

Effective date—1989 c 175: See note following RCW 34.05.010.

42.17.397 Procedure upon petition for enforcement of order of commission—Court's order of enforcement. The following procedure shall apply in all cases where the commission has petitioned a court of competent jurisdiction for enforcement of any order it has issued pursuant to this chapter:

(1) A copy of the petition shall be served by certified mail directed to the respondent at his last known address. The court shall issue an order directing the respondent to appear at a time designated in the order, not less than five days from the date thereof, and show cause why the commission's order should not be enforced according to its terms.

(2) The commission's order shall be enforced by the court if the respondent does not appear, or if the respondent appears and the court finds, pursuant to a hearing held for that purpose:

(a) That the commission's order is unsatisfied; and

(b) That the order is regular on its face; and

(c) That the respondent's answer discloses no valid reason why the commission's order should not be enforced or that the respondent had an appropriate remedy by review under RCW 34.05.570(3) and failed to avail himself of that remedy without valid excuse.

(3) Upon appropriate application by the respondent, the court may, after hearing and for good cause, alter, amend, revise, suspend, or postpone all or part of the commission's order. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and such action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) The court's order of enforcement, when entered, shall have the same force and effect as a civil judgment.

(5) Notwithstanding RCW 34.05.578 through 34.05.590, this section is the exclusive method for enforcing an order of the commission. [1989 c 175 § 92; 1982 c 147 § 17; 1975-'76 2nd ex.s. c 112 § 13.]

Effective date—1989 c 175: See note following RCW 34.05.010.

42.17.400 Enforcement. (1) The attorney general and the prosecuting authorities of political subdivisions of this state may bring civil actions in the name of the state for any appropriate civil remedy, including but not limited to the special remedies provided in RCW 42.17.390.

(2) The attorney general and the prosecuting authorities of political subdivisions of this state may investigate or cause to be investigated the activities of any person who there is reason to believe is or has been acting in violation of this chapter, and may require any such person or any other person reasonably believed to have information concerning the activities of such person to appear at a time and place designated in the county in which such person resides or is found, to give such information under oath and to produce all accounts, bills, receipts, books, paper and documents which may be relevant or material to any investigation authorized under this chapter.

(3) When the attorney general or the prosecuting authority of any political subdivision of this state requires the attendance of any person to obtain such information or the production of the accounts, bills, receipts, books, papers,

and documents which may be relevant or material to any investigation authorized under this chapter, he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. Such order shall have the same force and effect as a subpoena, shall be effective state-wide, and, upon application of the attorney general or said prosecuting authority, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the order were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and such action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) Any person who has notified the attorney general and the prosecuting attorney in the county in which the violation occurred in writing that there is reason to believe that some provision of this chapter is being or has been violated may himself bring in the name of the state any of the actions (hereinafter referred to as a citizen's action) authorized under this chapter. This citizen action may be brought only if the attorney general and the prosecuting attorney have failed to commence an action hereunder within forty-five days after such notice and such person has thereafter further notified the attorney general and prosecuting attorney that said person will commence a citizen's action within ten days upon their failure so to do, and the attorney general and the prosecuting attorney have in fact failed to bring such action within ten days of receipt of said second notice. If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but he shall be entitled to be reimbursed by the state of Washington for costs and attorney's fees he has incurred: **PROVIDED**, That in the case of a citizen's action which is dismissed and which the court also finds was brought without reasonable cause, the court may order the person commencing the action to pay all costs of trial and reasonable attorney's fees incurred by the defendant.

(5) In any action brought under this section, the court may award to the state all costs of investigation and trial, including a reasonable attorney's fee to be fixed by the court. If the violation is found to have been intentional, the amount of the judgment, which shall for this purpose include the costs, may be trebled as punitive damages. If damages or trebled damages are awarded in such an action brought against a lobbyist, the judgment may be awarded against the lobbyist, and the lobbyist's employer or employers joined as defendants, jointly, severally, or both. If the defendant prevails, he shall be awarded all costs of trial, and may be awarded a reasonable attorney's fee to be fixed by the court to be paid by the state of Washington. [1975 1st ex.s. c 294 § 27; 1973 c 1 § 40 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.405 Suspension, reapplication of reporting requirements in small political subdivisions. (1) Except as provided in subsections (2) and (3) of this section, the reporting provisions of this chapter do not apply to candidates, elected officials, and agencies in political subdivisions with less than one thousand registered voters as of the date of the most recent general election in the jurisdiction, to political committees formed to support or oppose candidates or ballot propositions in such political subdivisions, or to persons making independent expenditures in support of or opposition to such ballot propositions.

(2) The reporting provisions of this chapter apply in any exempt political subdivision from which a "petition for disclosure" containing the valid signatures of fifteen percent of the number of registered voters, as of the date of the most recent general election in the political subdivision, is filed with the commission. The commission shall by rule prescribe the form of the petition. After the signatures are gathered, the petition shall be presented to the auditor or elections officer of the county, or counties, in which the political subdivision is located. The auditor or elections officer shall verify the signatures and certify to the commission that the petition contains no less than the required number of valid signatures. The commission, upon receipt of a valid petition, shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(3) The reporting provisions of this chapter apply in any exempt political subdivision that by ordinance, resolution, or other official action has petitioned the commission to make the provisions applicable to elected officials and candidates of the exempt political subdivision. A copy of the action shall be sent to the commission. If the commission finds the petition to be a valid action of the appropriate governing body or authority, the commission shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(4) The commission shall void any order issued by it pursuant to subsection (2) or (3) of this section when, at least four years after issuing the order, the commission is presented a petition or official action so requesting from the affected political subdivision. Such petition or official action shall meet the respective requirements of subsection (2) or (3) of this section.

(5) Any petition for disclosure, ordinance, resolution, or official action of an agency petitioning the commission to void the exemption in RCW 42.17.030(3) shall not be considered unless it has been filed with the commission:

(a) In the case of a ballot measure, at least sixty days before the date of any election in which campaign finance reporting is to be required;

(b) In the case of a candidate, at least sixty days before the first day on which a person may file a declaration of candidacy for any election in which campaign finance reporting is to be required.

(6) Any person exempted from reporting under this chapter may at his or her option file the statement and reports. [1986 c 12 § 3; 1985 c 367 § 13; 1982 c 60 § 1.]

42.17.410 Limitation on actions. Any action brought under the provisions of this chapter must be commenced within five years after the date when the violation occurred. [1982 c 147 § 18; 1973 c 1 § 41 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.420 Date of mailing deemed date of receipt—Exceptions—Electronic filings. (1) Except as provided in subsection (2) of this section, when any application, report, statement, notice, or payment required to be made under the provisions of this chapter has been deposited postpaid in the United States mail properly addressed, it shall be deemed to have been received on the date of mailing. It shall be presumed that the date shown by the post office cancellation mark on the envelope is the date of mailing. The provisions of this section do not apply to reports required to be delivered under RCW 42.17.105 and 42.17.175.

(2) When a report is filed electronically with the commission, it is deemed to have been received on the file transfer date. Electronic filing may be used for purposes of filing the special reports required to be delivered under RCW 42.17.105 and 42.17.175. [1995 c 397 § 18; 1983 c 176 § 2; 1973 c 1 § 42 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.430 Certification of reports. Every report and statement required to be filed under this chapter shall identify the person preparing it, and shall be certified as complete and correct, both by the person preparing it and by the person on whose behalf it is filed. [1973 c 1 § 43 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.440 Statements and reports public records. All statements and reports filed under this chapter shall be public records of the agency where they are filed, and shall be available for public inspection and copying during normal business hours at the expense of the person requesting copies, provided that the charge for such copies shall not exceed actual cost to the agency. [1973 c 1 § 44 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.450 Duty to preserve statements and reports. Persons with whom statements or reports or copies of statements or reports are required to be filed under this chapter shall preserve them for not less than six years. The commission, however, shall preserve such statements or reports for not less than ten years. [1973 c 1 § 45 (Initiative Measure No. 276, approved November 7, 1972).]

POLITICAL ADVERTISING

42.17.505 Definitions. The definitions set forth in this section apply throughout RCW 42.17.510 through 42.17.540.

(1) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

(2) "Sponsor" means the candidate, political committee, or person paying for the advertisement. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(3) "Incumbent" means a person who is in present possession of an elected office. [1988 c 199 § 1.]

42.17.510 Identification of sponsor—Exemptions.

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name shall be unlawful. The party with which a candidate files shall be clearly identified in political advertising for partisan office.

(2) In addition to the materials required by subsection (1) of this section, all political advertising undertaken as an independent expenditure by a person or entity other than a party organization must include the following statement on the communication "NOTICE TO VOTERS (Required by law): This advertisement is not authorized or approved by any candidate. It is paid for by (name, address, city, state)." If the advertisement undertaken as an independent expenditure is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions reportable under this chapter during the twelve-month period before the date of the advertisement.

(3) The statements and listings of contributors required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process;

(c) Be set apart from any other printed matter; and

(d) Be clearly spoken on any broadcast advertisement.

(4) Political yard signs are exempt from the requirement of subsections (1) and (2) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsections (1) and (2) of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(5) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet. [1995 c 397 § 19; 1993 c 2 § 22 (Initiative Measure No. 134, approved November 3, 1992); 1984 c 216 § 1.]

Advertising rates for political candidates: RCW 65.16.095.

42.17.520 Picture of candidate. At least one picture of the candidate used in any political advertising shall have been taken within the last five years and shall be no smaller than the largest picture of the same candidate used in the same advertisement. [1984 c 216 § 2.]

42.17.530 False political advertising. (1) It is a violation of this chapter for a person to sponsor with actual malice:

(a) Political advertising that contains a false statement of material fact;

(b) Political advertising that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent;

(c) Political advertising that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.

(2) Any violation of this section shall be proven by clear and convincing evidence. [1988 c 199 § 2; 1984 c 216 § 3.]

42.17.540 Responsibility for compliance. (1) Except as provided in subsection (2) of this section, the responsibility for compliance with RCW 42.17.510 through 42.17.530 shall rest with the sponsor of the political advertising and not with the broadcasting station or other medium.

(2) If a broadcasting station or other medium changes the content of a political advertisement, the station or medium shall be responsible for any failure of the advertisement to comply with RCW 42.17.510 through 42.17.530 that results from that change. [1984 c 216 § 4.]

42.17.550 Independent expenditure disclosure. A person or entity other than a party organization making an independent expenditure by mailing one thousand or more identical or nearly identical cumulative pieces of political advertising in a single calendar year shall, within two working days after the date of the mailing, file a statement disclosing the number of pieces in the mailing and an example of the mailed political advertising with the election officer of the county or residence for the candidate supported or opposed by the independent campaign expenditure or, in the case of an expenditure made in support of or in opposition to a ballot proposition, the county of residence for the person making the expenditure. [1993 c 2 § 23 (Initiative Measure No. 134, approved November 3, 1992).]

CAMPAIGN CONTRIBUTION LIMITATIONS

42.17.610 Findings. The people of the state of Washington find and declare that:

(1) The financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.

(2) Rapidly increasing political campaign costs have led many candidates to raise larger percentages of money from special interests with a specific financial stake in matters before state government. This has caused the public perception that decisions of elected officials are being improperly influenced by monetary contributions.

(3) Candidates are raising less money in small contributions from individuals and more money from special interests. This has created the public perception that individuals have an insignificant role to play in the political process. [1993 c 2 § 1 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.620 Intent. By limiting campaign contributions, the people intend to:

(1) Ensure that individuals and interest groups have fair and equal opportunity to influence elective and governmental processes;

(2) Reduce the influence of large organizational contributors; and

(3) Restore public trust in governmental institutions and the electoral process. [1993 c 2 § 2 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.640 Limits specified—Exemptions. (1) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office that in the aggregate exceed five hundred dollars or to a candidate for a state office other than a state legislative office that in the aggregate exceed one thousand dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, during a recall campaign that in the aggregate exceed five hundred dollars if for a state legislative office or one thousand dollars if for a state office other than a state legislative office.

(3)(a) Notwithstanding subsection (1) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) fifty cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed twenty-five cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, during a recall campaign that in the aggregate exceed (i) fifty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the

contributor is a county central committee or a legislative district committee.

(b) No state official against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of a state official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(5) For purposes of determining contribution limits under subsections (3) and (4) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(6) Notwithstanding subsections (1) through (4) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed five hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed two thousand five hundred dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(7) For the purposes of RCW 42.17.640 through 42.17.790, a contribution to the authorized political committee of a candidate, or of a state official against whom recall charges have been filed, is considered to be a contribution to the candidate or state official.

(8) A contribution received within the twelve-month period after a recall election concerning a state office is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(9) The contributions allowed by subsection (2) of this section are in addition to those allowed by subsection (1) of this section, and the contributions allowed by subsection (4) of this section are in addition to those allowed by subsection (3) of this section.

(10) RCW 42.17.640 through 42.17.790 apply to a special election conducted to fill a vacancy in a state office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(11) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(12) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate, state official against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of a state official if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the state official.

(13) No person may accept contributions that exceed the contribution limitations provided in this section.

(14) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; or

(b) An expenditure by a political committee for its own internal organization or fund raising without direct association with individual candidates. [1995 c 397 § 20; 1993 c 2 § 4 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.650 Attribution and aggregation of family contributions. (1) Contributions by a husband and wife are considered separate contributions.

(2) Contributions by unemancipated children under eighteen years of age are considered contributions by their parents and are attributed proportionately to each parent. Fifty percent of the contributions are attributed to each parent or, in the case of a single custodial parent, the total amount is attributed to the parent. [1993 c 2 § 5 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.660 Attribution of contributions by controlled entities. For purposes of this chapter:

(1) A contribution by a political committee with funds that have all been contributed by one person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(2) Two or more entities are treated as a single entity if one of the two or more entities is a subsidiary, branch, or department of a corporation or a local unit, branch, or affiliate of a trade association, labor union, or collective bargaining association. All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained, or controlled by a trade association, labor union, collective bargaining organization, or the local unit of a trade association, labor union, or collective bargaining organization are considered made by the same person or entity. [1993 c 2 § 6 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.670 Attribution of contributions generally—"Earmarking." All contributions made by a person or entity, either directly or indirectly, to a candidate, to a state official against whom recall charges have been filed, or to a political committee, are considered to be contributions from

that person or entity to the candidate, state official, or political committee, as are contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate, state official, or political committee. For the purposes of this section, "earmarked" means a designation, instruction, or encumbrance, whether direct or indirect, expressed or implied, or oral or written, that is intended to result in or does result in all or any part of a contribution being made to a certain candidate or state official. If a conduit or intermediary exercises any direction or control over the choice of the recipient candidate or state official, the contribution is considered to be by both the original contributor and the conduit or intermediary. [1993 c 2 § 7 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.680 Limitations on employers or labor organizations. (1) No employer or labor organization may increase the salary of an officer or employee, or give an emolument to an officer, employee, or other person or entity, with the intention that the increase in salary, or the emolument, or a part of it, be contributed or spent to support or oppose a candidate, state official against whom recall charges have been filed, political party, or political committee.

(2) No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.

(3) No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section. The request is valid for no more than twelve months from the date it is made by the employee.

(4) Each person or entity who withholds contributions under subsection (3) of this section shall maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts that shall include a copy of each employee's request, the amounts and dates funds were actually withheld, and the amounts and dates funds were transferred to a political committee. Copies of such information shall be delivered to the commission upon request. [1993 c 2 § 8 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.690 Changing monetary limits. At the beginning of each even-numbered calendar year, the commission shall increase or decrease all dollar amounts in this chapter based on changes in economic conditions as reflected in the inflationary index used by the commission under RCW 42.17.370. The new dollar amounts established by the commission under this section shall be rounded off by the commission to amounts as judged most convenient for public

understanding and so as to be within ten percent of the target amount equal to the base amount provided in this chapter multiplied by the increase in the inflationary index since December 3, 1992. [1993 c 2 § 9 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.700 Contributions before December 3, 1992. Contributions made and received before December 3, 1992, are considered to be contributions under RCW 42.17.640 through 42.17.790. Monetary contributions that exceed the contribution limitations and that have not been spent by the recipient of the contribution by December 3, 1992, must be disposed of in accordance with RCW 42.17.095. [1993 c 2 § 10 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.710 Time limit for state official to solicit or accept contributions. During the period beginning on the thirtieth day before the date a regular legislative session convenes and continuing thirty days past the date of final adjournment, and during the period beginning on the date a special legislative session convenes and continuing through the date that session adjourns, no state official or a person employed by or acting on behalf of a state official or state legislator may solicit or accept contributions to a public office fund, to a candidate or authorized committee, or to retire a campaign debt. [1993 c 2 § 11 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.720 Restriction on loans. (1) A loan is considered to be a contribution from the lender and any guarantor of the loan and is subject to the contribution limitations of this chapter. The full amount of the loan shall be attributed to the lender and to each guarantor.

(2) A loan to a candidate for public office or the candidate's political committee must be by written agreement.

(3) The proceeds of a loan made to a candidate for public office:

- (a) By a commercial lending institution;
- (b) Made in the regular course of business; and
- (c) On the same terms ordinarily available to members of the public, are not subject to the contribution limits of this chapter. [1995 c 397 § 22; 1993 c 2 § 12 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.730 Contributions on behalf of another. (1) A person, other than an individual, may not be an intermediary or an agent for a contribution.

(2) An individual may not make a contribution on behalf of another person or entity, or while acting as the intermediary or agent of another person or entity, without disclosing to the recipient of the contribution both his or her full name, street address, occupation, name of employer, if any, or place of business if self-employed, and the same information for each contributor for whom the individual serves as intermediary or agent. [1993 c 2 § 13 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.740 Certain contributions required to be by written instrument. (1) A person may not make a contribu-

tion of more than fifty dollars, other than an in-kind contribution, except by a written instrument containing the name of the donor and the name of the payee.

(2) A political committee may not make a contribution, other than in-kind, except by a written instrument containing the name of the donor and the name of the payee. [1995 c 397 § 23; 1993 c 2 § 14 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.750 Solicitation of contributions by public officials or employees. (1) No state or local official or state or local official's agent may knowingly solicit, directly or indirectly, a contribution to a candidate for public office, political party, or political committee from an employee in the state or local official's agency.

(2) No state or local official or public employee may provide an advantage or disadvantage to an employee or applicant for employment in the classified civil service concerning the applicant's or employee's:

- (a) Employment;
- (b) Conditions of employment; or
- (c) Application for employment,

based on the employee's or applicant's contribution or promise to contribute or failure to make a contribution or contribute to a political party or political committee. [1995 c 397 § 24; 1993 c 2 § 15 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.760 Agency shop fees as contributions. A labor organization may not use agency shop fees paid by an individual who is not a member of the organization to make contributions or expenditures to influence an election or to operate a political committee, unless affirmatively authorized by the individual. [1993 c 2 § 16 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.770 Solicitation of endorsement fees. A person may not solicit from a candidate for public office, political committee, political party, or other person money or other property as a condition or consideration for an endorsement, article, or other communication in the news media promoting or opposing a candidate for public office, political committee, or political party. [1995 c 397 § 25; 1993 c 2 § 17 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.780 Reimbursement for contributions. A person may not, directly or indirectly, reimburse another person for a contribution to a candidate for public office, political committee, or political party. [1995 c 397 § 26; 1993 c 2 § 18 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.790 Prohibition on use of contributions for a different office. (1) Except as provided in subsection (2) of this section, a candidate for public office or the candidate's political committee may not use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate for public office or the candidate's political committee to further the candidacy of the individual for an office other than the office designated on the statement of

organization. A contribution solicited for or received on behalf of the candidate for public office is considered solicited or received for the candidacy for which the individual is then a candidate if the contribution is solicited or received before the general elections for which the candidate for public office is a nominee or is unopposed.

(2) With the written approval of the contributor, a candidate for public office or the candidate's political committee may use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate for public office or the candidate's political committee from that contributor to further the candidacy of the individual for an office other than the office designated on the statement of organization. If the contributor does not approve the use of his or her contribution to further the candidacy of the individual for an office other than the office designated on the statement of organization at the time of the contribution, the contribution must be considered surplus funds and disposed of in accordance with RCW 42.17.095. [1995 c 397 § 27; 1993 c 2 § 19 (Initiative Measure No. 134, approved November 3, 1992).]

TECHNICAL PROVISIONS

42.17.900 Effective date—1973 c 1. The effective date of this act shall be January 1, 1973. [1973 c 1 § 49 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.910 Severability—1973 c 1. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 c 1 § 46 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.911 Severability—1975 1st ex.s. c 294. If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 294 § 29.]

42.17.912 Severability—1975-'76 2nd ex.s. c 112. If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 112 § 16.]

42.17.920 Construction—1973 c 1. The provisions of this act are to be liberally construed to effectuate the policies and purposes of this act. In the event of conflict between the provisions of this act and any other act, the provisions of this act shall govern. [1973 c 1 § 47 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.930 Chapter, section headings not part of law. Chapter and section captions or headings as used in this act do not constitute any part of the law. [1973 c 1 § 48 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.940 Repealer—1973 c 1. Chapter 9, Laws of 1965, as amended by section 9, chapter 150, Laws of 1965 ex. sess., and RCW 29.18.140; and chapter 131, Laws of 1967 ex. sess. and RCW 44.64 [chapter 44.64 RCW]; and chapter 82, Laws of 1972 (42nd Leg. 2nd Ex. Sess.) and Referendum Bill No. 24; and chapter 98, Laws of 1972 (42nd Leg. 2nd Ex. Sess.) and Referendum Bill No. 25 are each hereby repealed. [1973 c 1 § 50 (Initiative Measure No. 276, approved November 7, 1972).]

42.17.945 Construction—1975-'76 2nd ex.s. c 112. The provisions of this 1976 amendatory act are intended to be remedial and shall be liberally construed, and nothing in this 1976 amendatory act shall be construed to limit the power of the commission under any other provision of chapter 42.17 RCW. [1975-'76 2nd ex.s. c 112 § 15.]

42.17.950 Captions. Section captions and part headings used in this act do not constitute any part of the law. [1993 c 2 § 34 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.955 Short title—1993 c 2. This act may be known and cited as the Fair Campaign Practices Act. [1993 c 2 § 36 (Initiative Measure No. 134, approved November 3, 1992).]

42.17.960 Effective date—1995 c 397. Sections 1 through 32, 34, and 37 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995. [1995 c 397 § 35.]

42.17.961 Captions—1995 c 397. Captions as used in chapter 397, Laws of 1995 constitute no part of the law. [1995 c 397 § 37.]

42.17.962 Severability—1995 c 397. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1995 c 397 § 38.]

Chapter 42.20

MISCONDUCT OF PUBLIC OFFICERS

Sections

42.20.020	Powers may not be delegated for profit.
42.20.030	Intrusion into and refusal to surrender public office.
42.20.040	False report.
42.20.050	Public officer making false certificate.
42.20.060	Falsely auditing and paying claims.
42.20.070	Misappropriation and falsification of accounts by public officer.
42.20.080	Other violations by officers.
42.20.090	Misappropriation, etc., by treasurer.
42.20.100	Failure of duty by public officer a misdemeanor.
42.20.110	Improper conduct by certain justices.

Bidding offenses: Chapter 9.18 RCW.

Bribery or corrupt solicitation prohibited: State Constitution Art. 2 § 30.

Cities

optional municipal code, council-manager plan, forfeiture of office for misconduct: RCW 35A.13.020.
optional municipal code, mayor-council plan, forfeiture of office for misconduct: RCW 35A.12.060.

Cities and towns, commission form, misconduct of officers and employees: RCW 35.17.150.

County commissioners, misconduct relating to inventories: RCW 36.32.220.

County officers, misconduct: RCW 36.18.160, 36.18.170.

County sheriff, misconduct: RCW 36.28.140.

County treasurer, suspension for misconduct: RCW 36.29.090.

Election officials, misconduct: Chapter 29.85 RCW.

Flood control district officers, interest in contracts prohibited: RCW 86.09.286.

Forfeiture of office upon conviction of felony or malfeasance: RCW 9.92.120.

Free transportation for public officers prohibited: State Constitution Art. 2 § 39, Art. 12 § 20.

Impersonating public officer: RCW 9A.60.040.

Juries, misconduct of public officers concerning: Chapter 9.51 RCW.

Militia, misconduct: Chapter 38.32 RCW.

Official misconduct: RCW 9A.80.010.

Penitentiary employees, misconduct: RCW 72.01.060.

Private use of public funds, penalty: State Constitution Art. 11 § 14.

School funds, failure to turn over: RCW 28A.635.070.

School officials

disclosing examination questions: RCW 28A.635.040.
grafting: RCW 28A.635.050.

School teachers

failure to display flag: RCW 28A.230.140.
failure to enforce rules: RCW 28A.405.060.
revocation or suspension of certificate or permit to teach—investigation by superintendent of public instruction—mandatory revocation for crimes against children: RCW 28A.410.090.

State and judicial officers, impeachment: State Constitution Art. 5.

State treasurer, embezzlement: RCW 43.08.140.

Subversive activities, disqualification from holding public office: RCW 9.81.040.

Township officers not to be interested in contracts: RCW 45.16.110.

Utilities and transportation commission members and employees, interest in regulated companies prohibited: RCW 80.01.020.

42.20.020 Powers may not be delegated for profit.

Every public officer who, for any reward, consideration or gratuity paid or agreed to be paid, shall, directly or indirectly, grant to another the right or authority to discharge any function of his office, or permit another to perform any of his duties, shall be guilty of a gross misdemeanor. [1909 c 249 § 83; RRS § 2335.]

Reviser's note: Caption for 1909 c 249 § 83 reads as follows: "Sec. 83. *Grant of Official Powers.*"

42.20.030 Intrusion into and refusal to surrender public office. Every person who shall falsely personate or represent any public officer, or who shall wilfully intrude himself into a public office to which he has not been duly elected or appointed, or who shall wilfully exercise any of the functions or perform any of the duties of such officer, without having duly qualified therefor, as required by law, or who, having been an executive or administrative officer, shall wilfully exercise any of the functions of his office after his right to do so has ceased, or wrongfully refuse to surrender the official seal or any books or papers appertaining to such office, upon the demand of his lawful successor,

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shall be guilty of a gross misdemeanor. [1909 c 249 § 84; RRS § 2336.]

Impersonating a public officer: RCW 9A.60.040.

Quo warranto: Chapter 7.56 RCW.

42.20.040 False report. Every public officer who shall knowingly make any false or misleading statement in any official report or statement, under circumstances not otherwise prohibited by law, shall be guilty of a gross misdemeanor. [1909 c 249 § 98; RRS § 2350.]

42.20.050 Public officer making false certificate. Every public officer who, being authorized by law to make or give a certificate or other writing, shall knowingly make and deliver as true such a certificate or writing containing any statement which he knows to be false, in a case where the punishment thereof is not expressly prescribed by law, shall be guilty of a gross misdemeanor. [1909 c 249 § 128; RRS § 2380.]

42.20.060 Falsely auditing and paying claims. Every public officer, or person holding or discharging the duties of any public office or place of trust under the state or in any county, town or city, a part of whose duty it is to audit, allow or pay, or take part in auditing, allowing or paying, claims or demands upon the state or such county, town or city, who shall knowingly audit, allow or pay, or, directly or indirectly, consent to or in any way connive at the auditing, allowance or payment of any claim or demand against the state or such county, town or city, which is false or fraudulent or contains any charge, item or claim which is false or fraudulent, shall be guilty of a gross misdemeanor. [1909 c 249 § 129; RRS § 2381.]

42.20.070 Misappropriation and falsification of accounts by public officer. Every public officer, and every other person receiving money on behalf or for or on account of the people of the state or of any department of the state government or of any bureau or fund created by law in which the people are directly or indirectly interested, or for or on account of any county, city, town, or any school, diking, drainage, or irrigation district, who:

(1) Shall appropriate to his or her own use or the use of any person not entitled thereto, without authority of law, any money so received by him or her as such officer or otherwise; or

(2) Shall knowingly keep any false account, or make any false entry or erasure in any account, of or relating to any money so received by him or her; or

(3) Shall fraudulently alter, falsify, conceal, destroy or obliterate any such account; or

(4) Shall willfully omit or refuse to pay over to the state, its officer or agent authorized by law to receive the same, or to such county, city, town, or such school, diking, drainage, or irrigation district or to the proper officer or authority empowered to demand and receive the same, any money received by him or her as such officer when it is a duty imposed upon him or her by law to pay over and account for the same, shall be punished by imprisonment in a state correctional facility for not more than fifteen years. [1992 c 7 § 37;

1909 c 249 § 317; RRS § 2569. Prior: Code 1881 § 890; 1873 p 202 § 92; 1854 p 91 § 83.]

42.20.080 Other violations by officers. Every officer or other person mentioned in RCW 42.20.070, who shall wilfully disobey any provision of law regulating his official conduct in cases other than those specified in said section, shall be guilty of a gross misdemeanor. [1909 c 249 § 318; RRS § 2570.]

42.20.090 Misappropriation, etc., by treasurer. Every state, county, city, or town treasurer who willfully misappropriates any moneys, funds, or securities received by or deposited with him or her as such treasurer, or who shall be guilty of any other malfeasance or willful neglect of duty in his or her office, shall be punished by imprisonment in a state correctional facility for not more than five years or by a fine of not more than five thousand dollars. [1992 c 7 § 38; 1909 c 249 § 319; RRS § 2571.]

County treasurer, suspension for misconduct: RCW 36.29.090.
State treasurer, embezzlement: RCW 43.08.140.

42.20.100 Failure of duty by public officer a misdemeanor. Whenever any duty is enjoined by law upon any public officer or other person holding any public trust or employment, their wilful neglect to perform such duty, except where otherwise specially provided for, shall be a misdemeanor. [1909 c 249 § 16; RRS § 2268. Prior: Code 1881 § 889; 1854 p 90 § 82.]

Official misconduct by public servant: RCW 9A.80.010.

42.20.110 Improper conduct by certain justices. It shall be a misdemeanor for any judge or justice of any court not of record, during the hearing of any cause or proceeding therein, to address any person in his presence in unfit, unseemly or improper language. [1911 c 115 § 1; RRS § 2696-1.]

Chapter 42.23

CODE OF ETHICS FOR MUNICIPAL OFFICERS— CONTRACT INTERESTS

Sections

42.23.010	Declaration of purpose.
42.23.020	Definitions.
42.23.030	Interest in contracts prohibited—Exceptions.
42.23.040	Remote interests.
42.23.050	Prohibited contracts void—Penalties for violation of chapter.
42.23.060	City charter paramount to act.
42.23.070	Prohibited acts.

Cities

free passes, services prohibited: RCW 35.17.150.
political activities by officers and employees forbidden: RCW 35.17.160.
County officers, general provisions: Chapter 36.16 RCW.
Ethics in public service act: Chapter 42.52 RCW.
Public employment, civil service: Title 41 RCW.
State officers, general provisions: Chapter 43.01 RCW.

42.23.010 Declaration of purpose. It is the purpose and intent of this chapter to revise and make uniform the laws of this state concerning the transaction of business by

municipal officers, as defined in *this act, in conflict with the proper performance of their duties in the public interest; and to promote the efficiency of local government by prohibiting certain instances and areas of conflict while at the same time sanctioning, under sufficient controls, certain other instances and areas of conflict wherein the private interest of the municipal officer is deemed to be only remote, to the end that, without sacrificing necessary public responsibility and enforceability in areas of significant and clearly conflicting interests, the selection of municipal officers may be made from a wider group of responsible citizens of the communities which they are called upon to serve. [1961 c 268 § 2.]

***Reviser's note:** This act [1961 c 268] is codified as RCW 28A.58.310, 35.17.150, 35.17.160, 35.23.230, 42.22.030, and 42.23.010 through 42.23.060.

42.23.020 Definitions. For the purpose of *this act:
(1) "Municipality" shall include all counties, cities, towns, districts, and other municipal corporations and quasi municipal corporations organized under the laws of the state of Washington;

(2) "Municipal officer" and "officer" shall each include all elected and appointed officers of a municipality, together with all deputies and assistants of such an officer, and all persons exercising or undertaking to exercise any of the powers or functions of a municipal officer;

(3) "Contract" shall include any contract, sale, lease or purchase;

(4) "Contracting party" shall include any person, partnership, association, cooperative, corporation, or other business entity which is a party to a contract with a municipality. [1961 c 268 § 3.]

***Reviser's note:** For meaning of "this act," see note following RCW 42.23.010.

42.23.030 Interest in contracts prohibited—Exceptions. No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein. This section shall not apply in the following cases:

(1) The furnishing of electrical, water or other utility services by a municipality engaged in the business of furnishing such services, at the same rates and on the same terms as are available to the public generally;

(2) The designation of public depositaries for municipal funds;

(3) The publication of legal notices required by law to be published by any municipality, upon competitive bidding or at rates not higher than prescribed by law for members of the general public;

(4) The designation of a school director as clerk or as both clerk and purchasing agent of a school district;

(5) The employment of any person by a municipality, other than a county with a population of one hundred twenty-five thousand or more, a city of the first or second class, an irrigation district encompassing in excess of fifty thousand acres, or a first class school district, for unskilled

day labor at wages not exceeding one hundred dollars in any calendar month;

(6) The letting of any other contract (except a sale or lease as seller or lessor) by a municipality, other than a county with a population of one hundred twenty-five thousand or more, a city with a population of ten thousand or more, or an irrigation district encompassing in excess of fifty thousand acres: PROVIDED, That the total volume of business represented by such contract or contracts in which a particular officer is interested, singly or in the aggregate, as measured by the dollar amount of the municipality's liability thereunder, shall not exceed seven hundred fifty dollars in any calendar month: PROVIDED FURTHER, That in the case of a particular officer of a second class city or town, or a noncharter optional code city, or a member of any county fair board in a county which has not established a county purchasing department pursuant to RCW 36.32.240, the total volume of such contract or contracts authorized in this subsection may exceed seven hundred fifty dollars in any calendar month but shall not exceed nine thousand dollars in any calendar year: PROVIDED FURTHER, That there shall be public disclosure by having an available list of such purchases or contracts, and if the supplier or contractor is an official of the municipality, he or she shall not vote on the authorization: PROVIDED FURTHER, That in the case of a first class school district, there shall be notice of the proposed contract by publication given in one or more newspapers of general circulation within the district;

(7) The leasing by a port district as lessor of port district property to a municipal officer or to a contracting party in which a municipal officer may be beneficially interested, if in addition to all other legal requirements, a board of three disinterested appraisers, who shall be appointed from members of the American institute of real estate appraisers by the presiding judge of the superior court in the county where the property is situated, shall find and the court finds that all terms and conditions of such lease are fair to the port district and are in the public interest;

(8) The letting of any employment contract for the driving of a school bus in a second class school district: PROVIDED, That the terms of such contract shall be commensurate with the pay plan or collective bargaining agreement operating in the district;

(9) The letting of any employment contract to the spouse of an officer of a second class school district in which less than two hundred full time equivalent students are enrolled at the start of the school year as defined in RCW 28A.150.040, when such contract is solely for employment as a certificated or classified employee of the school district, or the letting of any contract to the spouse of an officer of a school district, when such contract is solely for employment as a substitute teacher for the school district: PROVIDED, That the terms of such contract shall be commensurate with the pay plan or collective bargaining agreement applicable to all district employees and the board of directors has found, consistent with the written policy under RCW 28A.330.240, that there is a shortage of substitute teachers in the school district;

(10) The letting of any employment contract to the spouse of an officer of a school district if the spouse was under contract as a certificated or classified employee with the school district before the date in which the officer

assumes office: PROVIDED, That the terms of such contract shall be commensurate with the pay plan or collective bargaining agreement operating in the district. [1996 c 246 § 1. Prior: 1994 c 81 § 77; 1994 c 20 § 1; 1993 c 308 § 1; 1991 c 363 § 120; 1990 c 33 § 573; 1989 c 263 § 1; 1983 1st ex.s. c 44 § 1; prior: 1980 c 39 § 1; 1979 ex.s. c 4 § 1; 1971 ex.s. c 242 § 1; 1961 c 268 § 4.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1989 c 263: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 263 § 3.]

Severability—1980 c 39: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 39 § 3.]

42.23.040 Remote interests. A municipal officer shall not be deemed to be interested in a contract, within the meaning of RCW 42.23.030, if he has only a remote interest in the contract and if the fact and extent of such interest is disclosed to the governing body of the municipality of which he is an officer and noted in the official minutes or similar records of the municipality prior to the formation of the contract, and thereafter the governing body authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer having the remote interest. As used in this section "remote interest" means:

(1) That of a nonsalaried officer of a nonprofit corporation;

(2) That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;

(3) That of a landlord or tenant of a contracting party;

(4) That of a holder of less than one percent of the shares of a corporation or cooperative which is a contracting party.

None of the provisions of this section shall be applicable to any officer interested in a contract, though his interest be only remote, who influences or attempts to influence any other officer of the municipality of which he is an officer to enter into the contract. [1961 c 268 § 5.]

42.23.050 Prohibited contracts void—Penalties for violation of chapter. Any contract made in violation of the provisions of *this act shall be void and the performance thereof, in full or in part, by a contracting party shall not be the basis of any claim against the municipality. Any officer violating the provisions of *this act shall be liable to the municipality of which he is an officer for a penalty in the amount of three hundred dollars, in addition to such other civil or criminal liability or penalty as may otherwise be imposed upon him by law.

In addition to all other penalties, civil or criminal, the violation by any officer of the provisions of *this act shall work a forfeiture of his office. [1961 c 268 § 6.]

***Reviser's note:** For meaning of "this act," see note following RCW 42.23.010.

42.23.060 City charter paramount to act. If any provision of *this act conflicts with any provision of a city charter, the city charter shall control. [1961 c 268 § 16.]

*Reviser's note: For meaning of "this act," see note following RCW 42.23.010.

42.23.070 Prohibited acts. (1) No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.

(2) No municipal officer may, directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity from a source except the employing municipality, for a matter connected with or related to the officer's services as such an officer unless otherwise provided for by law.

(3) No municipal officer may accept employment or engage in business or professional activity that the officer might reasonably expect would require or induce him or her by reason of his or her official position to disclose confidential information acquired by reason of his or her official position.

(4) No municipal officer may disclose confidential information gained by reason of the officer's position, nor may the officer otherwise use such information for his or her personal gain or benefit. [1994 c 154 § 121.]

Parts and captions not law—Effective date—Severability—1994 c 154: See RCW 42.52.902, 42.52.904, and 42.52.905.

Chapter 42.24

PAYMENT OF CLAIMS FOR EXPENSES, MATERIAL, PURCHASES—ADVANCEMENTS

Sections

- 42.24.035 Payment for postage, books, and periodicals.
- 42.24.070 State agencies—Budget and accounting system.
- 42.24.080 Municipal corporations and political subdivisions—Claims against for contractual purposes—Auditing and payment—Forms—Authentication and certification.
- 42.24.090 Municipal corporations and political subdivisions—Reimbursement claims by officers and employees.
- 42.24.100 Municipal corporations and political subdivisions—Certificates need not be sworn—Penalty for false claim.
- 42.24.110 Municipal corporations and political subdivisions—Approving or paying false claim—Penalties.
- 42.24.115 Municipal corporations and political subdivisions—Charge cards for officers' and employees' travel expenses.
- 42.24.120 Advancements for travel expenses—Municipal corporation or political subdivision officers and employees.
- 42.24.130 Advancements for travel expenses—Revolving fund.
- 42.24.140 Advancements for travel expenses—Provision to assure repayment.
- 42.24.150 Advancements for travel expenses—Travel expense voucher.
- 42.24.160 Advancements for travel expenses—Purpose—Not personal loan.
- 42.24.170 Expenditures by special purpose districts to recruit job candidates—Reimbursement for travel expenses.
- 42.24.180 Taxing district—Issuance of warrants or checks before approval by legislative body—Conditions.

County auditor: Chapter 36.22 RCW.

State auditor: Chapter 43.09 RCW.

42.24.035 Payment for postage, books, and periodicals. Notwithstanding the provisions of chapter 42.24 RCW or any other existing statute, school districts and other public agencies including but not limited to state agencies and

municipal corporations which are expressly or by necessary implication authorized to subscribe to magazines or other periodical publications or books or to purchase postage or publications from the United States government or any other publisher may make payment of the costs of such purchases in a manner as consistent as possible and practicable with normal and usual business methods, and in the case of subscriptions, for periods not in excess of three years. [1975 1st ex.s. c 72 § 1; 1963 c 116 § 1.]

42.24.070 State agencies—Budget and accounting system. See chapter 43.88 RCW.

42.24.080 Municipal corporations and political subdivisions—Claims against for contractual purposes—Auditing and payment—Forms—Authentication and certification. All claims presented against any county, city, district or other municipal corporation or political subdivision by persons furnishing materials, rendering services or performing labor, or for any other contractual purpose, shall be audited, before payment, by an auditing officer elected or appointed pursuant to statute or, in the absence of statute, an appropriate charter provision, ordinance or resolution of the municipal corporation or political subdivision. Such claims shall be prepared for audit and payment on a form and in the manner prescribed by the state auditor. The form shall provide for the authentication and certification by such auditing officer that the materials have been furnished, the services rendered or the labor performed as described, and that the claim is a just, due and unpaid obligation against the municipal corporation or political subdivision; and no claim shall be paid without such authentication and certification: PROVIDED, That the certificates as to claims of officers and employees of a county, city, district or other municipal corporation or political subdivision, for services rendered, shall be made by the person charged with the duty of preparing and submitting vouchers for the payment of services, and he or she shall certify that the claim is just, true and unpaid, which certificate shall be part of the voucher. [1995 c 301 § 72; 1965 c 116 § 1.]

42.24.090 Municipal corporations and political subdivisions—Reimbursement claims by officers and employees. No claim for reimbursement of any expenditures by officers or employees of any municipal corporation or political subdivision of the state for transportation, lodging, meals or any other purpose shall be allowed by any officer, employee or board charged with auditing accounts unless the same shall be presented in a detailed account: PROVIDED, That, unless otherwise authorized by law, the legislative body of any municipal corporation or political subdivision of the state may prescribe by ordinance or resolution the amounts to be paid officers or employees thereof as reimbursement for the use of their personal automobiles or other transportation equipment in connection with officially assigned duties and other travel for approved public purposes, or as reimbursement to such officers or employees in lieu of actual expenses incurred for lodging, meals or other purposes. The rates for such reimbursements may be computed on a mileage, hourly, per diem, monthly, or other basis as the respective legislative bodies shall

determine to be proper in each instance: PROVIDED, That in lieu of such reimbursements, payments for the use of personal automobiles for official travel may be established if the legislative body determines that these payments would be less costly to the municipal corporation or political subdivision of the state than providing automobiles for official travel.

All claims authorized under this section shall be duly certified by the officer or employee submitting such claims on forms and in the manner prescribed by the state auditor. [1995 c 301 § 73; 1981 c 56 § 1; 1965 c 116 § 2.]

42.24.100 Municipal corporations and political subdivisions—Certificates need not be sworn—Penalty for false claim. The certificates required by RCW 42.24.080 through 42.24.110 need not be sworn, but any person certifying a claim or making a claim knowing the same to be false or untrue shall be guilty of perjury in the second degree. [1965 c 116 § 3.]

42.24.110 Municipal corporations and political subdivisions—Approving or paying false claim—Penalties. Any person who knowingly approves or pays or causes to be approved or paid a false or untrue claim shall be guilty of a gross misdemeanor and, in addition, he shall be civilly liable on his bond to the municipal corporation or political subdivision, as the case may be, for the amount so paid or for three hundred dollars whichever is the greater. [1965 c 116 § 4.]

42.24.115 Municipal corporations and political subdivisions—Charge cards for officers' and employees' travel expenses. (1) Any municipal corporation or political subdivision may provide for the issuance of charge cards to officers and employees for the purpose of covering expenses incident to authorized travel.

(2) If a charge card is issued for the purpose of covering expenses relating to authorized travel, upon billing or no later than thirty days of the billing date, the officer or employee using a charge card issued under this section shall submit a fully itemized travel expense voucher. Any charges against the charge card not properly identified on the travel expense voucher or not allowed following the audit required under RCW 42.24.080 shall be paid by the official or employee by check, United States currency, or salary deduction.

(3) If, for any reason, disallowed charges are not repaid before the charge card billing is due and payable, the municipal corporation or political subdivision shall have a prior lien against and a right to withhold any and all funds payable or to become payable to the official or employee up to an amount of the disallowed charges and interest at the same rate as charged by the company which issued the charge card. Any official or employee who has been issued a charge card by a municipal corporation or political subdivision shall not use the card if any disallowed charges are outstanding and shall surrender the card upon demand of the auditing officer. The municipal corporation or political subdivision shall have unlimited authority to revoke use of any charge card issued under this section, and, upon such revocation order being delivered to the charge card company,

shall not be liable for any costs. [1995 c 30 § 3; 1984 c 203 § 5.]

Findings—1995 c 30: See note following RCW 43.09.2855.

Severability—1984 c 203: See note following RCW 35.43.140.

42.24.120 Advancements for travel expenses—Municipal corporation or political subdivision officers and employees. Whenever it becomes necessary for an elected or appointed official or employee of the municipal corporation or political subdivision to travel and incur expenses, the legislative body of such municipal corporation or political subdivision may provide, in the manner that local legislation is officially enacted, reasonable allowances to such officers and employees in advance of expenditure. Such advance shall be made under appropriate rules and regulations to be prescribed by the state auditor. [1969 c 74 § 1.]

42.24.130 Advancements for travel expenses—Revolving fund. The legislative body of a municipal corporation or political subdivision wishing to make advance payments of travel expenses to officials and employees, as provided in RCW 42.24.120 through 42.24.160, will establish, in the manner that local legislation is officially enacted, a revolving fund to be used solely for the purpose of making advance payments of travel expenses. The revolving fund will be maintained in a bank as a checking account and advances to officials or employees will be by check. The fund will be replenished by warrant. [1969 c 74 § 2.]

42.24.140 Advancements for travel expenses—Provision to assure repayment. To protect the municipal corporation or political subdivision from any losses on account of advances made as provided in RCW 42.24.120 through 42.24.160, the municipal corporation or political subdivision shall have a prior lien against and a right to withhold any and all funds payable or to become payable by the municipal corporation or political subdivision to such officer or employee to whom such advance has been given, as provided in RCW 42.24.120 through 42.24.160, up to the amount of such advance and interest at the rate of ten percent per annum, until such time as repayment or justification has been made. No advance of any kind may be made to any officer or employee under RCW 42.24.120 through 42.24.160, at any time when he is delinquent in accounting for or repaying a prior advance under RCW 42.24.120 through 42.24.160. [1969 c 74 § 3.]

42.24.150 Advancements for travel expenses—Travel expense voucher. On or before the fifteenth day following the close of the authorized travel period for which expenses have been advanced to any officer or employee, he shall submit to the appropriate official a fully itemized travel expense voucher, for all reimbursable items legally expended, accompanied by the unexpended portion of such advance, if any.

Any advance made for this purpose, or any portion thereof, not repaid or accounted for in the time and manner specified herein, shall bear interest at the rate of ten percent per annum from the date of default until paid. [1995 c 194 § 9; 1969 c 74 § 4.]

42.24.160 Advancements for travel expenses—

Purpose—Not personal loan. An advance made under RCW 42.24.120 through 42.24.160 shall be considered as having been made to such officer or employee to be expended by him as an agent of the municipal corporation or political subdivision for the municipal corporation's or political subdivision's purposes only, and specifically to defray necessary costs while performing his official duties.

No such advance shall be considered as a personal loan to such officer or employee and any expenditure thereof, other than for official business purposes, shall be considered a misappropriation of public funds. [1969 c 74 § 5.]

42.24.170 Expenditures by special purpose districts to recruit job candidates—Reimbursement for travel expenses. Special purpose districts may expend funds to recruit job candidates and reimburse candidates for reasonable and necessary travel expenses, including transportation, subsistence, and lodging. [1981 c 190 § 1.]

42.24.180 *Taxing district—Issuance of warrants or checks before approval by legislative body—Conditions. In order to expedite the payment of claims, the legislative body of any *taxing district, as defined in RCW 43.09.260, may authorize the issuance of warrants or checks in payment of claims after the provisions of this chapter have been met and after the officer designated by statute, or, in the absence of statute, an appropriate charter provision, ordinance, or resolution of the *taxing district, has signed the checks or warrants, but before the legislative body has acted to approve the claims. The legislative body may stipulate that certain kinds or amounts of claims shall not be paid before the board has reviewed the supporting documentation and approved the issue of checks or warrants in payment of those claims. However, all of the following conditions shall be met before the payment:

(1) The auditing officer and the officer designated to sign the checks or warrants shall each be required to furnish an official bond for the faithful discharge of his or her duties in an amount determined by the legislative body but not less than fifty thousand dollars;

(2) The legislative body shall adopt contracting, hiring, purchasing, and disbursing policies that implement effective internal control;

(3) The legislative body shall provide for its review of the documentation supporting claims paid and for its approval of all checks or warrants issued in payment of claims at its next regularly scheduled public meeting or, for cities and towns, at a regularly scheduled public meeting within one month of issuance; and

(4) The legislative body shall require that if, upon review, it disapproves some claims, the auditing officer and the officer designated to sign the checks or warrants shall jointly cause the disapproved claims to be recognized as receivables of the *taxing district and to pursue collection diligently until the amounts disapproved are collected or until the legislative body is satisfied and approves the claims. [1994 c 273 § 18; 1984 c 128 § 11.]

***Reviser's note:** "Taxing district" redesignated "local government" by 1995 c 301 § 15.

Chapter 42.26**AGENCY VENDOR PAYMENT REVOLVING FUND—PETTY CASH ACCOUNTS**

Sections

42.26.010	Agency vendor payment revolving fund—Created—Use.
42.26.020	Disbursements—Deposits to cover.
42.26.030	Regulations.
42.26.040	Petty cash accounts—Authorized—Advancements.
42.26.050	Request for petty cash advancement—Approval.
42.26.060	Restrictions on use of petty cash account—Expenditures—Reimbursement.
42.26.070	Custodian of petty cash account—Bond.
42.26.080	Violation of petty cash account requirements.
42.26.090	Regulations for petty cash and accounts.
42.26.900	Effective date—1969 ex.s. c 60.

42.26.010 Agency vendor payment revolving fund—Created—Use. An agency vendor payment revolving fund is hereby created in the state treasury. This fund is to be used for payment for services rendered or materials furnished to the state, which are properly payable from funds other than those appropriated from the state treasury: PROVIDED, That the use of this revolving fund by a state agency shall be optional: AND PROVIDED FURTHER, That payment of salaries and wages shall be subject to the provisions of chapter 42.16 RCW. [1969 ex.s. c 60 § 1.]

42.26.020 Disbursements—Deposits to cover. The amount to be disbursed from the vendor payment revolving fund on behalf of an agency electing to utilize such fund shall be deposited therein by the agency on or before the day prior to scheduled disbursement. The deposit shall be made from funds held by the agency outside the state treasury pursuant to law and which are properly chargeable for the disbursement. Disbursements from the revolving fund created by this chapter shall be by warrant in accordance with the provisions of RCW 43.88.160. [1969 ex.s. c 60 § 2.]

42.26.030 Regulations. The director of financial management shall adopt such regulations as may be necessary or desirable to implement the provisions of this chapter relating to the establishment of an agency vendor payment revolving fund. [1979 c 151 § 74; 1969 ex.s. c 60 § 3.]

42.26.040 Petty cash accounts—Authorized—Advancements. The state treasurer is authorized to advance moneys from treasury funds to state agencies for the purpose of establishing petty cash accounts. Any agency may petition the office of financial management for the establishment of a petty cash account. The maximum amount of such accounts shall be based on the special needs of the petitioning agency and shall be subject to approval by the office of financial management. The amount so advanced shall be reflected in the state treasurer's accounts as an amount due from the agency to the fund or account from which the advance was made. [1979 c 151 § 75; 1977 c 40 § 1; 1969 ex.s. c 60 § 4.]

42.26.050 Request for petty cash advancement—Approval. The agency requesting a petty cash account or an increase in the amount of petty cash advanced under the

provisions of this chapter shall submit its request to the director of financial management in the form and detail prescribed by him. The agency's written request and the approval authorized by this chapter shall be the only documentation or certification required as a condition precedent to the issuance of such warrant. A copy of his approval shall be forwarded by the director of financial management to the state treasurer. [1979 c 151 § 76; 1969 ex.s. c 60 § 5.]

42.26.060 Restrictions on use of petty cash account—Expenditures—Reimbursement. The use of the petty cash account shall be restricted to miscellaneous petty or emergency expenditures, refunds legally payable by an agency, and for cash change to be used in the transaction of the agency's official business. All expenditures made from petty cash shall be charged to an existing appropriation for such purpose, except expenditures chargeable against funds for which no appropriation is required by law. All expenditures or refunds made from petty cash shall be reimbursed out of and charged to the proper appropriation or fund at the close of each month and such other times as may be necessary. [1969 ex.s. c 60 § 6.]

42.26.070 Custodian of petty cash account—Bond. The head of the agency or an employee designated by him shall have full responsibility as custodian for the petty cash account and its proper use under this chapter and applicable regulations of the director of financial management. The custodian of the petty cash account shall be covered by a surety bond in the full amount of the account at all times and all advances to it, conditioned upon the proper accounting for and legal expenditure of all such funds, in addition to other conditions required by law. [1979 c 151 § 77; 1969 ex.s. c 60 § 7.]

42.26.080 Violation of petty cash account requirements. If a post audit by the state auditor discloses the amount of the petty cash account of any agency under this chapter to be excessive or the use of the account to be in violation of requirements governing its operation, the director of financial management may require the return of the account or of the excessive amount to the state treasury for credit to the fund from which the advance was made. [1979 c 151 § 78; 1969 ex.s. c 60 § 8.]

42.26.090 Regulations for petty cash and accounts. The director of financial management shall adopt such regulations as may be necessary or desirable to implement the provisions of this chapter. Such regulation shall include but not be limited to, (1) defining limitations on the use of petty cash, and (2) providing accounting and reporting procedures for operation of the petty cash account. [1979 c 151 § 79; 1969 ex.s. c 60 § 9.]

42.26.900 Effective date—1969 ex.s. c 60. This chapter shall take effect July 1, 1969. [1969 ex.s. c 60 § 12.]

Chapter 42.30

OPEN PUBLIC MEETINGS ACT

Sections	
42.30.010	Legislative declaration.
42.30.020	Definitions.
42.30.030	Meetings declared open and public.
42.30.040	Conditions to attendance not to be required.
42.30.050	Interruptions—Procedure.
42.30.060	Ordinances, rules, resolutions, regulations, etc., adopted at public meetings—Notice—Secret voting prohibited.
42.30.070	Times and places for meetings—Emergencies—Exception.
42.30.075	Schedule of regular meetings—Publication in state register—Notice of change—"Regular" meetings defined.
42.30.080	Special meetings.
42.30.090	Adjournments.
42.30.100	Continuances.
42.30.110	Executive sessions.
42.30.120	Violations—Personal liability—Penalty—Attorney fees and costs.
42.30.130	Violations—Mandamus or injunction.
42.30.140	Chapter controlling—Application.
42.30.200	Governing body of recognized student association at college or university—Chapter applicability to.
42.30.900	Short title.
42.30.910	Construction—1971 ex.s. c 250.
42.30.920	Severability—1971 ex.s. c 250.

42.30.010 Legislative declaration. The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. [1971 ex.s. c 250 § 1.]

Reviser's note: Throughout this chapter, the phrases "this act" and "this 1971 amendatory act" have been changed to "this chapter." "This act" [1971 ex.s. c 250] consists of this chapter, the amendment to RCW 34.04.025, and the repeal of RCW 42.32.010 and 42.32.020.

42.30.020 Definitions. As used in this chapter unless the context indicates otherwise:

(1) "Public agency" means:

(a) Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature;

(b) Any county, city, school district, special purpose district, or other municipal corporation or political subdivision of the state of Washington;

(c) Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies;

(d) Any policy group whose membership includes representatives of publicly owned utilities formed by or pursuant to the laws of this state when meeting together as or on behalf of participants who have contracted for the

output of generating plants being planned or built by an operating agency.

(2) "Governing body" means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

(3) "Action" means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. "Final action" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

(4) "Meeting" means meetings at which action is taken. [1985 c 366 § 1; 1983 c 155 § 1; 1982 1st ex.s. c 43 § 10; 1971 ex.s. c 250 § 2.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

42.30.030 Meetings declared open and public. All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter. [1971 ex.s. c 250 § 3.]

42.30.040 Conditions to attendance not to be required. A member of the public shall not be required, as a condition to attendance at a meeting of a governing body, to register his name and other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his attendance. [1971 ex.s. c 250 § 4.]

42.30.050 Interruptions—Procedure. In the event that any meeting is interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are interrupting the meeting, the members of the governing body conducting the meeting may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by majority vote of the members. In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the governing body from establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting. [1971 ex.s. c 250 § 5.]

42.30.060 Ordinances, rules, resolutions, regulations, etc., adopted at public meetings—Notice—Secret voting prohibited. (1) No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given

according to the provisions of this chapter. Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.

(2) No governing body of a public agency at any meeting required to be open to the public shall vote by secret ballot. Any vote taken in violation of this subsection shall be null and void, and shall be considered an "action" under this chapter. [1989 c 42 § 1; 1971 ex.s. c 250 § 6.]

42.30.070 Times and places for meetings—Emergencies—Exception. The governing body of a public agency shall provide the time for holding regular meetings by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body. Unless otherwise provided for in the act under which the public agency was formed, meetings of the governing body need not be held within the boundaries of the territory over which the public agency exercises jurisdiction. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day. If, by reason of fire, flood, earthquake, or other emergency, there is a need for expedited action by a governing body to meet the emergency, the presiding officer of the governing body may provide for a meeting site other than the regular meeting site and the notice requirements of this chapter shall be suspended during such emergency. It shall not be a violation of the requirements of this chapter for a majority of the members of a governing body to travel together or gather for purposes other than a regular meeting or a special meeting as these terms are used in this chapter: PROVIDED, That they take no action as defined in this chapter. [1983 c 155 § 2; 1973 c 66 § 1; 1971 ex.s. c 250 § 7.]

42.30.075 Schedule of regular meetings—Publication in state register—Notice of change—"Regular" meetings defined. State agencies which hold regular meetings shall file with the code reviser a schedule of the time and place of such meetings on or before January of each year for publication in the Washington state register. Notice of any change from such meeting schedule shall be published in the state register for distribution at least twenty days prior to the rescheduled meeting date.

For the purposes of this section "regular" meetings shall mean recurring meetings held in accordance with a periodic schedule declared by statute or rule. [1977 ex.s. c 240 § 12.]

Effective date—Severability—1977 ex.s. c 240: See RCW 34.08.905 and 34.08.910.

Public meeting notices in state register: RCW 34.08.020.

42.30.080 Special meetings. A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering personally or by mail written notice to each member of the governing body; and to each local newspaper of general circulation and to each local radio or television station which has on file with the governing body a written request to be notified of such special meeting or of all special meetings. Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice.

The call and notice shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the governing body a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage. [1971 ex.s. c 250 § 8.]

42.30.090 Adjournments. The governing body of a public agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the governing body may declare the meeting adjourned to a stated time and place. He shall cause a written notice of the adjournment to be given in the same manner as provided in RCW 42.30.080 for special meetings, unless such notice is waived as provided for special meetings. Whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule. [1971 ex.s. c 250 § 9.]

42.30.100 Continuances. Any hearing being held, noticed, or ordered to be held by a governing body at any meeting may by order or notice of continuance be continued or reconvened to any subsequent meeting of the governing body in the same manner and to the same extent set forth in RCW 42.30.090 for the adjournment of meetings. [1971 ex.s. c 250 § 10.]

42.30.110 Executive sessions. (1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

- (a) To consider matters affecting national security;
- (b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;
- (c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge

regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer. [1989 c 238 § 2; 1987 c 389 § 3; 1986 c 276 § 8; 1985 c 366 § 2; 1983 c 155 § 3; 1979 c 42 § 1; 1973 c 66 § 2; 1971 ex.s. c 250 § 11.]

Severability—Effective date—1987 c 389: See notes following RCW 41.06.070.

Severability—1986 c 276: See RCW 53.31.901.

42.30.120 Violations—Personal liability—Penalty—Attorney fees and costs. (1) Each member of the governing body who attends a meeting of such governing body where action is taken in violation of any provision of this chapter applicable to him, with knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of one hundred dollars. The civil penalty shall be assessed by a judge of the superior court and an action to enforce this penalty may be brought by any person. A violation of this chapter does not constitute a crime and assessment of the civil penalty by a judge shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.

(2) Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. Pursuant to RCW 4.84.185, any public agency who prevails in any action in the courts for a violation of this chapter may be awarded reasonable expenses and attorney fees upon final judgment and written findings by the trial judge that the action was frivolous and advanced without reasonable cause. [1985 c 69 § 1; 1973 c 66 § 3; 1971 ex.s. c 250 § 12.]

42.30.130 Violations—Mandamus or injunction. Any person may commence an action either by mandamus or injunction for the purpose of stopping violations or preventing threatened violations of this chapter by members of a governing body. [1971 ex.s. c 250 § 13.]

42.30.140 Chapter controlling—Application. If any provision of this chapter conflicts with the provisions of any other statute, the provisions of this chapter shall control: PROVIDED, That this chapter shall not apply to:

(1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation, or profession or to any disciplinary proceedings involving a member of such business, occupation, or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or

(2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or

(3) Matters governed by chapter 34.05 RCW, the Administrative Procedure Act; or

(4)(a) Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress. [1990 c 98 § 1; 1989 c 175 § 94; 1973 c 66 § 4; 1971 ex.s. c 250 § 14.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Mediation testimony competency: RCW 5.60.070 and 5.60.072.

42.30.200 Governing body of recognized student association at college or university—Chapter applicability to. The multimember student board which is the governing body of the recognized student association at a given campus of a public institution of higher education is hereby declared to be subject to the provisions of the open public meetings act as contained in this chapter, as now or hereafter amended. For the purposes of this section, "recognized student association" shall mean any body at any of the state's colleges and universities which selects officers through a process approved by the student body and which represents the interests of students. Any such body so selected shall be recognized by and registered with the respective boards of trustees and regents of the state's colleges and universities: PROVIDED, That there be no more than one such association representing undergraduate students, no more than one such association representing graduate students, and no more than one such association representing each group of professional students so recognized and registered at any of the state's colleges or universities. [1980 c 49 § 1.]

42.30.900 Short title. This chapter may be cited as the "Open Public Meetings Act of 1971". [1971 ex.s. c 250 § 16.]

42.30.910 Construction—1971 ex.s. c 250. The purposes of this chapter are hereby declared remedial and shall be liberally construed. [1971 ex.s. c 250 § 18.]

42.30.920 Severability—1971 ex.s. c 250. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 250 § 19.]

Chapter 42.32 MEETINGS

Sections

42.32.030 Minutes.

Open Public Meetings Act: Chapter 42.30 RCW.

42.32.030 Minutes. The minutes of all regular and special meetings except executive sessions of such boards, commissions, agencies or authorities shall be promptly recorded and such records shall be open to public inspection. [1953 c 216 § 3.]

Reviser's note: RCW 42.32.010 and 42.32.020 were repealed by 1971 ex.s. c 250 § 15; later enactment, see chapter 42.30 RCW.

Chapter 42.36 APPEARANCE OF FAIRNESS DOCTRINE— LIMITATIONS

Sections

42.36.010 Local land use decisions.

42.36.020 Members of local decision-making bodies.

42.36.030 Legislative action of local executive or legislative officials.

- 42.36.040 Public discussion by candidate for public office.
- 42.36.050 Campaign contributions.
- 42.36.060 Quasi-judicial proceedings—Ex parte communications prohibited, exceptions.
- 42.36.070 Quasi-judicial proceedings—Prior advisory proceedings.
- 42.36.080 Disqualification based on doctrine—Time limitation for raising challenge.
- 42.36.090 Participation of challenged member of decision-making body.
- 42.36.100 Judicial restriction of doctrine not prohibited—Construction of chapter.
- 42.36.110 Right to fair hearing not impaired.
- 42.36.900 Severability—1982 c 229.

42.36.010 Local land use decisions. Application of the appearance of fairness doctrine to local land use decisions shall be limited to the quasi-judicial actions of local decision-making bodies as defined in this section. Quasi-judicial actions of local decision-making bodies are those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance. [1982 c 229 § 1.]

42.36.020 Members of local decision-making bodies. No member of a local decision-making body may be disqualified by the appearance of fairness doctrine for conducting the business of his or her office with any constituent on any matter other than a quasi-judicial action then pending before the local legislative body. [1982 c 229 § 2.]

42.36.030 Legislative action of local executive or legislative officials. No legislative action taken by a local legislative body, its members, or local executive officials shall be invalidated by an application of the appearance of fairness doctrine. [1982 c 229 § 3.]

42.36.040 Public discussion by candidate for public office. Prior to declaring as a candidate for public office or while campaigning for public office as defined by *RCW 42.17.020 (5) and (25) no public discussion or expression of an opinion by a person subsequently elected to a public office, on any pending or proposed quasi-judicial actions, shall be a violation of the appearance of fairness doctrine. [1982 c 229 § 4.]

**Reviser's note:* RCW 42.17.020 was amended by 1991 sp.s. c 18 § 1, changing subsection (25) to subsection (26). RCW 42.17.020 was subsequently amended by 1995 c 397 § 1, changing subsections (5) and (26) to subsections (8) and (35), respectively.

42.36.050 Campaign contributions. A candidate for public office who complies with all provisions of applicable public disclosure and ethics laws shall not be limited from accepting campaign contributions to finance the campaign, including outstanding debts; nor shall it be a violation of the

appearance of fairness doctrine to accept such campaign contributions. [1982 c 229 § 5.]

Public disclosure of campaign finances: Chapter 42.17 RCW.

42.36.060 Quasi-judicial proceedings—Ex parte communications prohibited, exceptions. During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:

(1) Places on the record the substance of any written or oral ex parte communications concerning the decision of action; and

(2) Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding. [1984 c 191 § 1; 1982 c 229 § 6.]

42.36.070 Quasi-judicial proceedings—Prior advisory proceedings. Participation by a member of a decision-making body in earlier proceedings that result in an advisory recommendation to a decision-making body shall not disqualify that person from participating in any subsequent quasi-judicial proceeding. [1982 c 229 § 7.]

42.36.080 Disqualification based on doctrine—Time limitation for raising challenge. Anyone seeking to rely on the appearance of fairness doctrine to disqualify a member of a decision-making body from participating in a decision must raise the challenge as soon as the basis for disqualification is made known to the individual. Where the basis is known or should reasonably have been known prior to the issuance of a decision and is not raised, it may not be relied on to invalidate the decision. [1982 c 229 § 8.]

42.36.090 Participation of challenged member of decision-making body. In the event of a challenge to a member or members of a decision-making body which would cause a lack of a quorum or would result in a failure to obtain a majority vote as required by law, any such challenged member(s) shall be permitted to fully participate in the proceeding and vote as though the challenge had not occurred, if the member or members publicly disclose the basis for disqualification prior to rendering a decision. Such participation shall not subject the decision to a challenge by reason of violation of the appearance of fairness doctrine. [1982 c 229 § 9.]

42.36.100 Judicial restriction of doctrine not prohibited—Construction of chapter. Nothing in this

chapter prohibits the restriction or elimination of the appearance of fairness doctrine by the appellate courts. Nothing in this chapter may be construed to expand the appearance of fairness doctrine. [1982 c 229 § 10.]

42.36.110 Right to fair hearing not impaired.

Nothing in this chapter prohibits challenges to local land use decisions where actual violations of an individual's right to a fair hearing can be demonstrated. [1982 c 229 § 11.]

42.36.900 Severability—1982 c 229. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1982 c 229 § 12.]

Chapter 42.40

STATE EMPLOYEE WHISTLEBLOWER PROTECTION

(Formerly: Disclosure of improper governmental action—Protection of employee disclosures)

Sections

42.40.010	Policy.
42.40.020	Definitions.
42.40.030	Right to disclose improper governmental actions—Interference prohibited.
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42.40.010 Policy. It is the policy of the legislature that employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions, and it is the intent of the legislature to protect the rights of state employees making these disclosures. It is also the policy of the legislature that employees should be encouraged to identify rules warranting review or provide information to the rules review committee, and it is the intent of the legislature to protect the rights of these employees. [1995 c 403 § 508; 1982 c 208 § 1.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

42.40.020 Definitions. As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Auditor" means the office of the state auditor.

(2) "Employee" means any individual employed or holding office in any department or agency of state government.

(3)(a) "Improper governmental action" means any action by an employee:

(i) Which is undertaken in the performance of the employee's official duties, whether or not the action is within the scope of the employee's employment; and

(ii) Which is in violation of any state law or rule, is an abuse of authority, is of substantial and specific danger to

the public health or safety, or is a gross waste of public funds.

(b) "Improper governmental action" does not include personnel actions including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the state civil service law, alleged labor agreement violations, reprimands, or any action which may be taken under chapter 41.06 RCW, or other disciplinary action except as provided in RCW 42.40.030.

(4) "Use of official authority or influence" includes taking, directing others to take, recommending, processing, or approving any personnel action such as an appointment, promotion, transfer, assignment, reassignment, reinstatement, restoration, reemployment, performance evaluation, or any adverse action under chapter 41.06 RCW, or other disciplinary action.

(5) "Whistleblower" means an employee who in good faith reports alleged improper governmental action to the auditor, initiating an investigation under RCW 42.40.040. For purposes of the provisions of this chapter and chapter 49.60 RCW relating to reprisals and retaliatory action, the term "whistleblower" also means: (a) An employee who in good faith provides information to the auditor in connection with an investigation under RCW 42.40.040 and an employee who is believed to have reported alleged improper governmental action to the auditor or to have provided information to the auditor in connection with an investigation under RCW 42.40.040 but who, in fact, has not reported such action or provided such information; or (b) an employee who in good faith identifies rules warranting review or provides information to the rules review committee, and an employee who is believed to have identified rules warranting review or provided information to the rules review committee but who, in fact, has not done so. [1995 c 403 § 509; 1992 c 118 § 1; 1989 c 284 § 1; 1982 c 208 § 2.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

42.40.030 Right to disclose improper governmental actions—Interference prohibited. (1) An employee shall not directly or indirectly use or attempt to use the employee's official authority or influence for the purpose of intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command, or influence any individual for the purpose of interfering with the right of the individual to: (a) Disclose to the auditor (or representative thereof) information concerning improper governmental action; or (b) identify rules warranting review or provide information to the rules review committee.

(2) Nothing in this section authorizes an individual to disclose information otherwise prohibited by law. [1995 c 403 § 510; 1989 c 284 § 2; 1982 c 208 § 3.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

42.40.040 Report of improper governmental action—Investigations and reports by auditor. (1) Upon receiving specific information that an employee has engaged in improper governmental action, the auditor shall, within five working days of receipt of the information, mail written acknowledgement to the whistleblower at the address provided. For a period not to exceed thirty days, the auditor shall conduct such preliminary investigation of the matter as the auditor deems appropriate. In conducting the investigation, the identity of the whistleblower shall be kept confidential.

(2) In addition to the authority under subsection (1) of this section, the auditor may, on its own initiative, investigate incidents of improper state governmental action.

(3)(a) If it appears to the auditor, upon completion of the preliminary investigation, that the matter is so unsubstantiated that no further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the whistleblower.

(b) The notification shall be by memorandum containing a summary of the information received, a summary of the results of the preliminary investigation with regard to each allegation of improper governmental action, and any determination made by the auditor under (c) of this subsection.

(c) In any case to which this section applies, the identity of the whistleblower shall be kept confidential unless the auditor determines that the information has been provided other than in good faith.

(d) If it appears to the auditor that the matter does not meet the definition of an "improper governmental action" under RCW 42.40.020(3), or is other than a gross waste of public funds, the auditor may forward a summary of the allegations to the appropriate agency for investigation and require a response by memorandum no later than thirty days after the allegations are received from the auditor. The response shall contain a summary of the investigation with regard to each allegation and any determination of corrective action taken. The auditor will keep the identity of the whistleblower confidential. Upon receipt of the results of the investigation from the appropriate agency, the auditor will notify the whistleblower as prescribed under (a), (b), and (c) of this subsection.

(4) If it appears to the auditor after completion of the preliminary investigation that further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the whistleblower and either conduct further investigations or issue a report under subsection (6) of this section. Within sixty days after the thirty-day period in subsection (1) of this section, the auditor shall complete the investigation and report its findings to the whistleblower unless written justification for the delay is furnished to the whistleblower. In all such cases, the report of the auditor's investigation and findings shall be sent to the whistleblower within one year after the information was filed under subsection (1) of this section.

(5)(a) At any stage of an investigation under this section the auditor may require by subpoena the attendance and testimony of witnesses and the production of documentary or other evidence relating to the investigation at any designated place in the state. The auditor may issue subpoenas, administer oaths, examine witnesses, and receive evidence. In the case of contumacy or failure to obey a subpoena, the

superior court for the county in which the person to whom the subpoena is addressed resides or is served may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The auditor may order the taking of depositions at any stage of a proceeding or investigation under this chapter. Depositions shall be taken before an individual designated by the auditor and having the power to administer oaths. Testimony shall be reduced to writing by or under the direction of the individual taking the deposition and shall be subscribed by the deponent.

(6)(a) If the auditor determines that there is reasonable cause to believe that an employee has engaged in any improper activity, the auditor shall report the nature and details of the activity to:

(i) The employee and the head of the employing agency; and

(ii) If appropriate, the attorney general or such other authority as the auditor determines appropriate.

(b) The auditor has no enforcement power except that in any case in which the auditor submits a report of alleged improper activity to the head of an agency, the attorney general, or any other individual to which a report has been made under this section, the individual shall report to the auditor with respect to any action taken by the individual regarding the activity, the first report being transmitted no later than thirty days after the date of the auditor's report and monthly thereafter until final action is taken. If the auditor determines that appropriate action is not being taken within a reasonable time, the auditor shall report the determination to the governor and to the legislature.

(7) This section does not limit any authority conferred upon the attorney general or any other agency of government to investigate any matter. [1992 c 118 § 2; 1989 c 284 § 3; 1982 c 208 § 4.]

42.40.050 Retaliatory action against whistleblower—Remedies. Any person who is a whistleblower, as defined in RCW 42.40.020, and who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action has the remedies provided under chapter 49.60 RCW. For the purpose of this section "reprisal or retaliatory action" means but is not limited to:

- (1) Denial of adequate staff to perform duties;
- (2) Frequent staff changes;
- (3) Frequent and undesirable office changes;
- (4) Refusal to assign meaningful work;
- (5) Unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations;
- (6) Demotion;
- (7) Reduction in pay;
- (8) Denial of promotion;
- (9) Suspension;
- (10) Dismissal;
- (11) Denial of employment; and
- (12) A supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower.

Nothing in this section prohibits an agency from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower. However, the agency also shall implement any order under chapter 49.60 RCW (other than an order of suspension if the agency has terminated the retaliator). [1992 c 118 § 3; 1989 c 284 § 4; 1982 c 208 § 5.]

42.40.070 Summary of chapter available to employees. A written summary of this chapter and procedures for reporting improper governmental actions established by the auditor's office shall be made available by each department or agency of state government to each employee upon entering public employment. Employees shall be notified by each department or agency of state government each year of the procedures and protections under this chapter. [1989 c 284 § 5; 1982 c 208 § 7.]

42.40.900 Severability—1982 c 208. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1982 c 208 § 14.]

Chapter 42.41

LOCAL GOVERNMENT WHISTLEBLOWER PROTECTION

Sections

42.41.010	Policy.
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42.41.900	Construction.
42.41.901	Effective dates—1992 c 44.
42.41.902	Severability—1992 c 44.

42.41.010 Policy. It is the policy of the legislature that local government employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions of local government officials and employees. The purpose of this chapter is to protect local government employees who make good-faith reports to appropriate governmental bodies and to provide remedies for such individuals who are subjected to retaliation for having made such reports. [1992 c 44 § 1.]

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

(1)(a) "Improper governmental action" means any action by a local government officer or employee:

(i) That is undertaken in the performance of the officer's or employee's official duties, whether or not the action is within the scope of the employee's employment; and

(ii) That is in violation of any federal, state, or local law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety, or is a gross waste of public funds.

(b) "Improper governmental action" does not include personnel actions including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the local government collective bargaining and civil service laws, alleged labor agreement violations, reprimands, or any action that may be taken under chapter 41.08, 41.12, 41.14, 41.56, 41.59, or 53.18 RCW or RCW 54.04.170 and 54.04.180.

(2) "Local government" means any governmental entity other than the state, federal agencies, or an operating system established under chapter 43.52 RCW. It includes, but is not limited to cities, counties, school districts, and special purpose districts.

(3) "Retaliatory action" means: (a) Any adverse change in a local government employee's employment status, or the terms and conditions of employment including denial of adequate staff to perform duties, frequent staff changes, frequent and undesirable office changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations, demotion, transfer, reassignment, reduction in pay, denial of promotion, suspension, dismissal, or any other disciplinary action; or (b) hostile actions by another employee towards a local government employee that were encouraged by a supervisor or senior manager or official.

(4) "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property. [1994 c 210 § 1; 1992 c 44 § 2.]

42.41.030 Right to report improper governmental action—Policies and procedures. (1) Every local government employee has the right to report to the appropriate person or persons information concerning an alleged improper governmental action.

(2) The governing body or chief administrative officer of each local government shall adopt a policy on the appropriate procedures to follow for reporting such information and shall provide information to their employees on the policy. Local governments are encouraged to consult with their employees on the policy.

(3) The policy shall describe the appropriate person or persons within the local government to whom to report information and a list of appropriate person or persons outside the local government to whom to report. The list shall include the county prosecuting attorney.

(4) Each local government shall permanently post a summary of the procedures for reporting information on an alleged improper governmental action and the procedures for protection against retaliatory actions described in RCW 42.41.040 in a place where all employees will have reasonable access to it. A copy of the summary shall be made available to any employee upon request.

(5) A local government may require as part of its policy that, except in the case of an emergency, before an employee provides information of an improper governmental action to

a person or an entity who is not a public official or a person listed pursuant to subsection (3) of this section, the employee shall submit a written report to the local government. Where a local government has adopted such a policy under this section, an employee who fails to make a good faith attempt to follow the policy shall not receive the protections of this chapter.

(6) If a local government has failed to adopt a policy as required by subsection (2) of this section, an employee may report alleged improper government action directly to the county prosecuting attorney or, if the prosecuting attorney or an employee of the prosecuting attorney participated in the alleged improper government action, to the state auditor. The cost incurred by the state auditor in such investigations shall be paid by the local government through the municipal revolving account authorized in RCW 43.09.282.

(7) The identity of a reporting employee shall be kept confidential to the extent possible under law, unless the employee authorizes the disclosure of his or her identity in writing. [1995 c 213 § 1; 1992 c 44 § 3.]

42.41.040 Retaliatory action unlawful—Relief by whistleblower—Penalty. (1) It is unlawful for any local government official or employee to take retaliatory action against a local government employee because the employee provided information in good faith in accordance with the provisions of this chapter that an improper governmental action occurred.

(2) In order to seek relief under this chapter, a local government employee shall provide a written notice of the charge of retaliatory action to the governing body of the local government that:

- (a) Specifies the alleged retaliatory action; and
- (b) Specifies the relief requested.

(3) The charge shall be delivered to the local government no later than thirty days after the occurrence of the alleged retaliatory action. The local government has thirty days to respond to the charge of retaliatory action and request for relief.

(4) Upon receipt of either the response of the local government or after the last day upon which the local government could respond, the local government employee may request a hearing to establish that a retaliatory action occurred and to obtain appropriate relief as defined in this section. The request for a hearing shall be delivered to the local government within fifteen days of delivery of the response from the local government, or within fifteen days of the last day on which the local government could respond.

(5) Within five working days of receipt of the request for hearing, the local government shall apply to the state office of administrative hearings for an adjudicative proceeding before an administrative law judge. Except as otherwise provided in this section, the proceedings shall comply with RCW 34.05.410 through 34.05.598.

(6) The employee, as the initiating party, must prove his or her claim by a preponderance of the evidence. The administrative law judge shall issue a final decision consisting of findings of fact, conclusions of law, and judgment no later than forty-five days after the date the request for hearing was delivered to the local government. The administrative law judge may grant specific extensions of time

beyond this period of time for rendering a decision at the request of either party upon a showing of good cause, or upon his or her own motion.

(7) Relief that may be granted by the administrative law judge consists of reinstatement, with or without back pay, and such injunctive relief as may be found to be necessary in order to return the employee to the position he or she held before the retaliatory action and to prevent any recurrence of retaliatory action. The administrative law judge may award costs and reasonable attorneys' fees to the prevailing party.

(8) If a determination is made that retaliatory action has been taken against the employee, the administrative law judge may, in addition to any other remedy, impose a civil penalty personally upon the retaliator of up to three thousand dollars payable by each person found to have retaliated against the employee and recommend to the local government that any person found to have retaliated against the employee be suspended with or without pay or dismissed. All penalties recovered shall be paid to the local government administrative hearings account created in RCW 42.41.060.

(9) The final decision of the administrative law judge is subject to judicial review under the arbitrary and capricious standard. Relief ordered by the administrative law judge may be enforced by petition to superior court. [1992 c 44 § 4.]

42.41.045 Prohibition on intimidation of whistleblower—Nondisclosure of protected information.

(1) A local government official or employee may not use his or her official authority or influence, directly or indirectly, to threaten, intimidate, or coerce an employee for the purpose of interfering with that employee's right to disclose information concerning an improper governmental action in accordance with the provisions of this chapter.

(2) Nothing in this section authorizes an individual to disclose information prohibited by law. [1994 c 210 § 2.]

42.41.050 Exemptions. Any local government that has adopted or adopts a program for reporting alleged improper governmental actions and adjudicating retaliation resulting from such reporting shall be exempt from this chapter if the program meets the intent of this chapter. [1992 c 44 § 6.]

42.41.060 Local government administrative hearings account. The local government administrative hearings account is created in the custody of the state treasurer. All receipts from penalties in RCW 42.41.040 and the surcharges under RCW 43.09.2801 shall be deposited into the account. Expenditures from the account may be used only for administrative hearings under this chapter. Only the chief administrative law judge or his or her designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. [1992 c 44 § 7.]

42.41.900 Construction. This chapter shall not be construed to permit disclosures that would diminish the rights of any person to the continued protection of confidentiality of communications where statute or common law provides such protection. [1992 c 44 § 5.]

42.41.901 Effective dates—1992 c 44. Sections 1 through 10 of this act shall take effect January 1, 1993. Section 11 of this act shall take effect July 1, 1992. [1992 c 44 § 13.]

42.41.902 Severability—1992 c 44. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1992 c 44 § 14.]

Chapter 42.44
NOTARIES PUBLIC

Sections

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42.44.903 Effective date—1985 c 156.

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

(1) "Director" means the director of licensing of the state of Washington or the director's designee.

(2) "Notarial act" and "notarization" mean: (a) Taking an acknowledgment; (b) administering an oath or affirmation; (c) taking a verification upon oath or affirmation; (d) witnessing or attesting a signature; (e) certifying or attesting a copy; (f) receiving a protest of a negotiable instrument; (g) certifying that an event has occurred or an act has been performed; and (h) any other act that a notary public of this state is authorized to perform.

(3) "Notary public" and "notary" mean any person appointed to perform notarial acts in this state.

(4) "Acknowledgment" means a statement by a person that the person has executed an instrument as the person's free and voluntary act for the uses and purposes stated therein and, if the instrument is executed in a representative capacity, a statement that the person signed the document with proper authority and executed it as the act of the person or entity represented and identified therein.

(5) "Verification upon oath or affirmation" means a statement by a person who asserts it to be true and makes

the assertion upon oath or affirmation administered in accordance with chapter 5.28 RCW.

(6) "In a representative capacity" means:

(a) For and on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative;

(b) As a public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;

(c) As an attorney in fact for a principal; or

(d) In any other capacity as an authorized representative of another.

(7) "Serious crime" means any felony or any lesser crime, a necessary element of which, as determined by the statutory or common law definition of such crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, the unauthorized practice of law, deceit, bribery, extortion, misappropriation, theft, or an attempt, a conspiracy, or the solicitation of another to commit a serious crime. [1985 c 156 § 1.]

42.44.020 Qualifications—Application—Bond. (1)

The director may, upon application, appoint to be a notary public in this state, any person who:

(a) Is at least eighteen years of age;

(b) Resides in Washington state, or resides in an adjoining state and is regularly employed in Washington state or carries on business in Washington state; and

(c) Can read and write English.

(2) Each application shall be accompanied by endorsements by at least three residents of this state of the age of eighteen or more, who are not relatives of the applicant, in the following form:

I, (name of endorser), being a person eligible to vote in the state of Washington, believe the applicant for a notary public appointment, (applicant's name), who is not related to me, to be a person of integrity and good moral character and capable of performing notarial acts.

(Endorser's signature and address, with date of signing)

(3) Every application for appointment as a notary public shall be accompanied by a fee established by the director by rule.

(4) Every applicant for appointment as a notary public shall submit an application in a form prescribed by the director, and shall sign the following declaration in the presence of a notary public of this state:

Declaration of Applicant

I, (name of applicant), solemnly swear or affirm under penalty of perjury that the personal information I have provided in this application is true, complete, and correct; that I carefully have read the materials provided with the application describing the duties of a notary public in and for the state of Washington; and, that I will perform, to the best of my ability, all notarial acts in accordance with the law.

(Signature of applicant)

State of Washington
County of

On this day appeared before me, signed this Declaration of Application, and swore (or affirmed) that (he/she) understood its contents and that its contents are truthful.

Dated:

.....
Signature of notary public

(Seal or stamp)

Residing at

(5) Every applicant shall submit to the director proof from a surety company that a ten thousand dollar surety bond, insuring the proper performance of notarial acts by the applicant, will be effective for a term commencing on the date the person is appointed, and expiring on the date the applicant's notary appointment expires. The surety for the bond shall be a company qualified to write surety bonds in this state. [1985 c 156 § 2.]

42.44.030 Appointment denied certain persons. The director may deny appointment as a notary public to any person who:

- (1) Has been convicted of a serious crime;
- (2) Has had a notary appointment or other professional license revoked, suspended, or restricted in this or any other state;
- (3) Has engaged in official misconduct as defined in *section 17(1) of this act, whether or not criminal penalties resulted; or
- (4) Has performed a notarial act or acts in a manner found by the director to constitute gross negligence, a course of negligent conduct, or reckless disregard of his or her responsibility as a notary public. [1985 c 156 § 3.]

*Reviser's note: A literal translation of "section 17(1) of this act" would be RCW 42.44.170(1); however, RCW 42.44.160(1) was apparently intended.

42.44.040 Certificate of appointment. The director shall deliver a certificate evidencing the appointment to each person appointed as a notary public. The certificate may be signed in facsimile by the governor, the secretary of state, and the director or the director's designee. The certificate shall bear a printed seal of the state of Washington. [1985 c 156 § 4.]

42.44.050 Seal or stamp. Every person appointed as a notary public in this state shall procure a seal or stamp, on which shall be engraved or impressed the words "Notary Public" and "State of Washington," the date the appointment expires, the person's surname, and at least the initials of the person's first and middle names. The director shall prescribe by rule the size and form or forms of the seal or stamp. It is unlawful for any person intentionally to manufacture, give, sell, procure or possess a seal or stamp evidencing the current appointment of a person as a notary public until the director has delivered a certificate evidencing the appointment as provided for in RCW 42.44.040. [1985 c 156 § 5.]

42.44.060 Term. A person appointed as a notary public by the director may perform notarial acts in this state for a term of four years, unless:

- (1) The notarial appointment has been revoked under RCW 42.44.130 or 42.44.140; or
- (2) The notarial appointment has been resigned. [1985 c 156 § 6.]

42.44.070 Reappointment without endorsements. A person who has received an appointment as a notary public may be reappointed without the endorsements required in RCW 42.44.020(2) if the person submits a new application before the expiration date of the current appointment. [1985 c 156 § 7.]

42.44.080 Standards for notarial acts. A notary public is authorized to perform notarial acts in this state. Notarial acts shall be performed in accordance with the following, as applicable:

- (1) In taking an acknowledgment, a notary public must determine and certify, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the acknowledgement is the person whose true signature is on the document.
- (2) In taking an acknowledgment authorized by RCW 64.08.100 from a person physically unable to sign his or her name or make a mark, a notary public shall, in addition to other requirements for taking an acknowledgment, determine and certify from personal knowledge or satisfactory evidence that the person appearing before the notary public is physically unable to sign his or her name or make a mark and is otherwise competent. The notary public shall include in the acknowledgment a statement that the signature in the acknowledgment was obtained under the authority of RCW 64.08.100.
- (3) In taking a verification upon oath or affirmation, a notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the verification is the person whose true signature is on the statement verified.
- (4) In witnessing or attesting a signature, a notary public must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the notary public and named in the document.
- (5) In certifying or attesting a copy of a document or other item, a notary public must determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied.
- (6) In making or noting a protest of a negotiable instrument, a notary public must determine the matters set forth in *RCW 62A.3-509.
- (7) In certifying that an event has occurred or an act has been performed, a notary public must determine the occurrence or performance either from personal knowledge or from satisfactory evidence based upon the oath or affirmation of a credible witness personally known to the notary public.
- (8) A notary public has satisfactory evidence that a person is the person described in a document if that person: (a) Is personally known to the notary public; (b) is identified upon the oath or affirmation of a credible witness personally known to the notary public; or (c) is identified on the basis of identification documents.

(9) The signature and seal or stamp of a notary public are prima facie evidence that the signature of the notary is genuine and that the person is a notary public.

(10) A notary public is disqualified from performing a notarial act when the notary is a signer of the document which is to be notarized. [1987 c 76 § 3; 1985 c 156 § 8.]

*Reviser's note: RCW 62A.3-509 was repealed by 1993 c 229 § 76, effective July 1, 1994.

42.44.090 Form of certificate—General—Seal or stamp as exclusive property. (1) A notarial act by a notary public must be evidenced by a certificate signed and dated by a notary public. The certificate must include the name of the jurisdiction in which the notarial act is performed and the title of the notary public or other notarial officer and shall be accompanied by an impression of the official seal or stamp. It shall not be necessary for a notary public in certifying an oath to be used in any of the courts in this state, to append an impression of the official seal or stamp. If the notarial officer is a notary public, the certificate shall also indicate the date of expiration of such notary public's appointment, but omission of that information may subsequently be corrected.

(2) A certificate of a notarial act is sufficient if it meets the requirements of subsection (1) of this section and it:

- (a) Is in the short form set forth in RCW 42.44.100;
- (b) Is in a form otherwise permitted or prescribed by the laws of this state;
- (c) Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or
- (d) Is in a form that sets forth the actions of the notary public and the described actions are sufficient to meet the requirements of the designated notarial act.

If any law of this state specifically requires a certificate in a form other than that set forth in RCW 42.44.100 in connection with a form of document or transaction, the certificate required by such law shall be used for such document or transaction.

(3) By executing a certificate of a notarial act, the notary public certifies that he or she has made the determinations required by RCW 42.44.080.

(4) A notary public's seal or stamp shall be the exclusive property of the notary public, shall not be used by any other person, and shall not be surrendered to an employer upon termination of employment, regardless of whether the employer paid for the seal or for the notary's bond or appointment fees. [1985 c 156 § 9.]

42.44.100 Short forms of certificate. The following short forms of notarial certificates are sufficient for the purposes indicated, if completed with the information required by this section:

(1) For an acknowledgment in an individual capacity:

State of Washington
County of

I certify that I know or have satisfactory evidence that (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and

voluntary act for the uses and purposes mentioned in the instrument.

Dated:

(Seal or stamp)

.....
(Signature)
.....
Title
My appointment
expires

(2) For an acknowledgment in a representative capacity:

State of Washington
County of

I certify that I know or have satisfactory evidence that (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated:

(Seal or stamp)

.....
(Signature)
.....
Title
My appointment
expires

(3) For a verification upon oath or affirmation:

State of Washington
County of

Signed and sworn to (or affirmed) before me on (date) by (name of person making statement).

(Seal or stamp)

.....
(Signature)
.....
Title
My appointment
expires

(4) For witnessing or attesting a signature:

State of Washington
County of

Signed or attested before me on ... by

(Seal or stamp)

.....
(Signature)
.....
Title
My appointment
expires

(5) For attestation of a copy of a document:

State of Washington
County of

I certify that this is a true and correct copy of a document in the possession of as of this date.

Dated:

.....
(Signature)

(Seal or stamp)

.....
Title
My appointment expires

(6) For certifying the occurrence of an event or the performance of an act:

State of Washington
County of

I certify that the event or act described in this document has occurred or been performed.

Dated:

.....
(Signature)

(Seal or stamp)

.....
Title
My appointment expires

[1988 c 69 § 4; 1985 c 156 § 10.]

42.44.110 Illegible writing. The illegibility of any wording, writing, or marking required under this chapter does not in and of itself affect the validity of a document or transaction. [1985 c 156 § 11.]

42.44.120 Fees. (1) The director shall establish by rule the maximum fees that may be charged by notaries public for various notarial services.

(2) A notary public need not charge fees for notarial acts. [1985 c 156 § 12.]

42.44.130 Notarial acts by officials of other jurisdictions. (1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state, if performed in another state, commonwealth, territory, district, or possession of the United States by any of the following persons:

- (a) A notary public of that jurisdiction;
- (b) A judge, clerk, or deputy clerk of a court of that jurisdiction; or
- (c) Any other person authorized by the law of that jurisdiction to perform notarial acts.

Notarial acts performed in other jurisdictions of the United States under federal authority as provided in RCW 42.44.140 have the same effect as if performed by a notarial officer of this state.

(2) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(3) The signature and title of an officer listed in subsection (1) (a) and (b) of this section conclusively establish the authority of a holder of that title to perform a notarial act. [1985 c 156 § 13.]

42.44.140 Notarial acts by federal authorities. (1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state if performed by any of the following persons under authority granted by the law of the United States:

- (a) A judge, clerk, or deputy clerk of a court;
- (b) A commissioned officer in active service with the military forces of the United States;
- (c) An officer of the foreign service or consular agent of the United States; or
- (d) Any other person authorized by federal law to perform notarial acts.

(2) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(3) The signature and title or rank of an officer listed in subsection (1) (a), (b), and (c) of this section conclusively establish the authority of a holder of that title to perform a notarial act. [1985 c 156 § 14.]

42.44.150 Notarial acts by foreign authorities. (1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state if performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by any of the following persons:

- (a) A notary public or notary;
- (b) A judge, clerk, or deputy clerk of a court of record; or
- (c) Any other person authorized by the law of that jurisdiction to perform notarial acts.

(2) An "apostille" in the form prescribed by the Hague Convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the designated office.

(3) A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of that nation stationed in the United States, is prima facie evidence of the authenticity or validity of the notarial act set forth in the certificate.

(4) A stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds that designated title.

(5) A stamp or seal of an officer listed in subsection (1) (a) or (b) of this section is prima facie evidence that a person with that title has authority to perform notarial acts.

(6) If the title of officer and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established. [1985 c 156 § 15.]

42.44.160 Official misconduct—Penalty. (1) A notary public commits official misconduct when he or she

signs a certificate evidencing a notarial act, knowing that the contents of the certificate are false.

(2) A notary public who commits an act of official misconduct shall be guilty of a gross misdemeanor.

(3) Any person not appointed as a notary public who acts as or otherwise impersonates a notary public shall be guilty of a gross misdemeanor. [1985 c 156 § 16.]

42.44.170 Revocation of appointment—Resignation.

(1) The director may revoke the appointment of any notary public for any reason for which appointment may be denied under RCW 42.44.030.

(2) The director shall revoke the appointment of a notary public upon a judicial finding of incompetency of the notary public. If a notary public is found to be incompetent, his or her guardian or conservator shall within thirty days of such finding mail or deliver to the director a letter of resignation on behalf of the notary public.

(3) A notary public may voluntarily resign by mailing or delivering to the director a letter of resignation. [1985 c 156 § 17.]

42.44.180 Evidence of authenticity of notarial seal and signature. (1) The authenticity of the notarial seal and official signature of a notary public of this state may be evidenced by:

(a) A certificate of authority from the director or the secretary of state; or

(b) An apostille in the form prescribed by the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents of October 5, 1961.

(2) An apostille as specified by the Hague Convention shall be attached to any document requiring authentication that is sent to a nation that has signed and ratified the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents. [1985 c 156 § 18.]

42.44.190 Rules. On or before January 1, 1986, the director shall adopt rules to carry out this chapter. Such rules shall include but shall not be limited to rules concerning applications for appointment, application and renewal fees, fees chargeable for notarial services, the replacement of lost or stolen seals or stamps, changes of names or addresses of notaries, resignations of notaries, appeals of denials and revocations of appointments, and issuance of evidences of authenticity of notarial seals and signatures. [1985 c 156 § 20.]

42.44.200 Transfer of records. Records relating to the appointment and commissioning of notaries public that are in the custody of county clerks of this state on *the effective date of this act shall be transferred to the director of licensing on or before December 31, 1985. Such records may be archived by the director. [1985 c 156 § 22.]

***Reviser's note:** As used in this section, the phrase "the effective date of this act," is ambiguous; see RCW 42.44.903.

42.44.900 Savings—1985 c 156. Nothing in *this act may be interpreted to revoke any notary public appointment or commission existing on January 1, 1986. *This act does not terminate, or in any way modify, any liability, civil or

criminal, which exists on January 1, 1986. A notarial act performed before January 1, 1986, is not affected by *this act. [1985 c 156 § 21.]

***Reviser's note:** "This act" [1985 c 156] consisted of the enactment of RCW 42.44.010 through 42.44.200 and 42.44.900 through 42.44.903, the amendment of RCW 43.07.035, and the repeal of chapter 42.28 RCW and RCW 43.06.100, 43.131.2-9, and 43.131.300.

42.44.901 Construction. RCW 42.44.010, 42.44.080, 42.44.090, 42.44.100, 42.44.130, 42.44.140, and 42.44.150 shall be applied and construed to effectuate their general purpose to make the law uniform with respect to the subject of this chapter among states enacting such sections of this chapter. [1985 c 156 § 23.]

42.44.902 Severability—1985 c 156. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 156 § 24.]

42.44.903 Effective date—1985 c 156. Sections 1 through 19, 21, and 23 through 26 shall take effect on January 1, 1986. [1985 c 156 § 27.]

Reviser's note: For translation of above references see Codification Tables, Volume 0.

Chapter 42.48

RELEASE OF RECORDS FOR RESEARCH

Sections

42.48.010	Definitions.
42.48.020	Access to personal records.
42.48.030	Charge for costs of assistance.
42.48.040	Disclosure by research professional.
42.48.050	Unauthorized disclosure—Penalties.
42.48.060	Exclusions from chapter.
42.48.900	Severability—1985 c 334.

42.48.010 Definitions. For the purposes of this chapter, the following definitions apply:

(1) "Individually identifiable" means that a record contains information which reveals or can likely be associated with the identity of the person or persons to whom the record pertains.

(2) "Legally authorized representative" means a person legally authorized to give consent for the disclosure of personal records on behalf of a minor or a legally incompetent adult.

(3) "Personal record" means any information obtained or maintained by a state agency which refers to a person and which is declared exempt from public disclosure, confidential, or privileged under state or federal law.

(4) "Research" means a planned and systematic sociological, psychological, epidemiological, biomedical, or other scientific investigation carried out by a state agency, by a scientific research professional associated with a bona fide scientific research organization, or by a graduate student currently enrolled in an advanced academic degree curriculum, with an objective to contribute to scientific knowledge, the solution of social and health problems, or the evaluation of public benefit and service programs. This definition

excludes methods of record analysis and data collection that are subjective, do not permit replication, and are not designed to yield reliable and valid results.

(5) "Research record" means an item or grouping of information obtained for the purpose of research from or about a person or extracted for the purpose of research from a personal record.

(6) "State agency" means: (a) The department of social and health services; (b) the department of corrections; (c) an institution of higher education as defined in RCW 28B.10.016; or (d) the department of health. [1989 1st ex.s. c 9 § 207; 1985 c 334 § 1.]

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

42.48.020 Access to personal records. (1) A state agency may authorize or provide access to or provide copies of an individually identifiable personal record for research purposes if informed written consent for the disclosure has been given to the appropriate department secretary, or the president of the institution, as applicable, or his or her designee, by the person to whom the record pertains or, in the case of minors and legally incompetent adults, the person's legally authorized representative.

(2) A state agency may authorize or provide access to or provide copies of an individually identifiable personal record for research purposes without the informed consent of the person to whom the record pertains or the person's legally authorized representative, only if:

(a) The state agency adopts research review and approval rules including, but not limited to, the requirement that the appropriate department secretary, or the president of the institution, as applicable, appoint a standing human research review board competent to review research proposals as to ethical and scientific soundness; and the review board determines that the disclosure request has scientific merit and is of importance in terms of the agency's program concerns, that the research purposes cannot be reasonably accomplished without disclosure of the information in individually identifiable form and without waiver of the informed consent of the person to whom the record pertains or the person's legally authorized representative, that disclosure risks have been minimized, and that remaining risks are outweighed by anticipated health, safety, or scientific benefits; and

(b) The disclosure does not violate federal law or regulations; and

(c) The state agency negotiates with the research professional receiving the records or record information a written and legally binding confidentiality agreement prior to disclosure. The agreement shall:

(i) Establish specific safeguards to assure the continued confidentiality and security of individually identifiable records or record information;

(ii) Ensure that the research professional will report or publish research findings and conclusions in a manner that does not permit identification of the person whose record was used for the research. Final research reports or publications shall not include photographs or other visual representations contained in personal records;

(iii) Establish that the research professional will destroy the individual identifiers associated with the records or

record information as soon as the purposes of the research project have been accomplished and notify the agency to this effect in writing;

(iv) Prohibit any subsequent disclosure of the records or record information in individually identifiable form except as provided in RCW 42.48.040; and

(v) Provide for the signature of the research professional, of any of the research professional's team members who require access to the information in identified form, and of the agency official authorized to approve disclosure of identifiable records or record information for research purposes. [1985 c 334 § 2.]

42.48.030 Charge for costs of assistance. In addition to the copying charges provided in RCW 42.17.300, a state agency may impose a reasonable charge for costs incurred in providing assistance in the following research activities involving personal records:

(1) Manual or computer screening of personal records for scientific sampling purposes according to specifications provided by the research professional;

(2) Manual or computer extraction of information from a universe or sample of personal records according to specifications provided by the research professional;

(3) Statistical manipulation or analysis of personal record information, whether manually or by computer, according to specifications provided by the research professional.

The charges imposed by the agency may not exceed the amount necessary to reimburse the agency for its actual costs in providing requested research assistance. [1985 c 334 § 3.]

42.48.040 Disclosure by research professional. No research professional who has established an individually identifiable research record from personal record information pursuant to RCW 42.48.020(2), or who has established a research record from data or information voluntarily provided by an agency client or employee under a written confidentiality assurance for the explicit purpose of research, may disclose such a record in individually identifiable form unless:

(1) The person to whom the research record pertains or the person's legally authorized representative has given prior informed written consent for the disclosure; or

(2) The research professional reasonably believes that disclosure will prevent or minimize injury to a person and the disclosure is limited to information necessary to protect the person who has been or may be injured, and the research professional reports the disclosure only to the person involved or the person's guardian, the person's physician, and the agency; or

(3)(a) The research record is disclosed in individually identifiable form for the purposes of auditing or evaluating a research program; and

(b) The audit or evaluation is authorized or required by federal or state law or regulation or is based upon an explicit provision in a research contract, grant, or other written research agreement; and

(c) No subsequent disclosure of the research record in individually identifiable form will be made by the auditor or evaluator except as provided in this section; or

(4) The research record is furnished in compliance with a search warrant or court order: PROVIDED, That:

(a) The court issues the search warrant or judicial subpoena concerning the research record solely for the purpose of facilitating inquiry into an alleged violation of law by the research professional using the record for a research purpose or by the agency; and

(b) Any research record obtained pursuant to (a) of this subsection and any information directly or indirectly derived from the research record shall remain confidential to the extent possible and shall not be used as evidence in an administrative, judicial, or legislative proceeding except against the research professional using the record for a research purpose or against the state agency. [1985 c 334 § 4.]

42.48.050 Unauthorized disclosure—Penalties. Unauthorized disclosure, whether wilful or negligent, by a research professional who has obtained an individually identifiable personal record or record information from a state agency pursuant to RCW 42.48.020(2) is a gross misdemeanor. In addition, violation of any provision of this chapter by the research professional or the state agency may subject the research professional or the agency to a civil penalty of not more than ten thousand dollars for each such violation. [1985 c 334 § 5.]

42.48.060 Exclusions from chapter. Nothing in this chapter is applicable to, or in any way affects, the powers and duties of the state auditor or the joint legislative audit and review committee. [1996 c 288 § 34; 1985 c 334 § 6.]

42.48.900 Severability—1985 c 334. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 334 § 8.]

Chapter 42.52

ETHICS IN PUBLIC SERVICE

Sections

42.52.010	Definitions.
42.52.020	Activities incompatible with public duties.
42.52.030	Financial interests in transactions.
42.52.040	Assisting in transactions.
42.52.050	Confidential information—Improperly concealed records.
42.52.060	Testimony of state officers and state employees.
42.52.070	Special privileges.
42.52.080	Employment after public service.
42.52.090	Limited assistance by former state officers and employees.
42.52.100	Conditions on appearance before state agencies or doing business with the state—Hearing—Judicial review.
42.52.110	Compensation for official duties or nonperformance.
42.52.120	Compensation for outside activities.
42.52.130	Honoraria.
42.52.140	Gifts.
42.52.150	Limitations on gifts.
42.52.160	Use of persons, money, or property for private gain.
42.52.170	Giving, paying, loaning, etc., any thing of economic value to state employee.
42.52.180	Use of public resources for political campaigns.
42.52.190	Investments.
42.52.200	Agency rules.

42.52.310	Legislative ethics board.
42.52.320	Authority of legislative ethics board.
42.52.330	Interpretation.
42.52.340	Transfer of jurisdiction.
42.52.350	Executive ethics board.
42.52.360	Authority of executive ethics board.
42.52.370	Authority of commission on judicial conduct.
42.52.380	Political activities of citizen board members.
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42.52.400	Enforcement of subpoena authority.
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42.52.530	Additional investigative authority.
42.52.540	Limitations period.
42.52.550	Compensation of ethics boards.
42.52.900	Legislative declaration.
42.52.901	Liberal construction.
42.52.902	Parts and captions not law—1994 c 154.
42.52.903	Serving on board, committee, or commission not prevented.
42.52.904	Effective date—1994 c 154.
42.52.905	Severability—1994 c 154.

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

(1) "Agency" means any state board, commission, bureau, committee, department, institution, division, or tribunal in the legislative, executive, or judicial branch of state government. "Agency" includes all elective offices, the state legislature, those institutions of higher education created and supported by the state government, and those courts that are parts of state government.

(2) "Head of agency" means the chief executive officer of an agency. In the case of an agency headed by a commission, board, committee, or other body consisting of more than one natural person, agency head means the person or board authorized to appoint agency employees and regulate their conduct.

(3) "Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to another person, believing that the action is of help, aid, advice, or assistance to the person and with intent so to assist such person.

(4) "Beneficial interest" has the meaning ascribed to it under the Washington case law. However, an ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool invests.

(5) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, or transferred, or to be paid, loaned, granted, or transferred for, or in consideration of, personal services to any person.

(6) "Confidential information" means (a) specific information, rather than generalized knowledge, that is not available to the general public on request or (b) information made confidential by law.

(7) "Contract" or "grant" means an agreement between two or more persons that creates an obligation to do or not to do a particular thing. "Contract" or "grant" includes, but is not limited to, an employment contract, a lease, a license, a purchase agreement, or a sales agreement.

(8) "Ethics boards" means the commission on judicial conduct, the legislative ethics board, and the executive ethics board.

(9) "Family" has the same meaning as "immediate family" in RCW 42.17.020.

(10) "Gift" means anything of economic value for which no consideration is given. "Gift" does not include:

(a) Items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;

(b) Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;

(c) Items exchanged among officials and employees or a social event hosted or sponsored by a state officer or state employee for coworkers;

(d) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

(e) Items a state officer or state employee is authorized by law to accept;

(f) Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide nonprofit professional, educational, or trade association, or charitable institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

(g) Items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;

(h) Campaign contributions reported under chapter 42.17 RCW;

(i) Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group; and

(j) Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.

(11) "Honorarium" means money or thing of value offered to a state officer or state employee for a speech, appearance, article, or similar item or activity in connection with the state officer's or state employee's official role.

(12) "Official duty" means those duties within the specific scope of employment of the state officer or state employee as defined by the officer's or employee's agency or by statute or the state Constitution.

(13) "Participate" means to participate in state action or a proceeding personally and substantially as a state officer or state employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or otherwise but does not include preparation, consideration, or

enactment of legislation or the performance of legislative duties.

(14) "Person" means any individual, partnership, association, corporation, firm, institution, or other entity, whether or not operated for profit.

(15) "Regulatory agency" means any state board, commission, department, or officer, except those in the legislative or judicial branches, authorized by law to conduct adjudicative proceedings, issue permits or licenses, or to control or affect interests of identified persons.

(16) "Responsibility" in connection with a transaction involving the state, means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or through subordinates, effectively to approve, disapprove, or otherwise direct state action in respect of such transaction.

(17) "State action" means any action on the part of an agency, including, but not limited to:

(a) A decision, determination, finding, ruling, or order; and

(b) A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

(18) "State officer" means every person holding a position of public trust in or under an executive, legislative, or judicial office of the state. "State officer" includes judges of the superior court, judges of the court of appeals, justices of the supreme court, members of the legislature together with the secretary of the senate and the chief clerk of the house of representatives, holders of elective offices in the executive branch of state government, chief executive officers of state agencies, members of boards, commissions, or committees with authority over one or more state agencies or institutions, and employees of the state who are engaged in supervisory, policy-making, or policy-enforcing work. For the purposes of this chapter, "state officer" also includes any person exercising or undertaking to exercise the powers or functions of a state officer.

(19) "State employee" means an individual who is employed by an agency in any branch of state government. For purposes of this chapter, employees of the superior courts are not state officers or state employees.

(20) "Thing of economic value," in addition to its ordinary meaning, includes:

(a) A loan, property interest, interest in a contract or other chose in action, and employment or another arrangement involving a right to compensation;

(b) An option, irrespective of the conditions to the exercise of the option; and

(c) A promise or undertaking for the present or future delivery or procurement.

(21)(a) "Transaction involving the state" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the state officer, state employee, or former state officer or state employee in question believes, or has reason to believe:

(i) Is, or will be, the subject of state action; or

(ii) Is one to which the state is or will be a party; or

(iii) Is one in which the state has a direct and substantial proprietary interest.

(b) "Transaction involving the state" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by an officer or employee; or a claim, case, lawsuit, or similar matter if the officer or employee did not participate in the underlying transaction involving the state that is the basis for the claim, case, or lawsuit. [1996 c 213 § 1; 1994 c 154 § 101.]

42.52.020 Activities incompatible with public duties.

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties. [1996 c 213 § 2; 1994 c 154 § 102.]

42.52.030 Financial interests in transactions. (1) No state officer or state employee, except as provided in subsections (2) and (3) of this section, may be beneficially interested, directly or indirectly, in a contract, sale, lease, purchase, or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract, sale, lease, purchase, or grant.

(2) No officer or employee of an institution of higher education or of the Spokane intercollegiate research and technology institute, except as provided in subsection (3) of this section, may be beneficially interested, directly or indirectly, in a contract or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract or grant, unless the institution of higher education or the Spokane intercollegiate research and technology institute has in effect a written administrative process to identify and manage, reduce, or eliminate conflicting interests with respect to such transactions as adopted pursuant to the national science investigator financial disclosure (GPM 510) 1995 and the public health service regulations, 42 C.F.R. Part 50 and 45 C.F.R. Subtitle A as each of those regulations existed on June 6, 1996, and the state employee or state officer has complied with such policy.

(3) No state officer or state employee may participate in a transaction involving the state in his or her official capacity with a person of which the officer or employee is an officer, agent, employee, or member, or in which the officer or employee owns a beneficial interest, except that an officer or employee of an institution of higher education or the Spokane intercollegiate research and technology institute may serve as an officer, agent, employee, or member, or on the board of directors, board of trustees, advisory board, or committee or review panel for any nonprofit institute, foundation, or fundraising entity; and may serve as a member of an advisory board, committee, or review panel for a governmental or other nonprofit entity. [1996 c 213 § 3; 1994 c 154 § 103.]

42.52.040 Assisting in transactions. (1) Except in the course of official duties or incident to official duties, no state officer or state employee may assist another person, directly or indirectly, whether or not for compensation, in a transaction involving the state:

(a) In which the state officer or state employee has at any time participated; or

(b) If the transaction involving the state is or has been under the official responsibility of the state officer or state employee within a period of two years preceding such assistance.

(2) No state officer or state employee may share in compensation received by another for assistance that the officer or employee is prohibited from providing under subsection (1) or (3) of this section.

(3) A business entity of which a state officer or state employee is a partner, managing officer, or employee shall not assist another person in a transaction involving the state if the state officer or state employee is prohibited from doing so by subsection (1) of this section.

(4) This chapter does not prevent a state officer or state employee from assisting, in a transaction involving the state:

(a) The state officer's or state employee's parent, spouse, or child, or a child thereof for whom the officer or employee is serving as guardian, executor, administrator, trustee, or other personal fiduciary, if the state officer or state employee did not participate in the transaction; or

(b) Another state employee involved in disciplinary or other personnel administration proceedings. [1994 c 154 § 104.]

42.52.050 Confidential information—Improperly concealed records. (1) No state officer or state employee may accept employment or engage in any business or professional activity that the officer or employee might reasonably expect would require or induce him or her to make an unauthorized disclosure of confidential information acquired by the official or employee by reason of the official's or employee's official position.

(2) No state officer or state employee may make a disclosure of confidential information gained by reason of the officer's or employee's official position or otherwise use the information for his or her personal gain or benefit or the gain or benefit of another, unless the disclosure has been authorized by statute or by the terms of a contract involving (a) the state officer's or state employee's agency and (b) the person or persons who have authority to waive the confidentiality of the information.

(3) No state officer or state employee may disclose confidential information to any person not entitled or authorized to receive the information.

(4) No state officer or state employee may intentionally conceal a record if the officer or employee knew the record was required to be released under chapter 42.17 RCW, was under a personal obligation to release the record, and failed to do so. This subsection does not apply where the decision to withhold the record was made in good faith. [1996 c 213 § 4; 1994 c 154 § 105.]

42.52.060 Testimony of state officers and state employees. This chapter does not prevent a state officer or

state employee from giving testimony under oath or from making statements required to be made under penalty of perjury or contempt. [1994 c 154 § 106.]

42.52.070 Special privileges. Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons. [1994 c 154 § 107.]

42.52.080 Employment after public service. (1) No former state officer or state employee may, within a period of one year from the date of termination of state employment, accept employment or receive compensation from an employer if:

(a) The officer or employee, during the two years immediately preceding termination of state employment, was engaged in the negotiation or administration on behalf of the state or agency of one or more contracts with that employer and was in a position to make discretionary decisions affecting the outcome of such negotiation or the nature of such administration;

(b) Such a contract or contracts have a total value of more than ten thousand dollars; and

(c) The duties of the employment with the employer or the activities for which the compensation would be received include fulfilling or implementing, in whole or in part, the provisions of such a contract or contracts or include the supervision or control of actions taken to fulfill or implement, in whole or in part, the provisions of such a contract or contracts. This subsection shall not be construed to prohibit a state officer or state employee from accepting employment with a state employee organization.

(2) No person who has served as a state officer or state employee may, within a period of two years following the termination of state employment, have a direct or indirect beneficial interest in a contract or grant that was expressly authorized or funded by specific legislative or executive action in which the former state officer or state employee participated.

(3) No former state officer or state employee may accept an offer of employment or receive compensation from an employer if the officer or employee knows or has reason to believe that the offer of employment or compensation was intended, in whole or in part, directly or indirectly, to influence the officer or employee or as compensation or reward for the performance or nonperformance of a duty by the officer or employee during the course of state employment.

(4) No former state officer or state employee may accept an offer of employment or receive compensation from an employer if the circumstances would lead a reasonable person to believe the offer has been made, or compensation given, for the purpose of influencing the performance or nonperformance of duties by the officer or employee during the course of state employment.

(5) No former state officer or state employee may at any time subsequent to his or her state employment assist another person, whether or not for compensation, in any transaction involving the state in which the former state officer or state

employee at any time participated during state employment. This subsection shall not be construed to prohibit any employee or officer of a state employee organization from rendering assistance to state officers or state employees in the course of employee organization business.

(6) As used in this section, "employer" means a person as defined in RCW 42.52.010 or any other entity or business that the person owns or in which the person has a controlling interest. [1994 c 154 § 108.]

42.52.090 Limited assistance by former state officers and employees. This chapter shall not be construed to prevent a former state officer or state employee from rendering assistance to others if the assistance is provided without compensation in any form and is limited to one or more of the following:

(1) Providing the names, addresses, and telephone numbers of state agencies or state employees;

(2) Providing free transportation to another for the purpose of conducting business with a state agency;

(3) Assisting a natural person or nonprofit corporation in obtaining or completing application forms or other forms required by a state agency for the conduct of a state business; or

(4) Providing assistance to the poor and infirm. [1994 c 154 § 109.]

42.52.100 Conditions on appearance before state agencies or doing business with the state—Hearing—Judicial review. (1) The head of an agency, upon finding that any former state officer or state employee of such agency or any other person has violated any provision of this chapter or rules adopted under it, may, in addition to any other powers the head of such agency may have, bar or impose reasonable conditions upon:

(a) The appearance before such agency of such former state officer or state employee or other person; and

(b) The conduct of, or negotiation or competition for, business with such agency by such former state officer or state employee or other person, such period of time as may reasonably be necessary or appropriate to effectuate the purposes of this chapter.

(2) Findings of violations referred to in subsection (1)(b) of this section shall be made on record after notice and hearing, conducted in accordance with the Washington Administrative Procedure Act, chapter 34.05 RCW. Such findings and orders are subject to judicial review.

(3) This section does not apply to the legislative or judicial branches of government. [1994 c 154 § 110; 1969 ex.s. c 234 § 27. Formerly RCW 42.18.270.]

42.52.110 Compensation for official duties or nonperformance. No state officer or state employee may, directly or indirectly, ask for or give or receive or agree to receive any compensation, gift, reward, or gratuity from a source for performing or omitting or deferring the performance of any official duty, unless otherwise authorized by law except: (1) The state of Washington; or (2) in the case of officers or employees of institutions of higher education or of the Spokane intercollegiate research and technology institute, a governmental entity, an agency or instrumentality

of a governmental entity, or a nonprofit corporation organized for the benefit and support of the state employee's agency or other state agencies pursuant to an agreement with the state employee's agency. [1996 c 213 § 5; 1994 c 154 § 111.]

42.52.120 Compensation for outside activities. (1)

No state officer or state employee may receive any thing of economic value under any contract or grant outside of his or her official duties. The prohibition in this subsection does not apply where the state officer or state employee has complied with RCW 42.52.030(2) or each of the following conditions are met:

(a) The contract or grant is bona fide and actually performed;

(b) The performance or administration of the contract or grant is not within the course of the officer's or employee's official duties, or is not under the officer's or employee's official supervision;

(c) The performance of the contract or grant is not prohibited by RCW 42.52.040 or by applicable laws or rules governing outside employment for the officer or employee;

(d) The contract or grant is neither performed for nor compensated by any person from whom such officer or employee would be prohibited by RCW 42.52.150(4) from receiving a gift;

(e) The contract or grant is not one expressly created or authorized by the officer or employee in his or her official capacity or by his or her agency;

(f) The contract or grant would not require unauthorized disclosure of confidential information.

(2) In addition to satisfying the requirements of subsection (1) of this section, a state officer or state employee may have a beneficial interest in a grant or contract with a state agency only if:

(a) The contract or grant is awarded or issued as a result of an open and competitive bidding process in which more than one bid or grant application was received; or

(b) The contract or grant is awarded or issued as a result of an open and competitive bidding or selection process in which the officer's or employee's bid or proposal was the only bid or proposal received and the officer or employee has been advised by the appropriate ethics board, before execution of the contract or grant, that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties; or

(c) The process for awarding the contract or issuing the grant is not open and competitive, but the officer or employee has been advised by the appropriate ethics board that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties.

(3) A state officer or state employee awarded a contract or issued a grant in compliance with subsection (2) of this section shall file the contract or grant with the appropriate ethics board within thirty days after the date of execution; however, if proprietary formulae, designs, drawings, or research are included in the contract or grant, the proprietary formulae, designs, drawings, or research may be deleted from the contract or grant filed with the appropriate ethics board.

(4) This section does not prevent a state officer or state employee from receiving compensation contributed from the treasury of the United States, another state, county, or municipality if the compensation is received pursuant to arrangements entered into between such state, county, municipality, or the United States and the officer's or employee's agency. This section does not prohibit a state officer or state employee from serving or performing any duties under an employment contract with a governmental entity.

(5) As used in this section, "officer" and "employee" do not include officers and employees who, in accordance with the terms of their employment or appointment, are serving without compensation from the state of Washington or are receiving from the state only reimbursement of expenses incurred or a predetermined allowance for such expenses. [1996 c 213 § 6; 1994 c 154 § 112.]

42.52.130 Honoraria. (1) No state officer or state employee may receive honoraria unless specifically authorized by the agency where they serve as state officer or state employee.

(2) An agency may not permit honoraria under the following circumstances:

(a) The person offering the honorarium is seeking or is reasonably expected to seek contractual relations with or a grant from the employer of the state officer or state employee, and the officer or employee is in a position to participate in the terms or the award of the contract or grant;

(b) The person offering the honorarium is regulated by the employer of the state officer or state employee and the officer or employee is in a position to participate in the regulation; or

(c) The person offering the honorarium (i) is seeking or opposing or is reasonably likely to seek or oppose enactment of legislation or adoption of administrative rules or actions, or policy changes by the state officer's or state employee's agency; and (ii) the officer or employee may participate in the enactment or adoption. [1994 c 154 § 113.]

42.52.140 Gifts. No state officer or state employee may receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction. [1994 c 154 § 114.]

42.52.150 Limitations on gifts. (1) No state officer or state employee may accept gifts, other than those specified in subsections (2) and (5) of this section, with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars. For purposes of this section, "single source" means any person, as defined in RCW 42.52.010, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under RCW 42.52.010. The value of gifts given to an

officer's or employee's family member shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member.

(2) Except as provided in subsection (4) of this section, the following items are presumed not to influence under RCW 42.52.140, and may be accepted without regard to the limit established by subsection (1) of this section:

(a) Unsolicited flowers, plants, and floral arrangements;
 (b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(c) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(d) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(e) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(f) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(g) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

(h) Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature.

(3) The presumption in subsection (2) of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

(4) Notwithstanding subsections (2) and (5) of this section, a state officer or state employee of a regulatory agency or of an agency that seeks to acquire goods or services who participates in those regulatory or contractual matters may receive, accept, take, or seek, directly or indirectly, only the following items from a person regulated by the agency or from a person who seeks to provide goods or services to the agency:

(a) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(b) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(c) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(d) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(e) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(f) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

(g) Those items excluded from the definition of gift in RCW 42.52.010 except:

(i) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity;

(ii) Payments for seminars and educational programs sponsored by a bona fide nonprofit professional, educational, or trade association, or charitable institution; and

(iii) Flowers, plants, and floral arrangements.

(5) A state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties. Gifts in the form of food and beverage that exceed fifty dollars on a single occasion shall be reported as provided in chapter 42.17 RCW. [1994 c 154 § 115.]

42.52.160 Use of persons, money, or property for private gain. (1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

(2) This section does not prohibit the use of public resources to benefit others as part of a state officer's or state employee's official duties.

(3) The appropriate ethics boards may adopt rules providing exceptions to this section for occasional use of the state officer or state employee, of de minimis cost and value, if the activity does not result in interference with the proper performance of public duties. [1996 c 213 § 7; 1994 c 154 § 116; 1987 c 426 § 3. Formerly RCW 42.18.217.]

42.52.170 Giving, paying, loaning, etc., any thing of economic value to state employee. No person shall give, pay, loan, transfer, or deliver, directly or indirectly, to any other person any thing of economic value believing or having reason to believe that there exist circumstances making the receipt thereof a violation of RCW 42.52.040, 42.52.110, 42.52.120, 42.52.140, or 42.52.150. [1994 c 154 § 117; 1987 c 426 § 5; 1969 ex.s. c 234 § 23. Formerly RCW 42.18.230.]

42.52.180 Use of public resources for political campaigns. (1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

(2) This section shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition as long as (i) required notice of the meeting includes the title and number of the ballot proposition, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry. For the purposes of this subsection, it is not a violation of this section for an elected official to respond to an inquiry regarding a ballot proposition, to make incidental remarks concerning a ballot proposition in an official communication, or otherwise comment on a ballot proposition without an actual, measurable expenditure of public funds. The ethics boards shall adopt by rule a definition of measurable expenditure;

(c) Activities that are part of the normal and regular conduct of the office or agency; and

(d) De minimis use of public facilities by state-wide elected officials and legislators incidental to the preparation or delivery of permissible communications, including written and verbal communications initiated by them of their views on ballot propositions that foreseeably may affect a matter that falls within their constitutional or statutory responsibilities.

(3) As to state officers and employees, this section operates to the exclusion of RCW 42.17.130. [1995 c 397 § 30; 1994 c 154 § 118.]

Effective date—Captions—Severability—1995 c 397: See RCW 42.17.960 through 42.17.962.

42.52.190 Investments. (1) Except for permissible investments as defined in this section, no state officer or state employee of any agency responsible for the investment of funds, who acts in a decision-making, advisory, or policy-influencing capacity with respect to investments, may have a direct or indirect interest in any property, security, equity, or debt instrument of a person, without prior written approval of the agency.

(2) Agencies responsible for the investment of funds shall adopt policies governing approval of investments and establishing criteria to be considered in the approval process. Criteria shall include the relationship between the proposed investment and investments held or under consideration by the state, the size and timing of the proposed investment, access by the state officer or state employee to nonpublic information relative to the proposed investment, and the availability of the investment in the public market. Agencies responsible for the investment of funds also shall adopt policies consistent with this chapter governing use by their officers and employees of financial information acquired by virtue of their state positions. A violation of such policies adopted to implement this subsection shall constitute a violation of this chapter.

(3) As used in this section, "permissible investments" means any mutual fund, deposit account, certificate of deposit, or money market fund maintained with a bank, broker, or other financial institution, a security publicly

traded in an organized market if the interest in the security at acquisition is ten thousand dollars or less, or an interest in real estate, except if the real estate interest is in or with a party in whom the agency holds an investment. [1994 c 154 § 119.]

42.52.200 Agency rules. (1) Each agency may adopt rules consistent with law, for use within the agency to protect against violations of this chapter.

(2) Each agency proposing to adopt rules under this section shall forward the rules to the appropriate ethics board before they may take effect. The board may submit comments to the agency regarding the proposed rules. [1994 c 154 § 120.]

42.52.310 Legislative ethics board. (1) The legislative ethics board is created, composed of nine members, selected as follows:

(a) Two senators, one from each of the two largest caucuses, appointed by the president of the senate;

(b) Two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives;

(c) Five citizen members:

(i) One citizen member chosen by the governor from a list of three individuals submitted by each of the four legislative caucuses; and

(ii) One citizen member selected by three of the four other citizen members of the legislative ethics board.

(2) Except for initial members and members completing partial terms, nonlegislative members shall serve a single five-year term.

(3) No more than three of the public members may be identified with the same political party.

(4) Terms of initial nonlegislative board members shall be staggered as follows: One member shall be appointed to a one-year term; one member shall be appointed to a two-year term; one member shall be appointed to a three-year term; one member shall be appointed to a four-year term; and one member shall be appointed for a five-year term.

(5) A vacancy on the board shall be filled in the same manner as the original appointment.

(6) Legislative members shall serve two-year terms, from January 31st of an odd-numbered year until January 31st of the next odd-numbered year.

(7) Each member shall serve for the term of his or her appointment and until his or her successor is appointed.

(8) The citizen members shall annually select a chair from among themselves. [1994 c 154 § 201.]

42.52.320 Authority of legislative ethics board. (1) The legislative ethics board shall enforce this chapter and rules adopted under it with respect to members and employees of the legislature.

(2) The legislative ethics board shall:

(a) Develop educational materials and training with regard to legislative ethics for legislators and legislative employees;

(b) Issue advisory opinions;

(c) Adopt rules or policies governing the conduct of business by the board, and adopt rules defining working

hours for purposes of RCW 42.52.180 and where otherwise authorized under chapter 154, Laws of 1994;

(d) Investigate, hear, and determine complaints by any person or on its own motion;

(e) Impose sanctions including reprimands and monetary penalties;

(f) Recommend suspension or removal to the appropriate legislative entity, or recommend prosecution to the appropriate authority; and

(g) Establish criteria regarding the levels of civil penalties appropriate for different types of violations of this chapter and rules adopted under it.

(3) The board may:

(a) Issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing;

(b) Administer oaths and affirmations;

(c) Examine witnesses; and

(d) Receive evidence.

(4) Subject to RCW 42.52.540, the board has jurisdiction over any alleged violation that occurred before January 1, 1995, and that was within the jurisdiction of any of the boards established under *chapter 44.60 RCW. The board's jurisdiction with respect to any such alleged violation shall be based on the statutes and rules in effect at [the] time of the violation. [1994 c 154 § 202.]

*Reviser's note: Chapter 44.60 RCW was repealed by 1994 c 154 § 304, effective January 1, 1995.

42.52.330 Interpretation. By constitutional design, the legislature consists of citizen-legislators who bring to bear on the legislative process their individual experience and expertise. The provisions of this chapter shall be interpreted in light of this constitutional principle. [1994 c 154 § 203.]

42.52.340 Transfer of jurisdiction. On January 1, 1995, any complaints or other matters under investigation or consideration by the boards of legislative ethics in the house of representatives and the senate operating pursuant to *chapter 44.60 RCW shall be transferred to the legislative ethics board created by RCW 42.52.310. All files, including but not limited to minutes of meetings, investigative files, records of proceedings, exhibits, and expense records, shall be transferred to the legislative ethics board created in RCW 42.52.310 pursuant to their direction and the legislative ethics board created in RCW 42.52.310 shall assume full jurisdiction over all pending complaints, investigations, and proceedings. [1994 c 154 § 204.]

*Reviser's note: Chapter 44.60 RCW was repealed by 1994 c 154 § 304, effective January 1, 1995.

42.52.350 Executive ethics board. (1) The executive ethics board is created, composed of five members, appointed by the governor as follows:

(a) One member shall be a classified service employee as defined in chapter 41.06 RCW;

(b) One member shall be a state officer or state employee in an exempt position;

(c) One member shall be a citizen selected from a list of three names submitted by the attorney general;

(d) One member shall be a citizen selected from a list of three names submitted by the state auditor; and

(e) One member shall be a citizen selected at large by the governor.

(2) Except for initial members and members completing partial terms, members shall serve a single five-year term.

(3) No more than three members may be identified with the same political party.

(4) Terms of initial board members shall be staggered as follows: One member shall be appointed to a one-year term; one member shall be appointed to a two-year term; one member shall be appointed to a three-year term; one member shall be appointed to a four-year term; and one member shall be appointed to a five-year term.

(5) A vacancy on the board shall be filled in the same manner as the original appointment.

(6) Each member shall serve for the term of his or her appointment and until his or her successor is appointed.

(7) The members shall annually select a chair from among themselves.

(8) Staff shall be provided by the office of the attorney general. [1994 c 154 § 205.]

42.52.360 Authority of executive ethics board. (1) The executive ethics board shall enforce this chapter and rules adopted under it with respect to state-wide elected officers and all other officers and employees in the executive branch, boards and commissions, and institutions of higher education.

(2) The executive ethics board shall:

(a) Develop educational materials and training;

(b) Adopt rules and policies governing the conduct of business by the board, and adopt rules defining working hours for purposes of RCW 42.52.180 and where otherwise authorized under chapter 154, Laws of 1994;

(c) Issue advisory opinions;

(d) Investigate, hear, and determine complaints by any person or on its own motion;

(e) Impose sanctions including reprimands and monetary penalties;

(f) Recommend to the appropriate authorities suspension, removal from position, prosecution, or other appropriate remedy; and

(g) Establish criteria regarding the levels of civil penalties appropriate for violations of this chapter and rules adopted under it.

(3) The board may:

(a) Issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing;

(b) Administer oaths and affirmations;

(c) Examine witnesses; and

(d) Receive evidence.

(4) The executive ethics board may review and approve agency policies as provided for in this chapter.

(5) This section does not apply to state officers and state employees of the judicial branch. [1994 c 154 § 206.]

42.52.370 Authority of commission on judicial conduct. The commission on judicial conduct shall enforce this chapter and rules adopted under it with respect to state officers and employees of the judicial branch and may do so according to procedures prescribed in Article IV, section 31 of the state Constitution. In addition to the sanctions authorized in Article IV, section 31 of the state Constitution, the commission may impose sanctions authorized by this chapter. [1994 c 154 § 207.]

42.52.380 Political activities of citizen board members. No member of the executive ethics board and none of the five citizen members of the legislative ethics board may (1) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (2) be an officer of any political party or political committee as defined in chapter 42.17 RCW other than the position of precinct committeeperson; (3) permit his or her name to be used, or make contributions, in support of or in opposition to any state candidate or state ballot measure; or (4) lobby or control, direct, or assist a lobbyist except that such member may appear before any committee of the legislature on matters pertaining to this chapter. [1994 c 154 § 208.]

42.52.390 Hearing and subpoena authority. Except as otherwise provided by law, the ethics boards may hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of a person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the ethics board. The ethics board may make rules as to the issuance of subpoenas by individual members, as to service of complaints, decisions, orders, recommendations, and other process or papers of the ethics board. [1994 c 154 § 209.]

42.52.400 Enforcement of subpoena authority. In case of refusal to obey a subpoena issued to a person, the superior court of a county within the jurisdiction of which the investigation, proceeding, or hearing under this chapter is carried on or within the jurisdiction of which the person refusing to obey is found or resides or transacts business, upon application by the appropriate ethics board shall have jurisdiction to issue to the person an order requiring the person to appear before the ethics board or its member to produce evidence if so ordered, or to give testimony touching the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as contempt. [1994 c 154 § 210.]

42.52.410 Filing complaint. (1) A person may, personally or by his or her attorney, make, sign, and file with the appropriate ethics board a complaint on a form provided by the appropriate ethics board. The complaint shall state the name of the person alleged to have violated this chapter or rules adopted under it and the particulars thereof, and contain such other information as may be required by the appropriate ethics board.

(2) If it has reason to believe that any person has been engaged or is engaging in a violation of this chapter or rules

adopted under it, an ethics board may issue a complaint. [1994 c 154 § 211.]

42.52.420 Investigation. After the filing of any complaint, except as provided in RCW 42.52.450, the staff of the appropriate ethics board shall investigate the complaint. The investigation shall be limited to the alleged facts contained in the complaint. The results of the investigation shall be reduced to writing and a determination shall be made that there is or that there is not reasonable cause to believe that a violation of this chapter or rules adopted under it has been or is being committed. A copy of the written determination shall be provided to the complainant and to the person named in such complaint. [1994 c 154 § 212.]

42.52.430 Public hearing—Findings. (1) If the ethics board determines there is reasonable cause under RCW 42.52.420 that a violation of this chapter or rules adopted under it occurred, a public hearing on the merits of the complaint shall be held.

(2) The ethics board shall designate the location of the hearing. The case in support of the complaint shall be presented at the hearing by staff of the ethics board.

(3) The respondent shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine witnesses.

(4) Testimony taken at the hearing shall be under oath and recorded.

(5) If, based upon a preponderance of the evidence, the ethics board finds that the respondent has violated this chapter or rules adopted under it, the board shall file an order stating findings of fact and enforcement action as authorized under this chapter.

(6) If, upon all the evidence, the ethics board finds that the respondent has not engaged in an alleged violation of this chapter or rules adopted under it, the ethics board shall state findings of fact and shall similarly issue and file an order dismissing the complaint.

(7) If the board makes a determination that there is not reasonable cause to believe that a violation has been or is being committed or has made a finding under subsection (6) of this section, the attorney general shall represent the officer or employee in any action subsequently commenced based on the alleged facts in the complaint. [1994 c 154 § 213.]

42.52.440 Review of order. Except as otherwise provided by law, reconsideration or judicial review of an ethics board's order that a violation of this chapter or rules adopted under it has occurred shall be governed by the provisions of chapter 34.05 RCW applicable to review of adjudicative proceedings. [1994 c 154 § 214.]

42.52.450 Complaint against legislator or state-wide elected official. (1) If a complaint alleges a violation of RCW 42.52.180 by a legislator or state-wide elected official other than the attorney general, the attorney general shall conduct the investigation under RCW 42.52.420 and recommend action to the appropriate ethics board.

(2) If a complaint alleges a violation of RCW 42.52.180 by the attorney general, the state auditor shall conduct the investigation under RCW 42.52.420 and recommend action to the appropriate ethics board. [1994 c 154 § 215.]

42.52.460 Citizen actions. Any person who has notified the appropriate ethics board and the attorney general in writing that there is reason to believe that RCW 42.52.180 is being or has been violated may, in the name of the state, bring a citizen action for any of the actions authorized under this chapter. A citizen action may be brought only if the appropriate ethics board or the attorney general have failed to commence an action under this chapter within forty-five days after notice from the person, the person has thereafter notified the appropriate ethics board and the attorney general that the person will commence a citizen's action within ten days upon their failure to commence an action, and the appropriate ethics board and the attorney general have in fact failed to bring an action within ten days of receipt of the second notice.

If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but the person shall be entitled to be reimbursed by the state of Washington for costs and attorneys' fees incurred. If a citizen's action that the court finds was brought without reasonable cause is dismissed, the court may order the person commencing the action to pay all costs of trial and reasonable attorneys' fees incurred by the defendant.

Upon commencement of a citizen action under this section, at the request of a state officer or state employee who is a defendant, the office of the attorney general shall represent the defendant if the attorney general finds that the defendant's conduct complied with this chapter and was within the scope of employment. [1994 c 154 § 216.]

42.52.470 Referral for enforcement. As appropriate, an ethics board may refer a complaint:

(1) To an agency for initial investigation and proposed resolution which shall be referred back to the appropriate ethics board for action; or

(2) To the attorney general's office or prosecutor for appropriate action. [1994 c 154 § 217.]

42.52.480 Action by boards. (1) Except as otherwise provided by law, an ethics board may order payment of the following amounts if it finds a violation of this chapter or rules adopted under it after a hearing under RCW 42.52.370 or other applicable law:

(a) Any damages sustained by the state that are caused by the conduct constituting the violation;

(b) From each such person, a civil penalty of up to five thousand dollars per violation or three times the economic value of any thing received or sought in violation of this chapter or rules adopted under it, whichever is greater; and

(c) Costs, including reasonable investigative costs, which shall be included as part of the limit under (b) of this subsection. The costs may not exceed the penalty imposed. The payment owed on the penalty shall be reduced by the amount of the costs paid.

(2) Damages under this section may be enforced in the same manner as a judgment in a civil case. [1994 c 154 § 218.]

42.52.490 Action by attorney general. (1) Upon a written determination by the attorney general that the action of an ethics board was clearly erroneous or if requested by an ethics board, the attorney general may bring a civil action in the superior court of the county in which the violation is alleged to have occurred against a state officer, state employee, former state officer, former state employee, or other person who has violated or knowingly assisted another person in violating any of the provisions of this chapter or the rules adopted under it. In such action the attorney general may recover the following amounts on behalf of the state of Washington:

(a) Any damages sustained by the state that are caused by the conduct constituting the violation;

(b) From each such person, a civil penalty of up to five thousand dollars per violation or three times the economic value of any thing received or sought in violation of this chapter or the rules adopted under it, whichever is greater; and

(c) Costs, including reasonable investigative costs, which shall be included as part of the limit under (b) of this subsection. The costs may not exceed the penalty imposed. The payment owed on the penalty shall be reduced by the amount of the costs paid.

(2) In any civil action brought by the attorney general upon the basis that the attorney general has determined that the board's action was clearly erroneous, the court shall not proceed with the action unless the attorney general has first shown, and the court has found, that the action of the board was clearly erroneous. [1994 c 154 § 219.]

42.52.500 Optional hearings by administrative law judge. If an ethics board finds that there is reasonable cause to believe that a violation has occurred, the board shall consider the possibility of the alleged violator having to pay a total amount of penalty and costs of more than five hundred dollars. Based on such consideration, the board may give the person who is the subject of the complaint the option to have an administrative law judge conduct the hearing and rule on procedural and evidentiary matters. The board may also, on its own initiative, provide for retaining an administrative law judge. An ethics board may not require total payment of more than five hundred dollars in penalty and costs in any case where an administrative law judge is not used and the board did not give such option to the person who is the subject of the complaint. [1994 c 154 § 220.]

42.52.510 Rescission of state action. (1) The attorney general may, on request of the governor or the appropriate agency, and in addition to other available rights of rescission, bring an action in the superior court of Thurston county to cancel or rescind state action taken by a state officer or state employee, without liability to the state of Washington, contractual or otherwise, if the governor or ethics board has reason to believe that: (a) A violation of this chapter or rules adopted under it has substantially

influenced the state action, and (b) the interest of the state requires the cancellation or rescission. The governor may suspend state action pending the determination of the merits of the controversy under this section. The court may permit persons affected by the governor's actions to post an adequate bond pending such resolution to ensure compliance by the defendant with the final judgment, decree, or other order of the court.

(2) This section does not limit other available remedies. [1994 c 154 § 221.]

42.52.520 Disciplinary action. (1) A violation of this chapter or rules adopted under it is grounds for disciplinary action.

(2) The procedures for any such action shall correspond to those applicable for disciplinary action for employee misconduct generally; for those state officers and state employees not specifically exempted in chapter 41.06 RCW, the rules set forth in chapter 41.06 RCW shall apply. Any action against the state officer or state employee shall be subject to judicial review to the extent provided by law for disciplinary action for misconduct of state officers and state employees of the same category and grade. [1994 c 154 § 222; 1969 ex.s. c 234 § 26. Formerly RCW 42.18.260.]

42.52.530 Additional investigative authority. In addition to other authority under this chapter, the attorney general may investigate persons not under the jurisdiction of an ethics board whom the attorney general has reason to believe were involved in transactions in violation of this chapter or rules adopted under it. [1994 c 154 § 223.]

42.52.540 Limitations period. Any action taken under this chapter must be commenced within five years from the date of the violation. However, if it is shown that the violation was not discovered because of concealment by the person charged, then the action must be commenced within two years from the date the violation was discovered or reasonably should have been discovered: (1) By any person with direct or indirect supervisory responsibilities over the person who allegedly committed the violation; or (2) if no person has direct or indirect supervisory authority over the person who committed the violation, by the appropriate ethics board. [1994 c 154 § 224.]

42.52.550 Compensation of ethics boards. The citizen members of the legislative ethics board and the members of the executive ethics board shall be compensated as provided in RCW 43.03.250 and reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislator members of the legislative ethics board shall be reimbursed as provided in RCW 44.04.120. [1994 c 154 § 227.]

42.52.900 Legislative declaration. Government derives its powers from the people. Ethics in government are the foundation on which the structure of government rests. State officials and employees of government hold a public trust that obligates them, in a special way, to honesty and integrity in fulfilling the responsibilities to which they are elected and appointed. Paramount in that trust is the

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principle that public office, whether elected or appointed, may not be used for personal gain or private advantage.

The citizens of the state expect all state officials and employees to perform their public responsibilities in accordance with the highest ethical and moral standards and to conduct the business of the state only in a manner that advances the public's interest. State officials and employees are subject to the sanctions of law and scrutiny of the media; ultimately, however, they are accountable to the people and must consider this public accountability as a particular obligation of the public service. Only when affairs of government are conducted, at all levels, with openness as provided by law and an unswerving commitment to the public good does government work as it should.

The obligations of government rest equally on the state's citizenry. The effectiveness of government depends, fundamentally, on the confidence citizens can have in the judgments and decisions of their elected representatives. Citizens, therefore, should honor and respect the principles and the spirit of representative democracy, recognizing that both elected and appointed officials, together with state employees, seek to carry out their public duties with professional skill and dedication to the public interest. Such service merits public recognition and support.

All who have the privilege of working for the people of Washington state can have but one aim: To give the highest public service to its citizens. [1994 c 154 § 1.]

42.52.901 Liberal construction. This chapter shall be construed liberally to effectuate its purposes and policy and to supplement existing laws as may relate to the same subject. [1994 c 154 § 301.]

42.52.902 Parts and captions not law—1994 c 154. Parts and captions used in this act do not constitute any part of the law. [1994 c 154 § 302.]

42.52.903 Serving on board, committee, or commission not prevented. Nothing in this chapter shall be interpreted to prevent a member of a board, committee, advisory commission, or other body required or permitted by statute to be appointed from any identifiable group or interest, from serving on such body in accordance with the intent of the legislature in establishing such body. [1969 ex.s. c 234 § 33. Formerly RCW 42.18.330.]

42.52.904 Effective date—1994 c 154. Sections 101 through 121, 203, 204, 207 through 224, and 301 through 317 of this act shall take effect January 1, 1995. [1994 c 154 § 319.]

Reviser's note: For codification of 1994 c 154, see Codification Tables, Volume 0.

42.52.905 Severability—1994 c 154. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1994 c 154 § 320.]

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Chapter 43.01

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43.01.010 Terms of office. The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and insurance commissioner, shall hold office for the term of four years, and until their successors are elected and qualified; and the term shall commence on the Wednesday after the second Monday of January following their election. [1965 c 8 § 43.01.010. Prior: 1891 c 82 § 1; RRS § 10980.]

Term of person elected to fill vacancy: RCW 42.12.030.

Terms of office: State Constitution Art. 3 § 3.

Vacancies in office: Chapter 42.12 RCW.

43.01.015 Governor, lieutenant governor—Terms limited. (1) No person is eligible to appear on the ballot or file a declaration of candidacy for governor who, by the end of the then current term of office will have served, or but for resignation would have served, as governor during eight of the previous fourteen years.

(2) No person is eligible to appear on the ballot or file a declaration of candidacy for lieutenant governor who, by the end of the then current term of office will have served, or but for resignation would have served, as lieutenant governor during eight of the previous fourteen years. [1993 c 1 § 2 (Initiative Measure No. 573, approved November 3, 1992).]

Preamble—1993 c 1 (Initiative Measure No. 573): "The people of the state of Washington find that:

(1) The people will best be served by citizen legislators who are subject to a reasonable degree of rotation in office;

(2) Entrenched incumbents have become indifferent to the conditions and concerns of the people;

(3) Entrenched incumbents have an inordinate advantage in elections because of their control of campaign finance laws and gerrymandering of electoral districts;

(4) Entrenched incumbency has discouraged qualified citizens from seeking public office;

(5) Entrenched incumbents have become preoccupied with their own reelection and devote more effort to campaigning than to making legislative decisions for the benefit of the people;

(6) Entrenched incumbents have become closely aligned with special interest groups who provide contributions and support for their reelection campaigns, give entrenched incumbents special favors, and lobby office holders for special interest legislation to the detriment of the people of this state, and may create corruption or the appearance of corruption of the legislative system;

(7) The people of Washington have a compelling interest in preventing the self-perpetuating monopoly of elective office by a dynastic ruling class.

The people of the state of Washington therefore adopt this act to limit ballot access of candidates for state and federal elections." [1993 c 1 § 1 (Initiative Measure No. 573, approved November 3, 1992).] For codification of "this act" [1993 c 1], see Codification Tables, this volume.

Severability—1993 c 1 (Initiative Measure No. 573): "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 1 § 10 (Initiative Measure No. 573, approved November 3, 1992).]

43.01.020 Oath of office. The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and insurance commissioner, shall, before entering upon the duties of their respective offices, take and subscribe an oath or affirmation in substance as follows: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the state of Washington, and that I will faithfully discharge the duties of the office of (name of office) to the best of my ability.

The oath or affirmation shall be administered by one of the justices of the supreme court at the capitol. A certificate shall be affixed thereto by the person administering the oath, and the oath or affirmation so certified shall be filed in the office of the secretary of state before the officer shall be qualified to discharge any official duties: PROVIDED, That the oath of the secretary of state shall be filed in the office of the state auditor. [1965 c 8 § 43.01.020. Prior: 1909 c 43 § 1; RRS § 10981.]

Attorney general, oath of office: RCW 43.10.010.

Commissioner of public lands, oaths of employees: RCW 79.01.056, 79.01.068.

Court commissioners, oath of office: RCW 2.24.020.

Election officials, oaths required: RCW 29.45.080 through 29.45.110.

Engineers and land surveyors' board of registration, oath required: RCW 18.43.030.

Horse racing commission, oath of office: RCW 67.16.012.

Judges of superior court, oath of office: State Constitution Art. 4 § 28; RCW 2.08.080, 2.08.180.

Judges of supreme court, oath of office: State Constitution Art. 4 § 28; RCW 2.04.080.

Liquor control board, oath of office: RCW 66.08.014.

Militia, oath of office: RCW 38.12.150, 38.12.160.

Oaths, mode of administering: State Constitution Art. 1 § 6.

Perjury, oath defined: RCW 9A.72.010.

State administrative officers, oath required: RCW 43.17.030.

State auditor, oath of office: RCW 43.09.010.

State treasurer, oath of office: RCW 43.08.020.

Subversive activities, oath required of public officers and employees: RCW 9.81.070.

University of Washington, board of regents, oath required: RCW 28B.10.520.

Utilities and transportation commission: RCW 80.01.020.

Washington State University, board of regents: RCW 28B.10.520.

43.01.035 Reports—Periods to be covered. All biennial reports to the legislature and the governor shall cover the period comprising the first full fiscal year of the then current biennium and the last full fiscal year of the biennium immediately preceding. All annual reports to the governor shall cover the full fiscal year immediately preceding the date of said report. [1965 c 8 § 43.01.035. Prior: 1953 c 184 § 3.]

43.01.040 Vacations—Computation and accrual—Transfer—Statement of necessity required for extension of unused leave. Each subordinate officer and employee of the several offices, departments, and institutions of the state government shall be entitled under their contract of employment with the state government to not less than one working day of vacation leave with full pay for each month of employment if said employment is continuous for six months.

Each such subordinate officer and employee shall be entitled under such contract of employment to not less than one additional working day of vacation with full pay each year for satisfactorily completing the first two, three and five continuous years of employment respectively.

Such part time officers or employees of the state government who are employed on a regular schedule of duration of not less than one year shall be entitled under their contract of employment to that fractional part of the vacation leave that the total number of hours of such employment bears to the total number of hours of full time employment.,/

Each subordinate officer and employee of the several offices, departments and institutions of the state government shall be entitled under his contract of employment with the state government to accrue unused vacation leave not to exceed thirty working days. Officers and employees transferring within the several offices, departments and institutions of the state government shall be entitled to

transfer such accrued vacation leave to each succeeding state office, department or institution. All vacation leave shall be taken at the time convenient to the employing office, department or institution: PROVIDED, That if a subordinate officer's or employee's request for vacation leave is deferred by reason of the convenience of the employing office, department or institution, and a statement of the necessity therefor is filed by such employing office, department or institution with the appropriate personnel board or other state agency or officer, then the aforesaid maximum thirty working days of accrued unused vacation leave shall be extended for each month said leave is so deferred. [1984 c 184 § 19; 1982 1st ex.s. c 51 § 2; 1965 ex.s. c 13 § 1; 1965 c 8 § 43.01.040. Prior: 1955 c 140 § 1; 1921 c 7 § 133; RRS § 10891.]

Severability—1984 c 184: See note following RCW 41.50.150.

Savings—1982 1st ex.s. c 51: "This act shall not have the effect of terminating or modifying any rights acquired under a contract in existence prior to the effective date of this act." [1982 1st ex.s. c 51 § 4.]

Effective date—1982 1st ex.s. c 51: "This act shall take effect July 1, 1982." [1982 1st ex.s. c 51 § 5.]

Severability—1982 1st ex.s. c 51: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 51 § 6.]

Military leaves of absence: RCW 38.40.060.

43.01.041 Accrued vacation leave—Payment upon termination of employment. Officers and employees referred to in RCW 43.01.040 whose employment is terminated by their death, reduction in force, resignation, dismissal, or retirement, and who have accrued vacation leave as specified in RCW 43.01.040 or 43.01.044, shall be paid therefor under their contract of employment, or their estate if they are deceased, or if the employee in case of voluntary resignation has provided adequate notice of termination. Annual leave accumulated under RCW 43.01.044 is not to be included in the computation of retirement benefits.

Should the legislature revoke any benefits or rights provided under *this 1985 act, no affected officer or employee shall be entitled thereafter to receive such benefits or exercise such rights as a matter of contractual right. [1985 c 292 § 1; 1984 c 184 § 20; 1982 1st ex.s. c 51 § 3; 1965 c 8 § 43.01.041. Prior: 1955 c 140 § 2.]

***Reviser's note:** The term "this 1985 act" consists of the 1985 c 292 amendment to RCW 43.01.041.

Severability—1984 c 184: See note following RCW 41.50.150.

Savings—Effective date—Severability—1982 1st ex.s. c 51: See notes following RCW 43.01.040.

43.01.042 Vacations—State institutions of higher learning. State institutions of higher learning may prescribe such rules and regulations as they may determine governing vacation leave for academic and professional personnel. [1965 c 8 § 43.01.042. Prior: 1955 c 140 § 3.]

43.01.043 Vacations—Rules and regulations. The several offices, departments and institutions of the state government may prescribe supplemental rules and regulations that are not inconsistent with the provisions of RCW 43.01.040 through 43.01.043 with respect to vacation leave

of subordinate officers and employees thereof. [1965 c 8 § 43.01.043. Prior: 1955 c 140 § 4.]

43.01.044 Vacations—Accumulation of leave in excess of thirty days authorized without statement of necessity—Requirements of statement of necessity. As an alternative, in addition to the provisions of RCW 43.01.040 authorizing the accumulation of vacation leave in excess of thirty days with the filing of a statement of necessity, vacation leave in excess of thirty days may also be accumulated as provided in this section but without the filing of a statement of necessity. The accumulation of leave under this alternative method shall be governed by the following provisions:

(1) Each subordinate officer and employee of the several offices, departments, and institutions of state government may accumulate the vacation leave days between the time thirty days is accrued and his or her anniversary date of state employment.

(2) All vacation days accumulated under this section shall be used by the anniversary date and at a time convenient to the employing office, department, or institution. If an officer or employee does not use the excess leave by the anniversary date, then such leave shall be automatically extinguished and considered to have never existed.

(3) This section shall not result in any increase in a retirement allowance under any public retirement system in this state.

(4) Should the legislature revoke any benefits or rights provided under this section, no affected officer or employee shall be entitled thereafter to receive such benefits or exercise such rights as a matter of contractual right.

(5) Vacation leave credit acquired and accumulated under this section shall never, regardless of circumstances, be deferred by the employing office, department or institution by filing a statement of necessity under the provisions of RCW 43.01.040.

(6) Notwithstanding any other provision of this chapter, on or after July 24, 1983, a statement of necessity for excess leave, shall as a minimum, include the following: (a) the specific number of days of excess leave; and (b) the date on which it was authorized. A copy of any such authorization shall be sent to the department of retirement systems. [1983 c 283 § 1.]

43.01.045 Vacations—Provisions not applicable to officers and employees of state convention and trade center. The provisions of RCW 43.01.040 through 43.01.044 shall not be applicable to the officers and employees of the nonprofit corporation formed under chapter 67.40 RCW. [1984 c 210 § 4.]

Savings—Severability—1984 c 210: See notes following RCW 67.40.020.

43.01.050 Daily remittance of moneys to treasury—Undistributed receipts account—Use. Each state officer or other person, other than county treasurer, who is authorized by law to collect or receive moneys which are required by statute to be deposited in the state treasury shall transmit to the state treasurer each day, all such moneys collected by him on the preceding day: PROVIDED, That the state

treasurer may in his discretion grant exceptions where such daily transfers would not be administratively practical or feasible. In the event that remittances are not accompanied by a statement designating source and fund, the state treasurer shall deposit these moneys in an account hereby created in the state treasury to be known as the undistributed receipts account. These moneys shall be retained in the account until such time as the transmitting agency provides a statement in duplicate of the source from which each item of money was derived and the fund into which it is to be transmitted. The director of financial management in accordance with RCW 43.88.160 shall promulgate regulations designed to assure orderly and efficient administration of this account. In the event moneys are deposited in this account that constitute overpayments, refunds may be made by the remitting agency without virtue of a legislative appropriation. [1985 c 57 § 26; 1981 2nd ex.s. c 4 § 5; 1979 c 151 § 80; 1967 c 212 § 1; 1965 c 8 § 43.01.050. Prior: 1909 c 133 § 1, part; 1907 c 96 § 1, part; RRS § 5501, part.]

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

Commissioner of public lands and department of natural resources, deposit of funds: RCW 43.85.130.

State depositaries: Chapter 43.85 RCW.

43.01.060 Daily remittance of moneys to treasury—Treasurer's duty on default. The state treasurer shall inform the governor of any failure on the part of any officer to comply with the provisions of RCW 43.01.050. [1965 c 8 § 43.01.060. Prior: 1907 c 96 § 2; RRS § 5502.]

43.01.070 Daily remittance of moneys to treasury—Liability of officers for noncompliance. If any officer fails to comply with the provisions of RCW 43.01.050, he shall be liable to the state upon his official bond in a sum equal to ten percent annual interest on the funds for such time as he retained them. [1965 c 8 § 43.01.070. Prior: 1907 c 96 § 3; RRS § 5503.]

43.01.072 Refund of fees or other payments collected by state. Whenever any law which provides for the collection of fees or other payments by a state agency does not authorize the refund of erroneous or excessive payments thereof, refunds may be made or authorized by the state agency which collected the fees or payments of all such amounts received by the state agency in consequence of error, either of fact or of law as to: (1) The proper amount of such fee or payments; (2) The necessity of making or securing a permit, filing, examination or inspection; (3) The sufficiency of the credentials of an applicant; (4) The eligibility of an applicant for any other reason; (5) The necessity for the payment. [1965 c 8 § 43.01.072. Prior: 1955 c 224 § 1.]

Refunds of fees or other payments, budget and accounting system: RCW 43.88.170.

43.01.073 Refund of fees or other payments collected by state—Voucher. Any state agency desiring to authorize such a refund shall file with the state treasurer a

voucher naming the payee and giving full particulars as to the reason for the refund and the fund in the treasury to which it was credited. [1965 c 8 § 43.01.073. Prior: 1955 c 224 § 2.]

43.01.074 Refund of fees or other payments collected by state—Warrant. Payment of such refunds shall be by warrant issued by the state treasurer against the fund in the state treasury to which the erroneous or excessive payment was credited or from any other appropriation made for such refund. [1965 c 8 § 43.01.074. Prior: 1955 c 224 § 3.]

Appropriation, when not required for refunds: RCW 43.88.180.

43.01.075 Refund of fees or other payments collected by state—Limitation where amount is two dollars or less. No such refund shall be authorized by a state agency where the amount is two dollars or less unless demand for the refund is made within six months from the date the erroneous or excessive payment was made. [1965 c 8 § 43.01.075. Prior: 1955 c 224 § 4.]

43.01.090 Departments to share occupancy costs—Capital projects surcharge. The director of general administration may assess a charge or rent against each state board, commission, agency, office, department, activity, or other occupant or user for payment of a proportionate share of costs for occupancy of buildings, structures, or facilities including but not limited to all costs of acquiring, constructing, operating, and maintaining such buildings, structures, or facilities and the repair, remodeling, or furnishing thereof and for the rendering of any service or the furnishing or providing of any supplies, equipment, or materials.

The director of general administration may recover the full costs including appropriate overhead charges of the foregoing by periodic billings as determined by the director including but not limited to transfers upon accounts and advancements into the general administration facilities and services revolving fund. Charges related to the rendering of real estate services under RCW 43.82.010 and to the operation of nonassigned public spaces in Thurston county shall be allocated separately from other charges assessed under this section. Rates shall be established by the director of general administration after consultation with the director of financial management. The director of general administration may allot, provide, or furnish any of such facilities, structures, services, equipment, supplies, or materials to any other public service type occupant or user at such rates or charges as are equitable and reasonably reflect the actual costs of the services provided: PROVIDED, HOWEVER, That the legislature, its duly constituted committees, interim committees and other committees shall be exempted from the provisions of this section.

Upon receipt of such bill, each entity, occupant, or user shall cause a warrant or check in the amount thereof to be drawn in favor of the department of general administration which shall be deposited in the state treasury to the credit of the general administration facilities and services revolving fund established in RCW 43.19.500 unless the director of financial management has authorized another method for payment of costs.

Beginning July 1, 1995, the director of general administration shall assess a capital projects surcharge upon each agency or other user occupying a facility owned and managed by the department of general administration in Thurston county. The capital projects surcharge does not apply to agencies or users that agree to pay all future repairs, improvements, and renovations to the buildings they occupy and a proportional share, as determined by the office of financial management, of all other campus repairs, installations, improvements, and renovations that provide a benefit to the buildings they occupy or that have an agreement with the department of general administration that contains a charge for a similar purpose, including but not limited to RCW 43.01.091, in an amount greater than the capital projects surcharge. The director, after consultation with the director of financial management, shall adopt differential capital project surcharge rates to reflect the differences in facility type and quality. The initial payment structure for this surcharge shall be one dollar per square foot per year. The surcharge shall increase over time to an amount that when combined with the facilities and service charge equals the market rate for similar types of lease space in the area or equals five dollars per square foot per year, whichever is less. The capital projects surcharge shall be in addition to other charges assessed under this section. Proceeds from the capital projects surcharge shall be deposited into the Thurston county capital facilities account created in RCW 43.19.501. [1994 c 219 § 16; 1991 sp.s. c 31 § 10; 1979 c 151 § 81; 1973 1st ex.s. c 82 § 1; 1971 ex.s. c 159 § 1; 1965 c 8 § 43.01.090. Prior: (i) 1951 c 131 § 1; 1941 c 228 § 1; Rem. Supp. 1941 § 10964-30. (ii) 1951 c 131 § 1; 1941 c 228 § 2; Rem. Supp. 1941 § 10964-31.]

Findings—Purpose—1994 c 219: "The legislature finds that there is inequitable distribution among state programs of capital costs associated with maintaining and rehabilitating state facilities. The legislature finds that there are insufficient available resources to support even minor capital improvements other than debt financing. The legislature further finds that little attention is focused on efficient facility management because in many cases capital costs are not factored into the ongoing process of allocating state resources. The purpose of sections 16 through 18, chapter 219, Laws of 1994 is to create a mechanism to distribute capital costs among the agencies and programs occupying facilities owned and managed by the department of general administration in Thurston county that will foster increased accountability for facility decisions and more efficient use of the facilities." [1994 c 219 § 15.]

Finding—1994 c 219: See note following RCW 43.88.030.

Severability—1991 sp.s. c 31: See RCW 43.991.900.

Effective date—1973 1st ex.s. c 82: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1973." [1973 1st ex.s. c 82 § 2.]

Agricultural commodity commissions exempt: RCW 15.04.200.

General administration facilities and services revolving fund: RCW 43.19.500.

Housing for state offices, departments, and institutions: Chapter 43.82 RCW.

43.01.091 Departments to share debt service costs.

It is hereby declared to be the policy of the state of Washington that each agency or other occupant of newly constructed or substantially renovated facilities owned and operated by the department of general administration in Thurston county shall proportionally share the debt service costs associated with the original construction or substantial

renovation of the facility. Beginning July 1, 1995, each state agency or other occupant of a facility constructed or substantially renovated after July 1, 1992, and owned and operated by the department of general administration in Thurston county, shall be assessed a charge to pay the principal and interest payments on any bonds or other financial contract issued to finance the construction or renovation or an equivalent charge for similar projects financed by cash sources. In recognition that full payment of debt service costs may be higher than market rates for similar types of facilities or higher than existing agreements for similar charges entered into prior to June 9, 1994, the initial charge may be less than the full cost of principal and interest payments. The charge shall be assessed to all occupants of the facility on a proportional basis based on the amount of occupied space or any unique construction requirements. The office of financial management, in consultation with the department of general administration, shall develop procedures to implement this section and report to the legislative fiscal committees, by October 1994, their recommendations for implementing this section. The office of financial management shall separately identify in the budget document all payments and the documentation for determining the payments required by this section for each agency and fund source during the current and the two past and future fiscal biennia. The charge authorized in this section is subject to annual audit by the state auditor. [1994 c 219 § 19.]

Finding—1994 c 219: See note following RCW 43.88.030.

Budget document: RCW 43.88.030.

General administration services: RCW 43.19.500.

43.01.100 Application forms—Employment—Licenses—Mention of race or religion prohibited. The inclusion of any question relative to an applicant's race or religion in any application blank or form for employment or license required to be filled in and submitted by an applicant to any department, board, commission, officer, agent, or employee of this state or the disclosure on any license of the race or religion of the licensee is hereby prohibited. [1965 c 8 § 43.01.100. Prior: 1955 c 87 § 1.]

Discrimination—Human rights commission: Chapter 49.60 RCW.

Subversive activities, public officials and employees: Chapter 9.81 RCW.

43.01.110 Penalty for violation of RCW 43.01.100. Any person who shall violate RCW 43.01.100 shall be guilty of a misdemeanor. [1965 c 8 § 43.01.110. Prior: 1955 c 87 § 2.]

43.01.120 Accidental death and dismemberment coverage during aircraft flights for state officers, employees, and legislators. The departments of state government are authorized to procure at state expense accidental death and dismemberment coverage not to exceed one hundred thousand dollars per person for the benefit of state employees and state elected officials, including legislators, while they are, in the course of their employment, passengers on or crew members of any nonscheduled aircraft flight. [1967 ex.s. c 6 § 1; 1965 ex.s. c 68 § 1.]

43.01.125 Duty to identify employees whose performance warrants termination from employment. It is the responsibility of each agency head to institute management procedures designed to identify any agency employee, either supervisory or nonsupervisory, whose performance is so inadequate as to warrant termination from state employment. In addition, it is the responsibility of each agency head to remove from a supervisory position any supervisor within the agency who has tolerated the continued employment of any employee under his or her supervision whose performance has warranted termination from state employment. [1985 c 461 § 15.]

Severability—1985 c 461: See note following RCW 41.06.020.

Adoption of rules to remove supervisors tolerating deficient employees: RCW 41.06.196.

43.01.150 Power to employ or appoint personnel not to include authority to provide state owned or leased motor vehicle. Notwithstanding any other provision of law, whenever any state agency, institution of higher education, or other appointing authority is empowered to employ or appoint administrators or other personnel and to fix their compensation, such power, in the absence of a specific contrary statutory authorization to the agency, institution of higher education, or appointing authority, shall not extend to the power to provide a state owned or leased motor vehicle for any use other than official state business. [1975 1st ex.s. c 33 § 1.]

Providing motor vehicle transportation services for public employees: RCW 43.19.560 through 43.19.635.

43.01.160 State publications to be in gender-neutral terms—Exception—Effect of noncompliance. (1) All rules and directory or advisory publications issued, adopted, or amended by state officers or agencies, as defined by RCW 41.06.020, after July 1, 1983, shall be written in gender-neutral terms unless a specification of gender is intended.

(2) No rule or publication is invalid because it does not comply with this section. [1983 c 20 § 2.]

Intent—1983 c 20: "It is the intent of the legislature to have the state's statutes, rules, and official communications expressed in gender-neutral terms." [1983 c 20 § 1.]

Statutes, memorials, and resolutions: RCW 44.04.210.

43.01.200 Facilitating recovery from Mt. St. Helens eruption—Legislative findings—Purpose. (1) The legislature finds that:

(a) The May 1980 eruption of Mount St. Helens has caused serious economic and physical damage to the land surrounding the mountain;

(b) There are continuing siltation problems which could severely affect the Toutle, Cowlitz, Coweeman, and Columbia rivers areas;

(c) There is an immediate need for sites for dredging, dredge spoils, flood control works, sediment retention, and bank protection and funds for dredging, dredge sites, dredge spoils sites, flood control works, sediment retention sites, and bank protection and to continue the rehabilitation of the areas affected by the natural disaster; and

(d) Failure to dredge and dike along the rivers and failure to cooperate with the federal government in sediment

retention would directly affect the lives and property of the forty-five thousand residents in the Cowlitz and Toutle River valleys with severe negative impacts on local, state, and national transportation systems, public utilities, public and private property, and the Columbia river which is one of the major navigation channels for world-wide commerce.

(2) The intent of RCW 36.01.150, 43.01.210, *43.21A.500, 43.21C.500, 75.20.300, 89.16.500, and 90.58.500, their 1983 amendments, and RCW 43.01.215 is to authorize and direct maximum cooperative effort to meet the problems noted in subsection (1) of this section. [1985 c 307 § 1; 1983 1st ex.s. c 1 § 1; 1982 c 7 § 1.]

***Reviser's note:** RCW 43.21A.500, 43.21C.500, 75.20.300, 89.16.500, and 90.58.500 expired June 30, 1995.

Severability—1983 1st ex.s. c 1: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 1st ex.s. c 1 § 10.]

Severability—1982 c 7: See note following RCW 36.01.150.

43.01.210 Facilitating recovery from Mt. St. Helens eruption—Scope of state agency action. State agencies shall take action as follows to facilitate recovery from the devastation of the eruption of Mt. St. Helens:

(1) The department of transportation may secure any lands or interest in lands by purchase, exchange, lease, eminent domain, or donation for dredge sites, dredge spoils sites, flood control works, sediment retention works, or bank protection;

(2) The commissioner of public lands may by rule declare any public lands found to be damaged by the eruption of Mt. St. Helens, directly or indirectly, as surplus to the needs of the state and may dispose of such lands pursuant to Title 79 RCW to public or private entities for development, park and recreation uses, open space, or fish and wildlife habitat;

(3) All state agencies shall cooperate with local governments, the United States army corps of engineers, and other agencies of the federal government in planning for dredge site selection and dredge spoils removal, and in all other phases of recovery operations;

(4) The department of transportation shall work with the counties concerned on site selection and site disposition in cooperation with the army corps of engineers; and

(5) State agencies may assist the army corps of engineers in the dredging and dredge spoils deposit operations. [1985 c 307 § 2; 1983 1st ex.s. c 1 § 2; 1982 c 7 § 2.]

Severability—1983 1st ex.s. c 1: See note following RCW 43.01.200.

Severability—1982 c 7: See note following RCW 36.01.150.

Facilitating recovery from Mt. St. Helens eruption—Scope of local government action: RCW 36.01.150.

43.01.215 Facilitating recovery from Mt. St. Helens eruption—Precedence of court proceedings under RCW 43.01.210—Finality of order under RCW 8.04.070—Appeal. (1) Court proceedings necessary to acquire property or property rights for purposes of RCW 43.01.210 take precedence over all other causes, including those expedited under the provisions of RCW 47.52.060, in all courts to the end that the provision of lands for dredge sites, dredge spoils

sites, flood control works, or bank protection may be expedited.

(2) An order entered under RCW 8.04.070 relating to the acquisition of land under RCW 43.01.210 is final unless review of the order is taken to the supreme court within five days after entry of the order. Such an appeal shall be certified by the trial court to the supreme court. Upon certification, the supreme court shall assign the appeal for hearing at the earliest possible date, and it shall expedite its review and decision in every way possible. [1983 1st ex.s. c 1 § 8.]

Severability—1983 1st ex.s. c 1: See note following RCW 43.01.200.

43.01.220 Commute trip reduction—Parking revenue—Definitions. The definitions in this section apply throughout this chapter.

(1) "Guaranteed ride home" means an assured ride home for commuters participating in a commute trip reduction program who are not able to use their normal commute mode because of personal emergencies.

(2) "Pledged" means parking revenue designated through any means, including moneys received from the natural resource building, which is used for the debt service payment of bonds issued for parking facilities. [1993 c 394 § 2.]

Finding—Purpose—1993 c 394: "The legislature finds that reducing the number of commute trips to work is an effective way of reducing automobile-related air pollution, traffic congestion, and energy use. The legislature intends that state agencies shall assume a leadership role in implementing programs to reduce vehicle miles traveled and single-occupant vehicle commuting, under RCW 70.94.521 through 70.94.551.

The legislature has established and directed an interagency task force to consider mechanisms for funding state agency commute trip reduction programs; and to consider and recommend policies for employee incentives for commuting by other than single-occupant vehicles, and policies for the use of state-owned vehicles.

It is the purpose of this act to provide state agencies with the authority to provide employee incentives, including subsidies for use of high occupancy vehicles to meet commute trip reduction goals, and to remove existing statutory barriers for state agencies to use public funds, including parking revenue, to operate, maintain, lease, or construct parking facilities at state-owned and leased facilities, to reduce parking subsidies, and to support commute trip reduction programs." [1993 c 394 § 1.]

43.01.225 Commute trip reduction—Parking revenue—State vehicle parking account. There is hereby established an account in the state treasury to be known as the "state vehicle parking account." All parking rental income resulting from parking fees established by the department of general administration under RCW 46.08.172 at state-owned or leased property shall be deposited in the "state vehicle parking account." Revenue deposited in the "state vehicle parking account" shall be first applied to pledged purposes. Unpledged parking revenues deposited in the "state vehicle parking account" may be used to:

(1) Pay costs incurred in the operation, maintenance, regulation, and enforcement of vehicle parking and parking facilities;

(2) Support the lease costs and/or capital investment costs of vehicle parking and parking facilities; and

(3) Support agency commute trip reduction programs under RCW 70.94.521 through 70.94.551. [1995 c 215 § 2; 1993 c 394 § 5.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

(1996 Ed.)

43.01.230 Commute trip reduction—Use of public funds. State agencies may, under the internal revenue code rules, use public funds to financially assist agency-approved incentives for alternative commute modes, including but not limited to carpools, vanpools, purchase of transit and ferry passes, and guaranteed ride home programs, if the financial assistance is an element of the agency's commute trip reduction program as required under RCW 70.94.521 through 70.94.551. This section does not permit any payment for the use of state-owned vehicles for commuter ride sharing. [1995 c 215 § 1; 1993 c 394 § 6.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

43.01.235 Commute trip reduction—Higher education institutions—Exemption. All state higher education institutions are exempt from RCW 43.01.225. [1993 c 394 § 7.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

43.01.236 Commute trip reduction—Institutions of higher education—Exemption. All institutions of higher education as defined under RCW 28B.10.016 are exempt from the requirements under RCW 43.01.225. [1995 c 215 § 5.]

43.01.240 State agency parking account—Parking rental fees—Employee parking, limitations—Report to the legislature. (1) There is hereby established an account in the state treasury to be known as the state agency parking account. All parking income collected from the fees imposed by state agencies on parking spaces at state-owned or leased facilities, including the capitol campus, shall be deposited in the state agency parking account. Only the office of financial management may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. No agency may receive an allotment greater than the amount of revenue deposited into the state agency parking account.

(2) An agency may, as an element of the agency's commute trip reduction program to achieve the goals set forth in RCW 70.94.527, impose parking rental fees at state-owned and leased properties. These fees will be deposited in the state agency parking account. Each agency shall establish a committee to advise the agency director on parking rental fees, taking into account the market rate of comparable, privately owned rental parking in each region. The agency shall solicit representation of the employee population including, but not limited to, management, administrative staff, production workers, and state employee bargaining units. Funds shall be used by agencies to: (a) Support the agencies' commute trip reduction program under RCW 70.94.521 through 70.94.551; (b) support the agencies' parking program; or (c) support the lease or ownership costs for the agencies' parking facilities.

(3) In order to reduce the state's subsidization of employee parking, after July 1997 agencies shall not enter into leases for employee parking in excess of building code requirements, except as authorized by the director of general

administration. In situations where there are fewer parking spaces than employees at a worksite, parking must be allocated equitably, with no special preference given to managers.

(4) The director of general administration must report to the house and senate transportation committees no later than December 1, 1997, regarding the implementation of chapter 215, Laws of 1995. The report must include an estimate of the reduction in parking supply and an estimate of the cost savings. [1995 c 215 § 3.]

Chapter 43.03 SALARIES AND EXPENSES

Sections

- 43.03.010 Salaries of elective state officers.
- 43.03.011 Salaries of state elected officials of the executive branch.
- 43.03.012 Salaries of judges.
- 43.03.013 Salaries of members of the legislature.
- 43.03.015 Emoluments of office for appointees to office of state legislator.
- 43.03.020 Expenses of lieutenant governor acting as governor.
- 43.03.027 Salaries of public officials—State policy enunciated.
- 43.03.028 State committee on agency officials' salaries—Members—Duties—Reports.
- 43.03.030 Increase or reduction of appointees' compensation.
- 43.03.040 Salaries of certain directors and chief executive officers.
- 43.03.050 Subsistence, lodging and refreshment, and per diem allowance for officials, employees, and members of boards, commissions, or committees.
- 43.03.060 Mileage allowance.
- 43.03.062 State convention and trade center employees—Travel expenses.
- 43.03.065 Subsistence and lodging expenses—Direct payment to suppliers authorized.
- 43.03.110 Moving expenses of employees.
- 43.03.120 Moving expenses of new employees.
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- 43.03.260 Compensation of members of part-time boards and commissions—Reports to legislature.
- 43.03.300 Salaries of elected state officials—Legislative declaration—Purpose.
- 43.03.305 Washington citizens' commission on salaries for elected officials—Generally.
- 43.03.310 Duties of citizens' commission—Travel expenses—Chair—Schedule of salaries—Publication—Hearings.

Compensation for unofficial services permitted: RCW 42.04.070.

Compensation not to be changed during term: State Constitution Art. 2 § 25, Art. 3 § 25, Art. 28 § 1.

Free transportation prohibited: State Constitution Art. 2 § 39, Art. 12 § 20. Salaries of state officers, payable semimonthly: RCW 42.16.010.

43.03.010 Salaries of elective state officers. The annual salaries of the following named state elected officials shall be prescribed by the Washington citizens' commission on salaries for elected officials: Governor; lieutenant governor: PROVIDED, That in arriving at the annual salary of the lieutenant governor the commission shall prescribe a fixed amount plus a sum equal to 1/260th of the difference between the annual salary of the lieutenant governor and the annual salary of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor; secretary of state; state treasurer; state auditor; attorney general; superintendent of public instruction; commissioner of public lands; and state insurance commissioner. Members of the legislature shall receive for their service per annum the amount prescribed by the Washington citizens' commission on salaries for elected officials; and in addition, reimbursement for mileage for travel to and from legislative sessions as provided in RCW 43.03.060. [1989 c 10 § 8. Prior: 1986 c 161 § 1; 1986 c 155 § 8; 1983 1st ex.s. c 29 § 3; 1979 ex.s. c 255 § 1; 1977 ex.s. c 318 § 1; 1975-'76 2nd ex.s. c 113 § 1; 1975 1st ex.s. c 263 § 1; 1974 ex.s. c 149 § 2 (Initiative Measure No. 282, approved November 6, 1973); 1967 ex.s. c 100 § 1; 1965 ex.s. c 127 § 4; 1965 c 8 § 43.03.010; prior: 1965 c 1 § 2; 1961 c 5 § 1; 1959 c 316 § 1; 1949 c 48 § 1; Rem. Supp. 1949 § 10965-1; prior: 1947 c 79 § .02.04; 1945 c 116 § 1; 1939 c 226 § 1; 1925 ex.s. c 163 § 1; 1925 ex.s. c 90 § 1; 1919 c 124 §§ 1, 2; 1907 c 94 § 1.]

Effective date—1986 c 161 § 1: "Section 1 of this act shall take effect on January 1, 1987." [1986 c 161 § 3.] "Section 1 of this act" is the 1986 c 161 amendment to RCW 43.03.010.

Severability—1986 c 161: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 161 § 5.]

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

Effective date—1979 ex.s. c 255: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1979." [1979 ex.s. c 255 § 11.]

Effective date—1977 ex.s. c 318: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1977." [1977 ex.s. c 318 § 7.]

Severability—1975 1st ex.s. c 263: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 263 § 7.]

Effective date—1975 1st ex.s. c 263: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 263 § 8.]

Severability—1974 ex.s. c 149 (Initiative Measure No. 282): "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 149 § 7 (Initiative Measure No. 282).]

Construction—1965 ex.s. c 127: "The salary increases provided for herein shall take effect at the earliest time allowable by the Constitution of

the state of Washington, including Article II, section 13, Article II, section 25, Article IV, section 13, and Article XXVIII: PROVIDED, That it is the intent of the legislature that nothing in this act shall render a member of the legislature or of the judiciary ineligible to file for and be elected to the legislature or the judiciary respectively." [1965 ex.s. c 127 § 5.]

Salaries of elected officials: State Constitution Art. 28 § 1.

Washington citizens' commission on salaries for elected officials: RCW 43.03.305.

43.03.011 Salaries of state elected officials of the executive branch. Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salaries of the state elected officials of the executive branch shall be as follows:

(1) Effective September 1, 1993:

(a) Governor	\$ 121,000
(b) Lieutenant governor	\$ 62,700
(c) Secretary of state	\$ 64,300
(d) Treasurer	\$ 79,500
(e) Auditor	\$ 84,100
(f) Attorney general	\$ 92,000
(g) Superintendent of public instruction	\$ 86,600
(h) Commissioner of public lands	\$ 86,600
(i) Insurance commissioner	\$ 77,200

(2) Effective September 1, 1995:

(a) Governor	\$ 121,000
(b) Lieutenant governor	\$ 62,700
(c) Secretary of state	\$ 64,300
(d) Treasurer	\$ 84,100
(e) Auditor	\$ 84,100
(f) Attorney general	\$ 92,000
(g) Superintendent of public instruction	\$ 86,600
(h) Commissioner of public lands	\$ 86,600
(i) Insurance commissioner	\$ 77,200

(3) The lieutenant governor shall receive the fixed amount of his salary plus 1/260th of the difference between his salary and that of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor. [1995 2nd sp.s. c 1 § 1; 1993 sp.s. c 26 § 1; 1991 sp.s. c 1 § 1; 1989 2nd ex.s. c 4 § 1; 1987 1st ex.s. c 1 § 1, part.]

43.03.012 Salaries of judges. Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 2.04.092, 2.06.062, 2.08.092, 3.58.010, and 43.03.310, the annual salaries of the judges of the state shall be as follows:

(1) Effective September 1, 1993:

(a) Justices of the supreme court	\$ 107,200
(b) Judges of the court of appeals	\$ 101,900
(c) Judges of the superior court	\$ 96,600
(d) Full-time judges of the district court	\$ 91,900

(2) Effective September 1, 1995:

(a) Justices of the supreme court	\$ 109,880
(b) Judges of the court of appeals	\$ 104,448
(c) Judges of the superior court	\$ 99,015
(d) Full-time judges of the district court	\$ 94,198

(3) The salary for a part-time district court judge shall be the proportion of full-time work for which the position is authorized, multiplied by the salary for a full-time district court judge. [1995 2nd sp.s. c 1 § 2; 1993 sp.s. c 26 § 2;

1991 sp.s. c 1 § 2; 1989 2nd ex.s. c 4 § 2; 1987 1st ex.s. c 1 § 1, part.]

43.03.013 Salaries of members of the legislature.

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salary of members of the legislature shall be:

(1) Effective September 1, 1993:

(a) Legislator	\$ 25,900
(b) Speaker of the house	\$ 33,900
(c) Senate majority leader	\$ 29,900
(d) Senate minority leader	\$ 29,900
(e) House minority leader	\$ 29,900

(2) Effective September 1, 1995:

(a) Legislator	\$ 27,100
(b) Speaker of the house	\$ 35,100
(c) Senate majority leader	\$ 31,100
(d) Senate minority leader	\$ 31,100
(e) House minority leader	\$ 31,100

(3) Effective September 1, 1996:

(a) Legislator	\$ 28,300
(b) Speaker of the house	\$ 36,300
(c) Senate majority leader	\$ 32,300
(d) Senate minority leader	\$ 32,300
(e) House minority leader	\$ 32,300

[1995 2nd sp.s. c 1 § 3; 1993 sp.s. c 26 § 3; 1991 sp.s. c 1 § 3; 1989 2nd ex.s. c 4 § 3; 1987 1st ex.s. c 1 § 1, part.]

43.03.015 Emoluments of office for appointees to office of state legislator. Any person appointed to fill a vacancy that may occur in either the senate or house of representatives of the state legislature, prior to his qualification at the next succeeding regular or special session of the legislature shall be entitled to the same emoluments of office as the duly elected member whom he succeeded. [1967 ex.s. c 100 § 2.]

Eligibility of member of legislature to appointment or election to office of official whose salary was increased during legislator's term: RCW 3.58.010.

43.03.020 Expenses of lieutenant governor acting as governor. Whenever by reason of the absence from the state or the disability of the governor, the lieutenant governor is called upon temporarily to perform the duties of the office of governor, he shall be paid upon his personal voucher therefor the sum of ten dollars per day for expenses. [1965 c 8 § 43.03.020. Prior: 1919 c 118 § 1; RRS § 10979.]

43.03.027 Salaries of public officials—State policy enunciated. It is hereby declared to be the public policy of this state to base the salaries of public officials on realistic standards in order that such officials may be paid according to the true value of their services and the best qualified citizens may be attracted to public service. It is the purpose of RCW 43.03.027, 43.03.028, 43.03.040, 43.03.045 and 43.03.047 to effectuate this policy by utilizing the expert knowledge of citizens having access to pertinent facts concerning proper salaries for public officials, thus removing and dispelling any thought of political consideration in fixing the appropriateness of the amount of such salaries. [1970 ex.s. c 43 § 1.]

Severability—1970 ex.s. c 43: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall not be affected." [1970 ex.s. c 43 § 7.]

43.03.028 State committee on agency officials' salaries—Members—Duties—Reports. (1) There is hereby created a state committee on agency officials' salaries to consist of seven members, or their designees, as follows: The president of the University of Puget Sound; the chairperson of the council of presidents of the state's four-year institutions of higher education; the chairperson of the Washington personnel resources board; the president of the Association of Washington Business; the president of the Pacific Northwest Personnel Managers' Association; the president of the Washington State Bar Association; and the president of the Washington State Labor Council. If any of the titles or positions mentioned in this subsection are changed or abolished, any person occupying an equivalent or like position shall be qualified for appointment by the governor to membership upon the committee.

(2) The committee shall study the duties and salaries of the directors of the several departments and the members of the several boards and commissions of state government, who are subject to appointment by the governor or whose salaries are fixed by the governor, and of the chief executive officers of the following agencies of state government:

The arts commission; the human rights commission; the board of accountancy; the board of pharmacy; the eastern Washington historical society; the Washington state historical society; the interagency committee for outdoor recreation; the criminal justice training commission; the department of personnel; the state finance committee; the state library; the traffic safety commission; the horse racing commission; the advisory council on vocational education; the public disclosure commission; the state conservation commission; the commission on Hispanic affairs; the commission on Asian Pacific American affairs; the state board for volunteer fire fighters; the transportation improvement board; the public employment relations commission; the forest practices appeals board; and the energy facilities site evaluation council.

The committee shall report to the governor or the chairperson of the appropriate salary fixing authority at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of each regular session of the legislature during an odd-numbered year, its recommendations for the salaries to be fixed for each position.

(3) Committee members shall be reimbursed by the department of personnel for travel expenses under RCW 43.03.050 and 43.03.060. [1995 c 67 § 1. Prior: 1993 c 281 § 45; 1993 c 101 § 14; 1991 c 3 § 294; 1988 c 167 § 9; prior: 1987 c 504 § 15; 1987 c 249 § 7; 1986 c 155 § 9; 1982 c 163 § 21; 1980 c 87 § 20; prior: 1977 ex.s. c 127 § 1; 1977 c 75 § 36; 1970 ex.s. c 43 § 2; 1967 c 19 § 1; 1965 c 8 § 43.03.028; prior: 1961 c 307 § 1; 1955 c 340 § 1.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Findings—1993 c 101: See note following RCW 27.34.010.

Severability—Effective date—1993 c 101: See RCW 27.34.915 and 27.34.916.

Savings—Severability—1988 c 167: See notes following RCW 47.26.121.

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Severability—1970 ex.s. c 43: See note following RCW 43.03.027.

43.03.030 Increase or reduction of appointees' compensation. (1) Wherever the compensation of any appointive state officer or employee is fixed by statute, it may be hereafter increased or decreased in the manner provided by law for the fixing of compensation of other appointive state officers or employees; but this subsection shall not apply to the heads of state departments.

(2) Wherever the compensation of any state officer appointed by the governor, or of any employee in any office or department under the control of any such officer, is fixed by statute, such compensation may hereafter, from time to time, be changed by the governor, and he shall have power to fix such compensation at any amount not to exceed the amount fixed by statute. [1965 c 8 § 43.03.030. Prior: (i) 1921 c 49 § 1; RRS § 10896. (ii) 1933 c 47 § 1; RRS § 10976-1.]

43.03.040 Salaries of certain directors and chief executive officers. The directors of the several departments and members of the several boards and commissions, whose salaries are fixed by the governor and the chief executive officers of the agencies named in RCW 43.03.028(2) as now or hereafter amended shall each severally receive such salaries, payable in monthly installments, as shall be fixed by the governor or the appropriate salary fixing authority, in an amount not to exceed the recommendations of the committee on agency officials' salaries. Beginning July 1, 1993, through June 30, 1995, the salary paid to such directors and members of boards and commissions shall not exceed the amount paid as of April 1, 1993. [1993 sp.s. c 24 § 914; 1986 c 155 § 12; 1977 ex.s. c 127 § 2; 1970 ex.s. c 43 § 3; 1965 c 8 § 43.03.040. Prior: 1961 c 307 § 2; 1955 c 340 § 2; 1949 c 111 § 1; 1937 c 224 § 1; Rem. Supp. 1949 § 10776-1.]

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

Severability—1970 ex.s. c 43: See note following RCW 43.03.027.

43.03.050 Subsistence, lodging and refreshment, and per diem allowance for officials, employees, and members of boards, commissions, or committees. (1) The director of financial management shall prescribe reasonable allowances to cover reasonable and necessary subsistence and lodging expenses for elective and appointive officials and state employees while engaged on official business away from their designated posts of duty. The director of financial management may prescribe and regulate the allowances provided in lieu of subsistence and lodging expenses and may prescribe the conditions under which reimbursement for subsistence and lodging may be allowed. The schedule of

allowances adopted by the office of financial management may include special allowances for foreign travel and other travel involving higher than usual costs for subsistence and lodging. The allowances established by the director shall not exceed the rates set by the federal government for federal employees.

(2) Those persons appointed to serve without compensation on any state board, commission, or committee, if entitled to payment of travel expenses, shall be paid pursuant to special per diem rates prescribed in accordance with subsection (1) of this section by the office of financial management.

(3) The director of financial management may prescribe reasonable allowances to cover reasonable expenses for meals, coffee, and light refreshment served to elective and appointive officials and state employees regardless of travel status at a meeting where: (a) The purpose of the meeting is to conduct official state business or to provide formal training to state employees or state officials; (b) the meals, coffee, or light refreshment are an integral part of the meeting or training session; (c) the meeting or training session takes place away from the employee's or official's regular workplace; and (d) the agency head or authorized designee approves payments in advance for the meals, coffee, or light refreshment. In order to prevent abuse, the director may regulate such allowances and prescribe additional conditions for claiming the allowances.

(4) Upon approval of the agency head or authorized designee, an agency may serve coffee or light refreshments at a meeting where: (a) The purpose of the meeting is to conduct state business or to provide formal training that benefits the state; and (b) the coffee or light refreshment is an integral part of the meeting or training session. The director of financial management shall adopt requirements necessary to prohibit abuse of the authority authorized in this subsection.

(5) The schedule of allowances prescribed by the director under the terms of this section and any subsequent increases in any maximum allowance or special allowances for areas of higher than usual costs shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature. [1990 c 30 § 1; 1983 1st ex.s. c 29 § 1; 1979 c 151 § 83; 1977 ex.s. c 312 § 1; 1975-'76 2nd ex.s. c 34 § 94; 1970 ex.s. c 34 § 1; 1965 ex.s. c 77 § 1; 1965 c 8 § 43.03.050. Prior: 1961 c 220 § 1; 1959 c 194 § 1; 1953 c 259 § 1; 1949 c 17 § 1; 1943 c 86 § 1; Rem. Supp. 1949 § 10981-1.]

Effective date—Construction—1977 ex.s. c 312: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately except that any new schedule of allowances under either RCW 43.03.050 and 43.03.060 as now or hereafter amended shall not be effective until July 1, 1977 or later." [1977 ex.s. c 312 § 5.]

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

43.03.060 Mileage allowance. (1) Whenever it becomes necessary for elective or appointive officials or employees of the state to travel away from their designated posts of duty while engaged on official business, and it is found to be more advantageous or economical to the state that travel be by a privately-owned vehicle rather than a

common carrier or a state-owned or operated vehicle, a mileage rate established by the director of financial management shall be allowed. The mileage rate established by the director shall not exceed any rate set by the United States treasury department above which the substantiation requirements specified in Treasury Department Regulations section 1.274-5T(a)(1), as now law or hereafter amended, will apply.

(2) The director of financial management may prescribe and regulate the specific mileage rate or other allowance for the use of privately-owned vehicles or common carriers on official business and the conditions under which reimbursement of transportation costs may be allowed. The reimbursement or other payment for transportation expenses of any employee or appointive official of the state shall be based on the method deemed most advantageous or economical to the state.

(3) The mileage rate established by the director of financial management pursuant to this section and any subsequent changes thereto shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature. [1990 c 30 § 2; 1983 1st ex.s. c 29 § 2; 1979 c 151 § 84; 1977 ex.s. c 312 § 2; 1975-'76 2nd ex.s. c 34 § 95; 1974 ex.s. c 157 § 1; 1967 ex.s. c 16 § 4; 1965 c 8 § 43.03.060. Prior: 1949 c 17 § 2; 1943 c 86 § 2; Rem. Supp. 1949 § 10981-2.]

Effective date—Construction—1977 ex.s. c 312: See note following RCW 43.03.050.

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

43.03.062 State convention and trade center employees—Travel expenses. Notwithstanding any provision of this chapter, employees of the corporation formed under RCW 67.40.020 shall be reimbursed for actual and reasonable travel and subsistence expenses incurred out of state for the purpose of marketing the convention center as may be requested or performed by the chief executive officer of the corporation subject to approval of the office of financial management. Reimbursement under this section may not be for promotional hosting expenditures. [1985 c 233 § 4.]

43.03.065 Subsistence and lodging expenses—Direct payment to suppliers authorized. The allowances prescribed pursuant to RCW 43.03.050 as now or hereafter amended may be paid as reimbursements to individuals for subsistence and lodging expenses during official travel. Alternatively, amounts not exceeding those allowances may be paid directly to appropriate suppliers of subsistence and lodging, when more economical and advantageous to the state, under general rules and regulations adopted by the director of financial management with the advice of the state auditor. Payments to suppliers for subsistence and lodging expenses of individuals in travel status shall not result in a cost to the state in excess of what would be payable by way of reimbursements to the individuals involved. [1979 c 151 § 85; 1977 ex.s. c 312 § 4.]

Effective date—Construction—1977 ex.s. c 312: See note following RCW 43.03.050.

43.03.110 Moving expenses of employees. Whenever it is reasonably necessary to the successful performance of

the required duty of a state office, commission, department or institution to transfer a deputy or other employee from one station to another within the state, thereby necessitating a change of such deputy's or employee's domicile, it shall be lawful for such office, commission, department or institution to move such deputy's or employee's household goods and effects to the new station at the expense of the state, or to defray the actual cost of such removal by common carrier, or otherwise, at the expense of the state, in which latter event reimbursement to the deputy or employee shall be upon voucher submitted by him and approved by the department head. [1967 ex.s. c 16 § 1; 1965 c 8 § 43.03.110. Prior: 1943 c 128 § 1; Rem. Supp. 1943 § 9948-1.]

43.03.120 Moving expenses of new employees. Any state office, commission, department or institution may also pay the moving expenses of a new employee, necessitated by his acceptance of state employment, pursuant to mutual agreement with such employee in advance of his employment: PROVIDED, That if such employee is in the classified service as defined in chapter 41.06 RCW, that said employee has been duly certified from an eligible register. No such offer or agreement for such payment shall be made to a prospective member of the classified service, prior to such certification, except through appropriate public announcement by the department of personnel, or other corresponding personnel agency as provided by chapter 41.06 RCW. Payment for all expenses authorized by RCW 43.03.060, 43.03.110 through 43.03.210 including moving expenses of new employees, exempt or classified, and others, shall be subject to reasonable regulations promulgated by the director of financial management, including regulations defining allowable moving costs: PROVIDED, That, if the new employee terminates or causes termination of his employment with the state within one year of the date of employment, the state shall be entitled to reimbursement for the moving costs which have been paid and may withhold such sum as necessary therefor from any amounts due the employee. [1979 c 151 § 86; 1967 ex.s. c 16 § 2.]

43.03.130 Travel expenses of prospective employees. Any state office, commission, department or institution may agree to pay the travel expenses of a prospective employee as an inducement for such applicant to travel to a designated place to be interviewed by and for the convenience of such agency: PROVIDED, That if such employment is to be in the classified service, such offer may be made only on the express authorization of the state department of personnel, or other corresponding personnel agency as provided by chapter 41.06 RCW, to applicants reporting for a merit system examination or to applicants from an eligible register reporting for a pre-employment interview. Travel expenses authorized for prospective employees called for interviews shall be payable at rates in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. When an applicant is called to be interviewed by or on behalf of more than one agency, the authorized travel expenses may be paid directly by the authorizing personnel department or agency, subject to reimbursement from the interviewing agencies on a pro rata basis.

In the case of both classified and exempt positions, such travel expenses will be paid only for applicants being considered for the positions of director, deputy director, assistant director, or supervisor of state departments, boards or commissions; or equivalent or higher positions; or engineers, or other personnel having both executive and professional status. In the case of four-year institutions of higher education, such travel expenses will be paid only for applicants being considered for academic positions above the rank of instructor or professional or administrative employees in supervisory positions. In the case of community and technical colleges, such travel expenses may be paid for applicants being considered for full-time faculty positions or administrative employees in supervisory positions. [1993 c 93 § 1; 1975-'76 2nd ex.s. c 34 § 96; 1967 ex.s. c 16 § 3.]

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

43.03.150 Advance payment of travel expenses—Authorized. Whenever it becomes necessary for an elective or appointive official or employee of the state to travel and to incur expenses for which reimbursement may be made, it shall be the policy of the state to make reasonable allowances to such officers and employees in advance of expenditure, on request of such officer or employee, under appropriate rules and regulations prescribed by the director of financial management. [1979 c 151 § 87; 1967 ex.s. c 16 § 6.]

43.03.160 Advance payment of travel expenses—"Department" defined. "Department", as used herein, shall mean every department, office, agency or institution of state government. [1967 ex.s. c 16 § 7.]

43.03.170 Advance payment of travel expenses—Advance warrants—Issuance—Limitations. The head of any state department may issue an advance warrant on the request of any officer or employee for the purpose of defraying his anticipated reimbursable expenses while traveling on business of such state department away from his designated post of duty, except expenses in connection with the use of a personal automobile. The amount of such advance shall not exceed the amount of such reasonably anticipated expenses of the officer or employee to be necessarily incurred in the course of such business of the state for a period of not to exceed ninety days. Department heads shall establish written policies prescribing a reasonable amount for which such warrants may be written. [1979 ex.s. c 71 § 1; 1967 ex.s. c 16 § 8.]

43.03.180 Advance payment of travel expenses—Itemized travel expense voucher to be submitted—Repayment of unexpended portion of advance—Default. On or before the tenth day following each month in which such advance was furnished to the officer or employee, he shall submit to the head of his department a fully itemized travel expense voucher fully justifying the expenditure of such advance or whatever part thereof has been expended, for legally reimbursable items on behalf of the state. Any unexpended portion of such advance shall be returned to the agency at the close of the authorized travel period. Payment shall accompany such itemized voucher at the close of the

travel period; and may be made by check or similar instrument payable to the department. Any default in accounting for or repaying an advance shall render the full amount which is unpaid immediately due and payable with interest at the rate of ten percent per annum from the date of default until paid. [1967 ex.s. c 16 § 9.]

43.03.190 Advance payment of travel expenses—Lien against and right to withhold funds payable until proper accounting or repaying of advance made. To protect the state from any losses on account of advances made as provided in RCW 43.03.150 through 43.03.210, the state shall have a prior lien against and a right to withhold any and all funds payable or to become payable by the state to such officer or employee to whom such advance has been given as provided in RCW 43.03.150 through 43.03.210, up to the amount of such advance and interest at the rate of ten percent per annum, until such time as repayment or justification has been made. [1979 ex.s. c 71 § 2; 1967 ex.s. c 16 § 10.]

43.03.200 Advance payment of travel expenses—Advances construed. An advance made under RCW 43.03.150 through 43.03.210 shall be considered as having been made to such officer or employee to be expended by him as an agent of the state for state purposes only, and specifically to defray necessary costs while performing his official duties. No such advance shall be considered for any purpose as a loan to such officer or employee, and any unauthorized expenditure of such funds shall be considered a misappropriation of state funds by a custodian of such funds. [1967 ex.s. c 16 § 11.]

43.03.210 Advance payment of travel expenses—Director of financial management to prescribe rules and regulations to carry out RCW 43.03.150 through 43.03.210. The director of financial management may prescribe rules and regulations to assist in carrying out the purposes of RCW 43.03.150 through 43.03.210 including regulation of travel by officers and employees and the conditions under which per diem and mileage shall be paid, so as to improve efficiency and conserve funds and to insure proper use and accountability of travel advances strictly in the public interest and for public purposes only. [1979 c 151 § 88; 1967 ex.s. c 16 § 12.]

43.03.220 Compensation of members of part-time boards and commissions—Class one groups. (1) Any part-time board, commission, council, committee, or other similar group which is established by the executive, legislative, or judicial branch to participate in state government and which functions primarily in an advisory, coordinating, or planning capacity shall be identified as a class one group.

(2) Absent any other provision of law to the contrary, no money beyond the customary reimbursement or allowance for expenses may be paid by or through the state to members of class one groups for attendance at meetings of such groups. [1984 c 287 § 2.]

Legislative findings—1984 c 287: "The legislature finds that members of part-time boards, commissions, councils, committees, and other similar groups established by the executive, legislative, or judicial branches

of state government make a valuable contribution to the public welfare. This time and talent so generously donated to the state is gratefully acknowledged.

The legislature further finds that membership on certain part-time groups involves responsibility for major policy decisions and represents a significant demand on the time and resources of members. The demands and responsibilities are well beyond reasonable expectations of an individual's gratuitous contribution to the public welfare. It is therefore appropriate to provide compensation to members of specific qualifying groups and further to provide three levels of compensation based on the responsibilities of the group and the time required to perform the group's statutory duties." [1984 c 287 § 1.]

Section headings—1984 c 287: "Section headings and captions used in RCW 43.03.220 through 43.03.250 do not constitute any part of the law." [1984 c 287 § 114.]

Severability—1984 c 287: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 287 § 115.]

Effective date—1984 c 287: "This act shall take effect on July 1, 1985." [1984 c 287 § 116.]

43.03.230 Compensation of members of part-time boards and commissions—Class two groups. (1) Any agricultural commodity commission established pursuant to Title 15 or 16 RCW shall be identified as a class two group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class two group is eligible to receive compensation in an amount not to exceed thirty-five dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group. [1984 c 287 § 3.]

Legislative findings—Section headings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.03.240 Compensation of members of part-time boards and commissions—Class three groups. (1) Any part-time, statutory board, commission, council, committee, or other similar group which has rule-making authority, performs quasi judicial functions, has responsibility for the administration or policy direction of a state agency or program, or performs regulatory or licensing functions with respect to a specific profession, occupation, business, or industry shall be identified as a class three group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class three group is eligible to receive compensation in an amount not to exceed fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-

time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group. [1984 c 287 § 4.]

Legislative findings—Section headings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.03.250 Compensation of members of part-time boards and commissions—Class four groups. (1) A part-time, statutory board, commission, council, committee, or other similar group shall be identified as a class four group for purposes of compensation if the group:

(a) Has rule-making authority, performs quasi-judicial functions, or has responsibility for the administration or policy direction of a state agency or program;

(b) Has duties that are deemed by the legislature to be of overriding sensitivity and importance to the public welfare and the operation of state government; and

(c) Requires service from its members representing a significant demand on their time that is normally in excess of one hundred hours of meeting time per year.

(2) Each member of a class four group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group. [1984 c 287 § 5.]

Legislative findings—Section headings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.03.260 Compensation of members of part-time boards and commissions—Reports to legislature. The office of financial management shall review the compensation levels established for the various boards and commissions by RCW 43.03.220, 43.03.230, 43.03.240, and 43.03.250. The conclusions of the review, together with any proposed legislation, shall be submitted to the appropriate standing committees of the legislature by December 1, 1988, and every four years thereafter. [1986 c 158 § 8; 1984 c 287 § 113.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.03.300 Salaries of elected state officials—Legislative declaration—Purpose. The legislature hereby

declares it to be the policy of this state to base salaries of elected state officials on realistic standards in order that such officials may be paid according to the duties of their offices and so that citizens of the highest quality may be attracted to public service. It is the purpose of RCW 43.03.300 through 43.03.310 to effectuate this policy by creating a citizens' commission to establish proper salaries for such officials, thus removing political considerations in fixing the appropriateness of the amount of such salaries. [1986 c 155 § 1.]

Contingent effective date—1986 c 155: "This act shall take effect on January 1, 1987, if the proposed amendment to Article XXVIII of the state Constitution establishing an exclusive process for changes in the salaries of members of the legislature and other elected state officials is validly submitted and is approved and ratified by the voters at a general election held in November, 1986. If such proposed amendment is not so submitted and approved and ratified, this act shall be null and void in its entirety." [1986 c 155 § 16.] 1986 House Joint Resolution No. 49 was approved at the November 1986 general election. See Article XXVIII, section 1 and Amendment 78 of the state Constitution.

Severability—1986 c 155: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 155 § 15.]

43.03.305 Washington citizens' commission on salaries for elected officials—Generally. There is created a commission to be known as the Washington citizens' commission on salaries for elected officials, to consist of sixteen members appointed by the governor as provided in this section.

(1) Nine of the sixteen commission members shall be selected by lot by the secretary of state from among those registered voters eligible to vote at the time persons are selected for appointment to full terms on the commission under subsection (3) of this section. One member shall be selected from each congressional district. The secretary shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for notifying persons selected and for providing a new selection from a congressional district if a person selected from the district declines appointment to the commission or if, following the person's appointment, the person's position on the commission becomes vacant before the end of the person's term of office.

(2) The remaining seven of the sixteen commission members, all residents of this state, shall be selected jointly by the speaker of the house of representatives and the president of the senate. The persons selected under this subsection shall have had experience in the field of personnel management. Of these seven members, one shall be selected from each of the following five sectors in this state: Private institutions of higher education; business; professional personnel management; legal profession; and organized labor. Of the two remaining members, one shall be a person recommended to the speaker and the president by the chair of the Washington personnel resources board and one shall be a person recommended by majority vote of the presidents of the state's four-year institutions of higher education.

(3) The secretary of state shall forward the names of persons selected under subsection (1) of this section and the speaker of the house of representatives and president of the senate shall forward the names of persons selected under subsection (2) of this section to the governor who shall

appoint these persons to the commission. Except as provided in subsection (6) of this section, the names of persons selected for appointment to the commission shall be forwarded to the governor not later than February 15, 1987, and not later than the fifteenth day of February every four years thereafter.

(4) Members shall hold office for terms of four years, and no person may be appointed to more than two such terms. No member of the commission may be removed by the governor during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office or for a disqualifying change of residence.

The unexcused absence of any person who is a member of the commission from two consecutive meetings of the commission shall constitute the relinquishment of that person's membership on the commission. Such a relinquishment creates a vacancy in that person's position on the commission. A member's absence may be excused by the chair of the commission upon the member's written request if the chair believes there is just cause for the absence. Such a request must be received by the chair before the meeting for which the absence is to be excused. A member's absence from a meeting of the commission may also be excused during the meeting for which the member is absent by the affirmative vote of a majority of the members of the commission present at the meeting.

(5) No state official, public employee, or lobbyist, or immediate family member of the official, employee, or lobbyist, subject to the registration requirements of chapter 42.17 RCW is eligible for membership on the commission.

As used in this subsection the phrase "immediate family" means the parents, spouse, siblings, children, or dependent relative of the official, employee, or lobbyist whether or not living in the household of the official, employee, or lobbyist.

(6) Upon a vacancy in any position on the commission, a successor shall be selected and appointed to fill the unexpired term. The selection and appointment shall be concluded within thirty days of the date the position becomes vacant and shall be conducted in the same manner as originally provided. [1995 c 3 § 1; 1993 c 281 § 46; 1986 c 155 § 2.]

Effective date—1995 c 3: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [February 10, 1995]." [1995 c 3 § 3.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

43.03.310 Duties of citizens' commission—Travel expenses—Chair—Schedule of salaries—Publication—Hearings. (1) The citizens' commission on salaries for elected officials shall study the relationship of salaries to the duties of members of the legislature, all elected officials of the executive branch of state government, and all judges of the supreme court, court of appeals, superior courts, and district courts, and shall fix the salary for each respective position.

(2) Except as provided otherwise in RCW 43.03.305 and this section, the commission shall be solely responsible for

its own organization, operation, and action and shall enjoy the fullest cooperation of all state officials, departments, and agencies.

(3) Members of the commission shall receive no compensation for their services, but shall be eligible to receive a subsistence allowance and travel expenses pursuant to RCW 43.03.050 and 43.03.060.

(4) The members of the commission shall elect a chair from among their number. The commission shall set a schedule of salaries by an affirmative vote of not less than nine members of the commission.

(5) The commission shall file its initial schedule of salaries for the elected officials with the secretary of state no later than the first Monday in June, 1987, and shall file a schedule biennially thereafter. Each such schedule shall be filed in legislative bill form, shall be assigned a chapter number and published with the session laws of the legislature, and shall be codified by the statute law committee. The signature of the chair of the commission shall be affixed to each schedule submitted to the secretary of state. The chair shall certify that the schedule has been adopted in accordance with the provisions of state law and with the rules, if any, of the commission. Such schedules shall become effective ninety days after the filing thereof, except as provided in Article XXVIII, section 1 of the state Constitution. State laws regarding referendum petitions shall apply to such schedules to the extent consistent with Article XXVIII, section 1 of the state Constitution.

(6) Prior to the filing of any salary schedule, the commission shall hold no fewer than four public hearings thereon within the four months immediately preceding the filing.

(7) All meetings, actions, hearings, and business of the commission shall be subject in full to the open public meetings act, chapter 42.30 RCW.

(8) Salaries of the officials referred to in subsection (1) of this section that are in effect on January 12, 1987, shall continue until modified by the commission under this section. [1995 c 3 § 2; 1986 c 155 § 3.]

Effective date—1995 c 3: See note following RCW 43.03.305.

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

Chapter 43.04 USE OF STATE SEAL

Sections	
43.04.010	Legislative findings.
43.04.020	Definitions.
43.04.030	Use of state seal—Official purposes.
43.04.040	Use of state seal—Commemorative and souvenir items— Historical, educational, and civil purposes— Application—Fee—Licensing agreements—Rules.
43.04.050	Use of state seal—Prohibitions—Imitations.
43.04.060	Endorsements prohibited.
43.04.070	Civil penalties—Injunctions.
43.04.080	Investigations—Enforcement.
43.04.090	Criminal penalty.
43.04.100	Deposit of fees, penalties, and damages—Use.
43.04.900	Severability—1988 c 120.

43.04.010 Legislative findings. The legislature finds that the seal of the state of Washington is a symbol of the

authority and sovereignty of the state and is a valuable asset of its people. It is the intent of the legislature to ensure that appropriate uses are made of the state seal and to assist the secretary of state in the performance of the secretary's constitutional duty as custodian of the seal. [1988 c 120 § 1.]

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

(1) "State seal" means the seal of the state as described in Article XVIII, section 1 of the state Constitution and in RCW 1.20.080.

(2) "Secretary" means the secretary of state and any designee of the secretary of state. [1988 c 120 § 2.]

43.04.030 Use of state seal—Official purposes. Except as otherwise provided in this chapter, the state seal shall be used for official purposes only. [1988 c 120 § 3.]

43.04.040 Use of state seal—Commemorative and souvenir items—Historical, educational, and civil purposes—Application—Fee—Licensing agreements—Rules. (1) The secretary of state may authorize the use of the state seal on commemorative and souvenir items, and for historical, educational, and civic purposes. Such authorization shall be in writing.

(2) Application for such authorization shall be in writing and shall be accompanied by a filing fee, the amount of which shall be determined by the secretary of state. The secretary shall set the fee at a level adequate to cover the administrative costs of processing the applications.

(3) If the secretary determines that a permitted use of the seal could financially benefit the state, the secretary may condition authorization upon a licensing agreement to secure those benefits for the state.

(4) The secretary of state shall adopt rules under chapter 34.05 RCW to govern the use of the seal in a manner consistent with this chapter. Any rule governing the use of the seal shall be designed to prevent inappropriate or misleading use of the seal and to assure tasteful and high-quality reproduction of the seal. The rules shall also prescribe the circumstances when a licensing arrangement shall be required and the method for determining licensing fees. [1988 c 120 § 4.]

43.04.050 Use of state seal—Prohibitions—Imitations. (1) Except as otherwise provided in RCW 43.04.040, the state seal shall not be used on or in connection with any advertising or promotion for any product, business, organization, service, or article whether offered for sale for profit or offered without charge.

(2) The state seal shall never be used in a political campaign to assist or defeat any candidate for elective office.

(3) It is a violation of this chapter to use any symbol that imitates the seal or that is deceptively similar in appearance to the seal, in any manner that would be an improper use of the official seal itself.

(4) Nothing in this chapter shall prohibit the reproduction of the state seal for illustrative purposes by the news media if the reproduction by the news media is incidental to

the publication or the broadcast. Nothing in this chapter shall prohibit a characterization of the state seal from being used in political cartoons. [1988 c 120 § 5.]

43.04.060 Endorsements prohibited. No use of the state seal may operate or be construed to operate in any way as an endorsement of any business, organization, product, service, or article. [1988 c 120 § 6.]

43.04.070 Civil penalties—Injunctions. Any person who violates RCW 43.04.050 (1) or (3) by using the state seal or an imitative or deceptively similar seal on or in connection with any product, business, organization, service, or article shall be liable for damages in a suit brought by the attorney general. The damages shall be equal to the gross monetary amount gained by the misuse of the state seal or the use of the imitative or deceptively similar seal, plus attorney's fees and other costs of the state in bringing the suit. The "gross monetary amount" is the total of the gross receipts that can be reasonably attributed to the misuse of the seal or the use of an imitative or deceptively similar seal. In addition to the damages, the violator is subject to a civil penalty imposed by the court in an amount not to exceed five thousand dollars. In imposing this penalty, the court shall consider the need to deter further violations of this chapter.

The attorney general may seek and shall be granted such injunctive relief as is appropriate to stop or prevent violations of this chapter. [1988 c 120 § 7.]

43.04.080 Investigations—Enforcement. The secretary of state shall conduct investigations for violations of this chapter and may request enforcement by the attorney general. [1988 c 120 § 8.]

43.04.090 Criminal penalty. Any person who wilfully violates this chapter is guilty of a misdemeanor. [1988 c 120 § 9.]

43.04.100 Deposit of fees, penalties, and damages—Use. All fees, penalties, and damages received under this chapter shall be paid to the secretary of state and with the exception of the filing fee authorized in RCW 43.04.040(2) shall be deposited by the secretary into the capitol building construction account in the state treasury, for use in the historical restoration and completion of the legislative building. [1988 c 120 § 10.]

43.04.900 Severability—1988 c 120. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1988 c 120 § 13.]

Chapter 43.05
TECHNICAL ASSISTANCE PROGRAMS

Sections

- 43.05.005 Findings.
- 43.05.010 Definitions.
- 43.05.020 Agency programs—List of technical assistance providers.
- 43.05.030 Technical assistance visit—Notice of violation.
- 43.05.040 Time to correct violations—Revisit—Issuance of penalties.
- 43.05.050 Issuance of penalty during technical assistance visit.
- 43.05.060 Department of ecology—Notice of correction.
- 43.05.070 Department of ecology—Penalty.
- 43.05.080 Application of RCW 43.05.060 and 43.05.070—Limited.
- 43.05.090 Department of labor and industries—Consultative visit, report—Compliance inspection, citation.
- 43.05.100 Departments of agriculture, fish and wildlife, health, licensing, natural resources—Notice of correction.
- 43.05.110 Departments of agriculture, fish and wildlife, health, licensing, natural resources—Penalty.
- 43.05.120 Time for compliance—Extension.
- 43.05.130 Educational programs.
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- 43.05.150 Agency immunity—Enforcement authority.
- 43.05.900 Report to the governor and legislature—Expiration of section.
- 43.05.901 Conflict with federal requirements.
- 43.05.902 Resolution of conflict with federal requirements—Notification.
- 43.05.903 Part headings not law—1995 c 403.
- 43.05.904 Severability—1995 c 403.
- 43.05.905 Findings—Short title—Intent—1995 c 403.

43.05.005 Findings. The legislature finds that, due to the volume and complexity of laws and rules it is appropriate for regulatory agencies to adopt programs and policies that encourage voluntary compliance by those affected by specific rules. The legislature recognizes that a cooperative partnership between agencies and regulated parties that emphasizes education and assistance before the imposition of penalties will achieve greater compliance with laws and rules and that most individuals and businesses who are subject to regulation will attempt to comply with the law, particularly if they are given sufficient information. In this context, enforcement should assure that the majority of a regulated community that complies with the law are not placed at a competitive disadvantage and that a continuing failure to comply that is within the control of a party who has received technical assistance is considered by an agency when it determines the amount of any civil penalty that is issued. [1995 c 403 § 601.]

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

(1) "Civil penalty" means a monetary penalty administratively issued by a regulatory agency for noncompliance with state or federal law or rules. The term does not include any criminal penalty, damage assessments, wages, premiums, or taxes owed, or interest or late fees on any existing obligation.

(2) "Regulatory agency" means an agency as defined in RCW 34.05.010 that has the authority to issue civil penalties. The term does not include the state patrol or any institution of higher education as defined in RCW 28B.10.016.

(3) "Technical assistance" includes:

(a) Information on the laws, rules, and compliance methods and technologies applicable to the regulatory agency's programs;

(b) Information on methods to avoid compliance problems;

(c) Assistance in applying for permits; and

(d) Information on the mission, goals, and objectives of the program. [1995 c 403 § 602.]

43.05.020 Agency programs—List of technical assistance providers. All regulatory agencies shall develop programs to encourage voluntary compliance by providing technical assistance consistent with statutory requirements. The programs shall include but are not limited to technical assistance visits, printed information, information and assistance by telephone, training meetings, and other appropriate methods to provide technical assistance. In addition, all regulatory agencies shall provide upon request a list of organizations, including private companies, that provide technical assistance. This list shall be compiled by the agencies from information submitted by the organizations and shall not constitute an endorsement by an agency of any organization. [1995 c 403 § 603.]

43.05.030 Technical assistance visit—Notice of violation. (1) For the purposes of this chapter, a technical assistance visit is a visit by a regulatory agency to a facility, business, or other location that:

(a) Has been requested or is voluntarily accepted; and

(b) Is declared by the regulatory agency at the beginning of the visit to be a technical assistance visit.

(2) A technical assistance visit also includes a consultative visit pursuant to RCW 49.17.250.

(3) During a technical assistance visit, or within a reasonable time thereafter, a regulatory agency shall inform the owner or operator of the facility of any violations of law or agency rules identified by the agency as follows:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the agency requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the agency or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the agency. [1996 c 206 § 2; 1995 c 403 § 604.]

Findings—1996 c 206: "The legislature finds that many individuals and small businesses who are required to comply with laws and agency rules often do not have access to the Revised Code of Washington, the Washington Administrative Code, the United States Code, or the Code of Federal Regulations. In this case, those informed of violations do not know whether, or to what extent, the cited law or agency rule actually applies to their situation. In order to facilitate greater understanding of the law and agency rules, the legislature finds that those who make the effort to obtain technical assistance from a regulatory agency, and those who are issued a notice of correction, should be given the text of the specific section or subsection of the law or agency rule they are alleged to have violated." [1996 c 206 § 1.]

43.05.040 Time to correct violations—Revisit—Issuance of penalties. The owner and operator shall be given a reasonable period of time to correct violations identified during a technical assistance visit before any civil penalty provided for by law is imposed for those violations. A regulatory agency may revisit a facility, business, or other location after a technical assistance visit and a reasonable period of time has passed to correct violations identified by the agency in writing and issue civil penalties as provided for by law for any uncorrected violations. [1995 c 403 § 605.]

43.05.050 Issuance of penalty during technical assistance visit. A regulatory agency that observes a violation during a technical assistance visit may issue a civil penalty as provided for by law if: (1) The individual or business has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) the issue involves sales taxes due to the state and the individual or business is not remitting previously collected sales taxes to the state; or (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars. [1995 c 403 § 606.]

43.05.060 Department of ecology—Notice of correction. (1) If in the course of any site inspection or visit that is not a technical assistance visit, the department of ecology becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the department and are not subject to civil penalties as provided for in RCW 43.05.070, the department may issue a notice of correction to the responsible party that shall include:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the department requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the department or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the department issues a notice of correction, it shall not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice. [1996 c 206 § 3; 1995 c 403 § 607.]

Findings—1996 c 206: See note following RCW 43.05.030.

43.05.070 Department of ecology—Penalty. The department of ecology may issue a civil penalty provided for by law without first issuing a notice of correction if: (1)

The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; or (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars. [1995 c 403 § 608.]

43.05.080 Application of RCW 43.05.060 and 43.05.070—Limited. The provisions of RCW 43.05.060 and 43.05.070 affecting civil penalties issued by the department of ecology shall not apply to civil penalties for negligent discharge of oil as authorized under RCW 90.56.330 or to civil penalties as authorized under RCW 90.03.600 for unlawful use of water in violation of RCW 90.03.250 or 90.44.050. [1995 c 403 § 609.]

43.05.090 Department of labor and industries—Consultative visit, report—Compliance inspection, citation. (1) Following a consultative visit pursuant to RCW 49.17.250, the department of labor and industries shall issue a report to the employer that the employer shall make available to its employees. The report shall contain:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the department requires compliance to be achieved;

(d) Notice of means to contact technical assistance services provided by the department; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) Following a compliance inspection pursuant to RCW 49.17.120, the department of labor and industries shall issue a citation for violations of industrial safety and health standards. The citation shall not assess a penalty if the violations:

(a) Are determined not to be of a serious nature;

(b) Have not been previously cited;

(c) Are not willful; and

(d) Do not have a mandatory penalty under chapter 49.17 RCW. [1996 c 206 § 4; 1995 c 403 § 610.]

Findings—1996 c 206: See note following RCW 43.05.030.

43.05.100 Departments of agriculture, fish and wildlife, health, licensing, natural resources—Notice of correction. (1) If in the course of any inspection or visit that is not a technical assistance visit, the department of agriculture, fish and wildlife, health, licensing, or natural resources becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the depart-

ment and are not subject to civil penalties as provided for in RCW 43.05.110, the department may issue a notice of correction to the responsible party that shall include:

- (a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;
- (b) A statement of what is required to achieve compliance;
- (c) The date by which the department requires compliance to be achieved;
- (d) Notice of the means to contact any technical assistance services provided by the department or others; and
- (e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the department issues a notice of correction, it shall not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice. [1996 c 206 § 5; 1995 c 403 § 611.]

Findings—1996 c 206: See note following RCW 43.05.030.

43.05.110 Departments of agriculture, fish and wildlife, health, licensing, natural resources—Penalty. The department of agriculture, fish and wildlife, health, licensing, or natural resources may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars; or (4) the violation was committed by a business that employed fifty or more employees on at least one day in each of the preceding twelve months. In addition, the department of fish and wildlife may issue a civil penalty provided for by law without first issuing a notice of correction for a violation of any rule dealing with seasons, catch or bag limits, gear types, or geographical areas for fish or wildlife removal, reporting, or disposal. [1995 c 403 § 612.]

43.05.120 Time for compliance—Extension. The date for compliance established by the department of ecology, labor and industries, agriculture, fish and wildlife, health, licensing, or natural resources pursuant to RCW 43.05.060, 43.05.090, or 43.05.100 respectively shall provide for a reasonable time to achieve compliance. Any person receiving a notice of correction pursuant to RCW 43.05.060 or 43.05.100 or a report or citation pursuant to RCW 43.05.090 may request an extension of time to achieve compliance for good cause from the issuing department.

Requests shall be submitted to the issuing department and responded to by the issuing department in writing in accordance with procedures specified by the issuing department in the notice, report, or citation. [1995 c 403 § 613.]

43.05.130 Educational programs. The departments of revenue and labor and industries and the employment security department shall undertake an educational program directed at those who have the most difficulty in determining their tax or premium liability. The departments may rely on information from internal data, trade associations, and businesses to determine which entities should be selected. The educational programs may include, but not be limited to, targeted informational fact sheets, self-audits, or workshops, and may be presented individually by the agency or in conjunction with other agencies. [1995 c 403 § 614.]

43.05.140 Pilot voluntary audit program. The department of revenue, the department of labor and industries in respect to its duties in Title 51 RCW, and the employment security department shall develop and administer a pilot voluntary audit program. Voluntary audits can be requested by businesses from any of these agencies according to guidelines established by each agency. No penalty assessments may be made against participants in such a program except when the agency determines that either a good faith effort has not been made by the taxpayer or premium payer to comply with the law or that the taxpayer has failed to remit previously collected sales taxes to the state. The persons conducting the voluntary audit shall provide the business undergoing the voluntary audit an audit report that describes errors or omissions found and future reporting instructions. This program does not relieve a business from past or future tax or premium obligations. [1995 c 403 § 615.]

43.05.150 Agency immunity—Enforcement authority. Nothing in this chapter obligates a regulatory agency to conduct a technical assistance visit. The state and officers or employees of the state shall not be liable for damages to a person to the extent that liability is asserted to arise from providing technical assistance, or if liability is asserted to arise from the failure of the state or officers or employees of the state to provide technical assistance. This chapter does not limit the authority of any regulatory agency to take any enforcement action, other than a civil penalty, authorized by law. This chapter shall not limit a regulatory agency's authority to issue a civil penalty as authorized by law based upon a person's failure to comply with specific terms and conditions of any permit or license issued by the agency to that person. [1995 c 403 § 617.]

43.05.900 Report to the governor and legislature—Expiration of section. (1) By January 31, 1996, and by January 31st of each even-numbered year thereafter, the office of financial management, after consulting with state regulatory agencies, counties, and cities, and business, labor, and environmental organizations, shall report to the governor and the legislature regarding the effects of this chapter on the regulatory system in this state. The report shall document:

(a) Technical assistance, including but not limited to technical assistance visits, provided by state regulatory agencies consistent with this chapter;

(b) Any rules adopted, guidelines developed, or training conducted to implement this chapter;

(c) Any changes in the appropriation, allocation, or expenditure of regulatory agency resources to implement this chapter;

(d) Any legal action against state regulatory agencies for any alleged failure to comply with this chapter, the costs to the state of the action, and the result;

(e) The extent to which this chapter has resulted in either an increase or decrease in regulatory agency use of civil penalties;

(f) The extent to which this chapter has contributed to any change in voluntary compliance with state statutes or rules;

(g) The extent to which this chapter has improved the acceptability or effectiveness of state regulatory procedures; and

(h) Any other information considered by the office of financial management to be useful in evaluating the effect of this chapter.

(2) This section shall expire June 30, 2000. [1995 c 403 § 621.]

43.05.901 Conflict with federal requirements. If a regulatory agency determines any part of this chapter to be in conflict with federal law or program requirements, in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, or in conflict with the requirements for eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this chapter shall be inoperative solely to the extent of the conflict. Any rules under this chapter shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state. [1995 c 403 § 619.]

43.05.902 Resolution of conflict with federal requirements—Notification. If notified by responsible federal officials of any conflict of this chapter with federal law or program requirements or with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the regulatory agency notified of the conflict shall actively seek to resolve the conflict. If the agency determines that the conflict cannot be resolved without loss of benefits or authority to the state, the agency shall notify the governor, the president of the senate, and the speaker of the house of representatives in writing within thirty days of making that determination. [1995 c 403 § 620.]

43.05.903 Part headings not law—1995 c 403. Part headings as used in this act do not constitute any part of the law. [1995 c 403 § 1101.]

43.05.904 Severability—1995 c 403. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of

the provision to other persons or circumstances is not affected. [1995 c 403 § 1105.]

43.05.905 Findings—Short title—Intent—1995 c 403. See note following RCW 34.05.328.

Chapter 43.06 GOVERNOR

Sections

- 43.06.010 General powers and duties.
- 43.06.015 Interstate oil compact commission—Governor may join.
- 43.06.020 Records to be kept.
- 43.06.030 Appointments to senate for confirmation—Notice.
- 43.06.040 Lieutenant governor acts in governor's absence.
- 43.06.050 Powers and duties of acting governor.
- 43.06.055 Governor-elect—Appropriation to provide office and staff.
- 43.06.060 Expense of publishing proclamations.
- 43.06.070 Removal of appointive officers.
- 43.06.080 Removal of appointive officers—Statement of reasons to be filed.
- 43.06.090 Removal of appointive officers—Filling of vacancy.
- 43.06.092 Gubernatorial appointees—Continuation of service—Appointments to fill vacancies.
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- 43.06.110 Economic opportunity act programs—State participation—Authority of governor.
- 43.06.115 Militarily impacted area—Declaration by governor.
- 43.06.120 Federal funds and programs—Acceptance of funds by governor authorized—Administration and disbursement.
- 43.06.130 Federal funds and programs—Payment of travel expenses of committees, councils, or other bodies.
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- 43.06.210 Proclamations—Generally—State of emergency.
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- 43.06.230 State of emergency—Destroying or damaging property or causing personal injury—Penalty.
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- 43.06.260 State of emergency—Prosecution of persons sixteen years or over as adults.
- 43.06.270 State of emergency—State militia or state patrol—Use in restoring order.
- 43.06.350 Foreign nationals or citizens, convicted offenders—Transfers and sentences.
- 43.06.400 Biennial listing of reduction in revenues from tax exemptions to be submitted to legislature by department of revenue—Periodic review and submission of recommendations to legislature by governor.
- 43.06.410 State internship program—Governor's duties.
- 43.06.415 State internship program coordinator—Rules.
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- 43.06.425 Interns—Effect of employment experience—Rights of reversion—Fringe benefits—Sick and vacation leave.
- 43.06.435 Interns—Effect on full time equivalent staff position limitations.

Appointing power

- accountancy board:* RCW 18.04.035.
- administrator for the courts, submission of list for appointment from:* RCW 2.56.010.
- architects board of registration:* RCW 18.08.330.
- board of registration of professional engineers and land surveyors:* RCW 18.43.030.
- board of tax appeals:* RCW 82.03.020.

- center for volunteerism and citizen service: RCW 43.150.040.
 clemency and pardons board: RCW 9.94A.250.
 college district boards of trustees: RCW 28B.50.100.
 council for the prevention of child abuse and neglect: RCW 43.121.020.
 court of appeals vacancy: State Constitution Art. 4 § 30; RCW 2.06.080.
 criminal justice training commission: RCW 43.101.030.
 degree-granting institutions, attorney general participation: Chapter 28B.85 RCW.
 department of ecology, director of: RCW 43.21A.050.
 department of social and health services, secretary of: RCW 43.20A.040.
 directors of state departments and agencies: RCW 43.17.020.
 electrical advisory board members: RCW 19.28.065.
 energy facility site evaluation council: RCW 80.50.030.
 financial management, director: RCW 43.41.060.
 fish and wildlife commission: RCW 77.04.030.
 higher education facilities authority: RCW 28B.07.030.
 industrial insurance appeals board: RCW 51.52.010.
 information services board: RCW 43.105.032.
 interagency committee for outdoor recreation: RCW 43.99.110.
 investment board members: RCW 43.33A.020.
 judges of court of appeals, vacancy: State Constitution Art. 4 § 30; RCW 2.06.080.
 judges of superior court, vacancy: State Constitution Art. 4 § 5; RCW 2.08.120.
 vacancy resulting from creation of additional judgeship: RCW 2.08.069.
 justices of supreme court, vacancy: State Constitution Art. 4 § 3; RCW 2.04.100.
 license examining committee: RCW 43.24.060.
 license revocation committee: RCW 43.24.110.
 militia officers: State Constitution Art. 10 § 2.
 optometry board members: RCW 18.54.030.
 Pacific marine fisheries commission, appointment of representatives to: RCW 75.40.040.
 pharmacy board: RCW 18.64.001.
 physical therapy board committee: RCW 18.74.020.
 podiatric medical board: RCW 18.22.013.
 pollution control hearings board of the state: RCW 43.21B.020, 43.21B.030.
 private vocational schools, attorney general participation: Chapter 28C.10 RCW.
 public pension commission members: RCW 41.52.010.
 public printer: RCW 43.78.010.
 railroad policemen: RCW 81.60.010.
 real estate commission: RCW 18.85.071.
 regents of educational institutions: State Constitution Art. 13 § 1.
 stadium commission members: RCW 67.28.090.
 state arts commission: RCW 43.46.015.
 state board for community and technical colleges: RCW 28B.50.050, 28B.50.070.
 state board of health: RCW 43.20.030.
 state college boards of trustees: RCW 28B.40.100.
 state library commission: RCW 27.04.020.
 state patrol chief: RCW 43.43.020.
 statute law committee members: RCW 1.08.001.
 superior court vacancy: State Constitution Art. 4 § 5; RCW 2.08.069, 2.08.120.
 supreme court vacancy: State Constitution Art. 4 § 3; RCW 2.04.100.
 traffic safety commission: RCW 43.59.030.
 transportation commission members: RCW 47.01.051.
 uniform legislation commission: RCW 43.56.010.
 United States senator, filling vacancy in office of: RCW 29.68.070.
 University of Washington board of regents: RCW 28B.20.100.
 utilities and transportation commission: RCW 80.01.010.
 vacancies in
 appointive office filled by: State Constitution Art. 3 § 13.
 court of appeals, filled by: State Constitution Art. 4 § 30; RCW 2.06.080.
 legislature, duties: State Constitution Art. 2 § 15.
 superior court, filled by: State Constitution Art. 4 § 5; RCW 2.08.069, 2.08.120.
 supreme court, filled by: State Constitution Art. 4 § 3; RCW 2.04.100.
 veterinary board of governors: RCW 18.92.021.
 visiting judges of superior court: RCW 2.08.140.
 Washington personnel resources board: RCW 41.06.110.
 Washington State University board of regents: RCW 28B.30.100.
 Approval of laws: State Constitution Art. 3 § 12.
 Associations of municipal corporations or officers to furnish information to governor: RCW 44.04.170.
 Attorney general, advice to governor: RCW 43.10.030.
 Board of natural resources member: RCW 43.30.040.
 Bonds, notes and other evidences of indebtedness, governor's duties: Chapter 39.42 RCW.
 Clemency and pardons board, established as board in office of governor: RCW 9.94A.250.
 Commander-in-chief of state militia: State Constitution Art. 3 § 8.
 Commissions issued by state, signed by: State Constitution Art. 3 § 15.
 Commutation of death sentence, power to commute: RCW 10.01.120.
 Congress, special election to fill vacancy in office of called by: RCW 29.68.080.
 Continuity of government in event of enemy attack, succession to office of governor: RCW 42.14.020.
 Council for the prevention of child abuse and neglect, jurisdiction in governor: RCW 43.121.020.
 Driver license compact, executive head: RCW 46.21.040.
 Election certificates issued for state and congressional offices by: RCW 29.27.110.
 Election of: State Constitution Art. 3 § 1.
 Execution of laws: State Constitution Art. 3 § 5.
 Extradition proceedings
 power and duties as to: RCW 10.34.030.
 warrant issued by: RCW 10.88.260.
 Fines, power to remit: State Constitution Art. 3 § 11.
 Forfeitures, power to remit: State Constitution Art. 3 § 11.
 Highway
 construction bonds and coupons, governor to sign: Chapter 47.10 RCW.
 toll facility property sale, deed executed by: RCW 47.56.255.
 Impeachment: State Constitution Art. 5 §§ 1, 2.
 Indians, assumption of state jurisdiction, proclamation by governor: RCW 37.12.021.
 Information in writing may be required from state officers: State Constitution Art. 3 § 5.
 Interstate compact on juveniles, duties: Chapter 13.24 RCW.
 Judges' retirement applications, doctors' examination report, approval and filing of: RCW 2.12.020.
 Judicial officers
 extension of leave of absence of: State Constitution Art. 4 § 8.
 superior court, assignment to another county by: State Constitution Art. 4 §§ 5, 7.
 Labor and industries, department, biennial report to governor: RCW 43.22.330.
 Legal holidays
 designation of: RCW 1.16.050.
 proclamation process, applicability to courts: RCW 2.28.100.
 Legislature
 extra session, may convene: State Constitution Art. 3 § 7.
 messages to: State Constitution Art. 3 § 6.
 vacancies, filled by: State Constitution Art. 2 § 15.
 Local governmental organizations, actions affecting boundaries, etc., review by boundary review board: Chapter 36.93 RCW.
 Marketing agreements or orders, annual audit of financial affairs under, governor to receive reports of: RCW 15.65.490.
 Messages to legislature: State Constitution Art. 3 § 6.
 Militia and military affairs
 commander-in-chief of militia: State Constitution Art. 3 § 8; RCW 38.08.020.
 compacts with other states for guarding boundaries: RCW 38.08.100.
 eminent domain for military purposes: RCW 8.04.170, 8.04.180.
 martial law, proclamation by, when: RCW 38.08.030.
 officers, commissioned by: State Constitution Art. 10 § 2.
 personal staff: RCW 38.08.070.

- rules promulgated by: RCW 38.08.090.
 strength, composition, training, etc., prescribed by: RCW 38.04.040.
- Motor vehicle administration, annual report of director of licensing to go to: RCW 46.01.290.
- OASI, agreement of state for participation of state and political subdivision employees, duties concerning: Chapter 41.48 RCW.
- Oath of office: RCW 43.01.020.
- Official bonds, approval of: RCW 42.08.100.
- Pardons
 power to grant: RCW 10.01.120.
 report to legislature of: State Constitution Art. 3 § 9, 11.
 restrictions prescribed by law: State Constitution Art. 3 § 9.
- Paroles, governor may revoke: RCW 9.95.160.
- Protection for governor, lieutenant governor, and governor elect, duty of chief of state patrol to provide: RCW 43.43.035.
- Puget Sound ferry and toll bridge system, governor's powers and duties relating to: Chapter 47.60 RCW.
- Registry of governor's acts kept by secretary of state: RCW 43.07.030.
- Remission of fines and forfeitures report to legislature with reasons: State Constitution Art. 3 § 11.
- Reports to governor
 agricultural marketing agreements or orders, audits and financial reports: RCW 15.65.490.
 agricultural marketing legislation recommendations: RCW 15.64.010.
 agriculture director: RCW 43.23.130.
 annual report by state officers, etc., period covered: RCW 43.01.035.
 business license center: RCW 19.02.030.
 council for the prevention of child abuse and neglect: RCW 43.121.090.
 department of transportation, operation and construction activities: RCW 47.01.141.
 disturbances at state penal facilities—Contingency plans for—Report of failure to support: RCW 72.02.170.
 engineers and land surveyors board of registration: RCW 18.43.035.
 enrollment forecasts: RCW 43.62.050.
 financial management, director: RCW 43.88.160.
 fish and wildlife director: RCW 75.08.020.
 governor's advisory committee on agency officials' salaries: RCW 43.03.028.
 horse racing commission: RCW 67.16.015.
 human rights commission: RCW 49.60.100.
 indeterminate sentence review board: RCW 9.95.265.
 industrial insurance, violations: RCW 51.04.020.
 investment activities of state investment board: RCW 43.33A.150.
 judges of the supreme court to report defects or omissions in laws to: RCW 2.04.230.
 labor and industries director: RCW 43.22.330, 49.12.180.
 motor vehicle administration, director of licensing: RCW 46.01.290.
 prosecuting attorneys, annual report: RCW 36.27.020.
 public pension commission: RCW 41.52.040.
 state arts commission: RCW 43.46.070.
 state board for community and technical colleges: RCW 28B.50.070.
 state board of health: RCW 43.20.100.
 state officers: State Constitution Art. 3 § 5.
 state parks and recreation commission: RCW 43.51.040.
 superintendent of public instruction, biennial report: RCW 28A.300.040.
 University of Washington board of regents: RCW 28B.20.130.
 utilities and transportation commission: RCW 80.01.090.
 veterans' rehabilitation council: RCW 43.61.040.
- Reprieves
 power to grant: RCW 10.01.120.
 report to legislature: State Constitution Art. 3 § 11.
- Residence at seat of government: State Constitution Art. 3 § 24.
- Resignation by state officers and members of legislature made to: RCW 42.12.020.
- Salaries of public officials, governor's duties: RCW 43.03.028, 43.03.040, and 43.03.045.
- Salary of governor, amount of: State Constitution Art. 28 § 1; RCW 43.03.010.
- Sale of unneeded toll facility property, governor to execute deed: RCW 47.56.255.
- School apportionment demands estimate certified to: RCW 28A.300.170.
- Secretary of transportation, governor to fix salary of: RCW 47.01.031.
- Security and protection for governor, lieutenant governor, and governor elect, duty of state patrol to provide: RCW 43.43.035.
- State building authority member: Chapter 43.75 RCW.
- State capitol committee member: RCW 43.34.010.
- State finance committee member: RCW 43.33.010.
- State parks, disposal of land not needed for park purposes, conveyance instruments executed by: RCW 43.51.210.
- State participation within student exchange compact programs—Board to advise governor: RCW 28B.80.170.
- State scholars' program, participation in: RCW 28A.600.100 through 28A.600.150.
- Succession to governorship: State Constitution Art. 3 § 10.
- Superior court judge, assignment to another county: State Constitution Art. 4 §§ 5, 7.
- Supreme executive power vested in: State Constitution Art. 3 § 2.
- Term of office: State Constitution Art. 3 § 2; RCW 43.01.010.
- Toll bridge bonds, governor to countersign: RCW 47.56.140.
- Toll bridges, improvement of existing bridge and construction of new bridge as single project, governor's powers and duties relating to: Chapter 47.58 RCW.
- Traffic safety commission and programs, powers, duties and responsibilities of governor: Chapter 43.59 RCW.
- Unanticipated receipts, governor as state's agent to receive: RCW 43.79.260.
- Unemployment compensation, delinquent payments in lieu of contributions of political subdivisions, governor may withhold funds for: RCW 50.24.125.
- Uniform interstate family support act
 extradition powers and duties: RCW 26.21.640.
 governor defined for purposes of: RCW 26.21.640.
- United States senate, filling vacancy in: RCW 29.68.070.
- Vacancies
 in court of appeals: State Constitution Art. 4 § 30; RCW 2.06.080.
 in legislature, duties: State Constitution Art. 2 § 15.
 in office filled by: State Constitution Art. 3 § 13.
 in superior court: State Constitution Art. 4 § 5.
 in supreme court: State Constitution Art. 4 § 3.
- Vacancy in office of governor
 election to fill: State Constitution Art. 3 § 10.
 succession to: State Constitution Art. 3 § 10.
- Veto
 initiatives and referendums, power does not extend to: State Constitution Art. 2 § 1.
 power of: State Constitution Art. 3 § 12.
- Voluntary action center, establishment by governor: RCW 43.150.040.
- Water pollution control, powers and duties pertaining to: RCW 90.48.260, 90.48.262.

43.06.010 General powers and duties. In addition to those prescribed by the Constitution, the governor may exercise the powers and perform the duties prescribed in this and the following sections:

(1) The governor shall supervise the conduct of all executive and ministerial offices;

(2) The governor shall see that all offices are filled, including as provided in RCW 42.12.070, and the duties thereof performed, or in default thereof, apply such remedy as the law allows; and if the remedy is imperfect, acquaint the legislature therewith at its next session;

(3) The governor shall make the appointments and supply the vacancies mentioned in this title;

(4) The governor is the sole official organ of communication between the government of this state and the government of any other state or territory, or of the United States;

(5) Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, the governor may direct the attorney general to appear on behalf of the state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(6) The governor may require the attorney general or any prosecuting attorney to inquire into the affairs or management of any corporation existing under the laws of this state, or doing business in this state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(7) The governor may require the attorney general to aid any prosecuting attorney in the discharge of the prosecutor's duties;

(8) The governor may offer rewards, not exceeding one thousand dollars in each case, payable out of the state treasury, for information leading to the apprehension of any person convicted of a felony who has escaped from a state correctional institution or for information leading to the arrest of any person who has committed or is charged with the commission of a felony;

(9) The governor shall perform such duties respecting fugitives from justice as are prescribed by law;

(10) The governor shall issue and transmit election proclamations as prescribed by law;

(11) The governor may require any officer or board to make, upon demand, special reports to the governor, in writing;

(12) The governor may, after finding that a public disorder, disaster, energy emergency, or riot exists within this state or any part thereof which affects life, health, property, or the public peace, proclaim a state of emergency in the area affected, and the powers granted the governor during a state of emergency shall be effective only within the area described in the proclamation;

(13) The governor may, after finding that there exists within this state an imminent danger of infestation of plant pests as defined in RCW 17.24.007 or plant diseases which seriously endangers the agricultural or horticultural industries of the state of Washington, or which seriously threatens life, health, or economic well-being, order emergency measures to prevent or abate the infestation or disease situation, which measures, after thorough evaluation of all other alternatives, may include the aerial application of pesticides;

(14) On all compacts forwarded to the governor pursuant to RCW 9.46.360(6), the governor is authorized and empowered to execute on behalf of the state compacts with federally recognized Indian tribes in the state of Washington pursuant to the federal Indian Gaming Regulatory Act, 25 U.S.C. Sec. 2701 et seq., for conducting class III gaming, as defined in the Act, on Indian lands. [1994 c 223 § 3; 1993 c 142 § 5; 1992 c 172 § 1; 1991 c 257 § 22; 1982 c 153 § 1; 1979 ex.s. c 53 § 4; 1977 ex.s. c 289 § 15; 1975-'76 2nd ex.s. c 108 § 25; 1969 ex.s. c 186 § 8; 1965 c 8 § 43.06.010. Prior: 1890 p 627 § 1; RRS § 10982.]

Severability—1992 c 172: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 172 § 4.]

Severability—Effective date—1982 c 153: See notes following RCW 17.24.210.

Severability—1979 ex.s. c 53: See RCW 10.85.900.

Severability—1977 ex.s. c 289: See RCW 43.131.901.

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

Rewards by county legislative authorities: Chapter 10.85 RCW.

43.06.015 Interstate oil compact commission—Governor may join. The governor is authorized, on behalf of the state of Washington, to join the interstate oil compact commission as an associate member and to become an active member thereof if and when oil and gas are produced in Washington in commercial quantities and to attend meetings and participate in the activities carried on by said commission either in person or by a duly authorized representative. [1965 c 8 § 43.06.015. Prior: 1953 c 47 § 1.]

Interstate compact to conserve oil and gas: 65 Stat. 199 (P. L. 128, ch. 350) Aug. 28, 1951. Associate membership authorized by Art. 9 § 2 of the commission's bylaws.

43.06.020 Records to be kept. The governor must cause to be kept the following records:

First, a register of all pardons, commutations, executive paroles, final discharges, and restorations of citizenship made by him;

Second, an account of all his disbursements of state moneys, and of all rewards offered by him for the apprehension of criminals and persons charged with crime;

Third, a register of all appointments made by him with date of commission, name of appointee and name of predecessor, if any. [1965 c 8 § 43.06.020. Prior: 1921 c 28 § 1; 1890 p 628 § 2; RRS § 10983.]

43.06.030 Appointments to senate for confirmation—Notice. For a gubernatorial appointment to be effective, the governor must transmit to the secretary of the senate notice of the appointment, along with pertinent information regarding the appointee, within fourteen days after making any appointment subject to senate confirmation. [1981 c 338 § 12; 1965 c 8 § 43.06.030. Prior: 1890 p 629 § 3; RRS § 10984.]

43.06.040 Lieutenant governor acts in governor's absence. If the governor absents himself from the state, he shall, prior to his departure, notify the lieutenant governor of his proposed absence, and during such absence the lieutenant governor shall perform all the duties of the governor. [1965 c 8 § 43.06.040. Prior: 1890 p 629 § 6; RRS § 10985.]

Duties of lieutenant governor: State Constitution Art. 3 § 16.

43.06.050 Powers and duties of acting governor. Every provision of law in relation to the powers and duties of the governor, and in relation to acts and duties to be performed by others towards him, extends to the person performing for the time being the duties of governor. [1965 c 8 § 43.06.050. Prior: 1890 p 629 § 4; RRS § 10986.]

43.06.055 Governor-elect—Appropriation to provide office and staff. The legislature preceding the gubernatorial election shall make an appropriation which

may only be expended by a newly elected governor other than the incumbent for the purpose of providing office and staff for the governor-elect preparatory to his assumption of duties as governor. The funds for the appropriation shall be made available to him not later than thirty days prior to the date when the legislature will convene. [1969 ex.s. c 88 § 1.]

43.06.060 Expense of publishing proclamations. When the governor is authorized or required by law to issue a proclamation, payment for publishing it shall be made out of the state treasury. [1965 c 8 § 43.06.060. Prior: 1881 p 45 §§ 1-3; Code 1881 § 2367; RRS § 10988.]

43.06.070 Removal of appointive officers. The governor may remove from office any state officer appointed by him not liable to impeachment, for incompetency, misconduct, or malfeasance in office. [1965 c 8 § 43.06.070. Prior: 1893 c 101 § 1; RRS § 10988.]

43.06.080 Removal of appointive officers—Statement of reasons to be filed. Whenever the governor is satisfied that any officer not liable to impeachment has been guilty of misconduct, or malfeasance in office, or is incompetent, he shall file with the secretary of state a statement showing his reasons, with his order of removal, and the secretary of state shall forthwith send a certified copy of such order of removal and statement of causes by registered mail to the last known post office address of the officer in question. [1965 c 8 § 43.06.080. Prior: 1893 c 101 § 2; RRS § 10989.]

43.06.090 Removal of appointive officers—Filling of vacancy. At the time of making any removal from office, the governor shall appoint some proper person to fill the office, who shall forthwith demand and receive from the officer removed the papers, records, and property of the state pertaining to the office, and shall perform the duties of the office and receive the compensation thereof until his successor is appointed. [1965 c 8 § 43.06.090. Prior: 1893 c 101 § 3; RRS § 10990.]

43.06.092 Gubernatorial appointees—Continuation of service—Appointments to fill vacancies. (1) Any gubernatorial appointee subject to senate confirmation shall continue to serve unless rejected by a vote of the senate. An appointee who is rejected by a vote of the senate shall not be reappointed to the same position for a period of one year from termination of service.

(2) Any person appointed by the governor to fill the unexpired term of an appointment subject to senate confirmation must also be confirmed by the senate. [1981 c 338 § 2.]

43.06.094 Gubernatorial appointees—Removal prior to confirmation. Gubernatorial appointees subject to senate confirmation, other than those who serve at the governor's pleasure, may not be removed from office without cause by the governor prior to confirmation except upon consent of

the senate as provided for by the rules of the senate. [1981 c 338 § 1.]

43.06.110 Economic opportunity act programs—State participation—Authority of governor. The governor, or his designee, is hereby authorized and empowered to undertake such programs as will, in the judgment of the governor, or his designee, enable families and individuals of all ages, in rural and urban areas, in need of the skills, knowledge, motivations, and opportunities to become economically self-sufficient to obtain and secure such skills, knowledge, motivations, and opportunities. Such programs may be engaged in as solely state operations, or in conjunction or cooperation with any appropriate agency of the federal government, any branch or agency of the government of this state, any city or town, county, municipal corporation, metropolitan municipal corporation or other political subdivision of the state, or any private corporation. Where compliance with the provisions of federal law or rules or regulations promulgated thereunder is a necessary condition to the receipt of federal funds by the state, the governor or his designee, is hereby authorized to comply with such laws, rules or regulations to the extent necessary for the state to cooperate most fully with the federal government in furtherance of the programs herein authorized. [1971 ex.s. c 177 § 2; 1965 c 14 § 2.]

County participation in Economic Opportunity Act programs: RCW 36.32.410.

43.06.115 Militarily impacted area—Declaration by governor. (1) The governor may, by executive order, after consultation with or notification of the executive-legislative committee on economic development created by *chapter . . . (Senate Bill No. 5300), Laws of 1993, declare a community to be a "military impacted area." A "military impacted area" means a community or communities, as identified in the executive order, that experience serious social and economic hardships because of a change in defense spending by the federal government in that community or communities.

(2) If the governor executes an order under subsection (1) of this section, the governor shall establish a response team to coordinate state efforts to assist the military impacted community. The response team may include, but not be limited to, one member from each of the following agencies: (a) The department of community, trade, and economic development; (b) the department of social and health services; (c) the employment security department; (d) the state board for community and technical colleges; (e) the higher education coordinating board; and (f) the department of transportation. The governor may appoint a response team coordinator. The governor shall seek to actively involve the impacted community or communities in planning and implementing a response to the crisis. The governor may seek input or assistance from the community diversification advisory committee, and the governor may establish task forces in the community or communities to assist in the coordination and delivery of services to the local community. The state and community response shall consider economic development, human service, and training needs of the community or communities impacted.

(3) The governor shall report at the beginning of the next legislative session to the legislature and the executive-legislative committee on economic development created by *chapter . . . (Senate Bill No. 5300), Laws of 1993, as to the designation of a military impacted area. The report shall include recommendations regarding whether a military impacted area should become eligible for (a) funding provided by the community economic revitalization board, public facilities construction loan revolving account, Washington state development loan fund, basic health plan, the public works assistance account, department of community, trade, and economic development, employment security department, and department of transportation; (b) training for dislocated defense workers; or (c) services for dislocated defense workers. [1996 c 186 § 505; 1995 c 399 § 61; 1993 c 421 § 2.]

*Reviser's note: Senate Bill No. 5300 was vetoed by the governor.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—Intent—1993 c 421: "The legislature finds that military base expansions, closures, and defense procurement contract cancellations may have extreme economic impacts on communities and firms. The legislature began to address this concern in 1990 by establishing the community diversification program in the department of community development. While this program has helped military dependent communities begin the long road to diversification, base expansions or closures or major procurement contract reductions in the near future will find these communities unable to respond adequately, endangering the health, safety, and welfare of the community. The legislature intends to target emergency state assistance to military dependent communities significantly impacted by defense spending. The emergency state assistance and the long-term strategy should be driven by the impacted community and consistent with the state plan for diversification required under RCW 43.63A.450(4)." [1993 c 421 § 1.]

43.06.120 Federal funds and programs—Acceptance of funds by governor authorized—Administration and disbursement. The governor is authorized to accept on behalf of the state of Washington funds provided by any act of congress for the benefit of the state or its political subdivisions. He is further authorized to administer and disburse such funds, or to designate an agency to administer and disburse them, until the legislature otherwise directs. [1967 ex.s. c 41 § 1.]

43.06.130 Federal funds and programs—Payment of travel expenses of committees, councils, or other bodies. Members of advisory committees, councils, or other bodies established to meet requirements of acts of congress may be paid travel expenses incurred pursuant to RCW 43.03.050 and 43.03.060 as now existing or hereafter amended from such funds as may be available by legislative appropriation or as may otherwise be available as provided by law. [1975-'76 2nd ex.s. c 34 § 97; 1973 2nd ex.s. c 17 § 1; 1967 ex.s. c 41 § 2.]

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

43.06.150 Federal funds and programs—Participating agencies to notify director of financial management, joint legislative audit and review committee and legislative council—Progress reports. See RCW 43.88.205.

43.06.200 Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in RCW 43.06.010, and 43.06.200 through 43.06.270 each as now or hereafter amended shall have the following meaning:

"State of emergency" means an emergency proclaimed as such by the governor pursuant to RCW 43.06.010 as now or hereafter amended.

"Governor" means the governor of this state or, in case of his removal, death, resignation or inability to discharge the powers and duties of his office, then the person who may exercise the powers of governor pursuant to the Constitution and laws of this state relating to succession in office.

"Criminal offense" means any prohibited act for which any criminal penalty is imposed by law and includes any misdemeanor, gross misdemeanor, or felony. [1977 ex.s. c 328 § 11; 1975-'76 2nd ex.s. c 108 § 26; 1969 ex.s. c 186 § 1.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

Provisions cumulative—1969 ex.s. c 186: "The provisions of this act shall be cumulative to and shall not operate to repeal any other laws, or local ordinances, except those specifically mentioned in this act." [1969 ex.s. c 186 § 10.]

Severability—1969 ex.s. c 186: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 186 § 11.]

Energy supply emergencies: Chapter 43.21G RCW.

43.06.210 Proclamations—Generally—State of emergency. The proclamation of a state of emergency and other proclamations or orders issued by the governor pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended shall be in writing and shall be signed by the governor and shall then be filed with the secretary of state. The governor shall give as much public notice as practical through the news media of the issuance of proclamations or orders pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended. The state of emergency shall cease to exist upon the issuance of a proclamation of the governor declaring its termination: PROVIDED, That the governor must terminate said state of emergency proclamation when order has been restored in the area affected. [1977 ex.s. c 328 § 12; 1975-'76 2nd ex.s. c 108 § 27; 1969 ex.s. c 186 § 2.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

Energy supply emergencies: Chapter 43.21G RCW.

43.06.220 State of emergency—Powers of governor pursuant to proclamation. The governor after proclaiming a state of emergency and prior to terminating such, may, in the area described by the proclamation issue an order prohibiting:

(1) Any person being on the public streets, or in the public parks, or at any other public place during the hours declared by the governor to be a period of curfew;

(2) Any number of persons, as designated by the governor, from assembling or gathering on the public streets, parks, or other open areas of this state, either public or private;

(3) The manufacture, transfer, use, possession or transportation of a molotov cocktail or any other device, instrument or object designed to explode or produce uncontained combustion;

(4) The transporting, possessing or using of gasoline, kerosene, or combustible, flammable, or explosive liquids or materials in a glass or uncapped container of any kind except in connection with the normal operation of motor vehicles, normal home use or legitimate commercial use;

(5) The possession of firearms or any other deadly weapon by a person (other than a law enforcement officer) in a place other than that person's place of residence or business;

(6) The sale, purchase or dispensing of alcoholic beverages;

(7) The sale, purchase or dispensing of other commodities or goods, as he reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace;

(8) The use of certain streets, highways or public ways by the public; and

(9) Such other activities as he reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace.

In imposing the restrictions provided for by RCW 43.06.010, and 43.06.200 through 43.06.270, the governor may impose them for such times, upon such conditions, with such exceptions and in such areas of this state he from time to time deems necessary.

Any person wilfully violating any provision of an order issued by the governor under this section shall be guilty of a gross misdemeanor. [1969 ex.s. c 186 § 3.]

43.06.230 State of emergency—Destroying or damaging property or causing personal injury—Penalty. After the proclamation of a state of emergency as provided in RCW 43.06.010, any person who maliciously destroys or damages any real or personal property or maliciously injures another shall be guilty of a felony and upon conviction thereof shall be imprisoned in a state correctional facility for not less than two years nor more than ten years. [1992 c 7 § 39; 1969 ex.s. c 186 § 4.]

43.06.240 State of emergency—Disorderly conduct after emergency proclaimed—Penalty. After the proclamation of a state of emergency pursuant to RCW 43.06.010, every person who:

(1) Wilfully causes public inconvenience, annoyance, or alarm, or recklessly creates a risk thereof, by:

(a) engaging in fighting or in violent, tumultuous, or threatening behavior; or

(b) making an unreasonable noise or an offensively coarse utterance, gesture, or display, or addressing abusive language to any person present; or

(c) dispersing any lawful procession or meeting of persons, not being a peace officer of this state and without lawful authority; or

(d) creating a hazardous or physically offensive condition which serves no legitimate purpose; or

(2) Engages with at least one other person in a course of conduct as defined in subsection (1) of this section which is likely to cause substantial harm or serious inconvenience, annoyance, or alarm, and refuses or knowingly fails to obey an order to disperse made by a peace officer shall be guilty of disorderly conduct and be punished by imprisonment in the county jail for not more than one year or fined not more than one thousand dollars or by both fine and imprisonment. [1969 ex.s. c 186 § 5.]

43.06.250 State of emergency—Refusing to leave public way or property when ordered—Penalty. Any person upon any public way or any public property, within the area described in the state of emergency, who is directed by a public official to leave the public way or public property and refuses to do so shall be guilty of a misdemeanor. [1969 ex.s. c 186 § 6.]

43.06.260 State of emergency—Prosecution of persons sixteen years or over as adults. After the proclamation of a state of emergency as provided in RCW 43.06.010 any person sixteen years of age or over who violates any provision of RCW 43.06.010, and 43.06.200 through 43.06.270 shall be prosecuted as an adult. [1969 ex.s. c 186 § 7.]

43.06.270 State of emergency—State militia or state patrol—Use in restoring order. The governor may in his discretion order the state militia pursuant to chapter 38.08 RCW or the state patrol to assist local officials to restore order in the area described in the proclamation of a state of emergency. [1969 ex.s. c 186 § 9.]

43.06.350 Foreign nationals or citizens, convicted offenders—Transfers and sentences. Whenever any convicted offender, who is a citizen or national of a foreign country and is under the jurisdiction of the department of corrections, requests transfer to the foreign country of which he or she is a citizen or national, under a treaty on the transfer of offenders entered into between the United States and a foreign country, the governor or the governor's designee:

(1) May grant the approval of the state to such transfer as provided in the treaty; and

(2) Shall have, notwithstanding any provision of chapter 9.95 or 72.68 RCW, the plenary authority to fix the duration of the offender's sentence, if not otherwise fixed, whenever a fixed sentence is a condition precedent to transfer. [1983 c 255 § 9.]

Severability—1983 c 255: See RCW 72.74.900.

43.06.400 Biennial listing of reduction in revenues from tax exemptions to be submitted to legislature by department of revenue—Periodic review and submission of recommendations to legislature by governor. Beginning in January, 1984, and in January of every even-numbered year thereafter, the department of revenue shall submit to the legislature prior to the regular session a listing of the

amount of reduction for the current and next biennium in the revenues of the state or the revenues of local government collected by the state as a result of tax exemptions. The listing shall include an estimate of the revenue lost from the tax exemption, the purpose of the tax exemption, the persons, organizations, or parts of the population which benefit from the tax exemption, and whether or not the tax exemption conflicts with another state program. The listing shall include but not be limited to the following revenue sources:

- (1) Real and personal property tax exemptions under Title 84 RCW;
- (2) Business and occupation tax exemptions, deductions, and credits under chapter 82.04 RCW;
- (3) Retail sales and use tax exemptions under chapters 82.08, 82.12, and 82.14 RCW;
- (4) Public utility tax exemptions and deductions under chapter 82.16 RCW;
- (5) Food fish and shellfish tax exemptions under chapter 82.27 RCW;
- (6) Leasehold excise tax exemptions under chapter 82.29A RCW;
- (7) Motor vehicle and special fuel tax exemptions and refunds under chapters 82.36 and 82.38 RCW;
- (8) Aircraft fuel tax exemptions under chapter 82.42 RCW;
- (9) Motor vehicle excise tax exclusions under chapter 82.44 RCW; and
- (10) Insurance premiums tax exemptions under chapter 48.14 RCW.

The department of revenue shall prepare the listing required by this section with the assistance of any other agencies or departments as may be required.

The department of revenue shall present the listing to the ways and means committees of each house in public hearings.

Beginning in January, 1984, and every four years thereafter the governor is requested to review the report from the department of revenue and may submit recommendations to the legislature with respect to the repeal or modification of any tax exemption. The ways and means committees of each house and the appropriate standing committee of each house shall hold public hearings and take appropriate action on the recommendations submitted by the governor.

As used in this section, "tax exemption" means an exemption, exclusion, or deduction from the base of a tax; a credit against a tax; a deferral of a tax; or a preferential tax rate. [1987 c 472 § 16; 1983 2nd ex.s. c 3 § 60.]

Severability—1987 c 472: See RCW 79.71.900.

Construction—Severability—Effective dates—1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

Analysis of desirability of existing tax exemptions by tax advisory council: RCW 43.38.020.

Review and termination of tax preferences: Chapter 43.136 RCW.

Tax exemption impact report: RCW 82.01.110.

43.06.410 State internship program—Governor's duties. There is established within the office of the governor the Washington state internship program to assist students and state employees in gaining valuable experience and knowledge in various areas of state government. In administering the program, the governor shall:

(1) Consult with the secretary of state, the director of personnel, the commissioner of the employment security department, and representatives of labor;

(2) Encourage and assist agencies in developing intern positions;

(3) Develop and coordinate a selection process for placing individuals in intern positions. This selection process shall give due regard to the responsibilities of the state to provide equal employment opportunities;

(4) Develop and coordinate a training component of the internship program which balances the need for training and exposure to new ideas with the intern's and agency's need for on-the-job work experience;

(5) Work with institutions of higher education in developing the program, soliciting qualified applicants, and selecting participants; and

(6) Develop guidelines for compensation of the participants. [1993 c 281 § 47; 1985 c 442 § 1.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Construction—1985 c 442: "Nothing in this act shall be construed to limit the authority of state agencies to continue or establish other internship programs or positions." [1985 c 442 § 10.]

Severability—1985 c 442: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 442 § 11.]

43.06.415 State internship program coordinator—

Rules. (1) The governor may appoint a coordinator to assist in administering the program created by RCW 43.06.410.

(2) The governor shall adopt such rules as are necessary to administer RCW 43.06.410. [1985 c 442 § 2.]

Construction—Severability—1985 c 442: See notes following RCW 43.06.410.

43.06.420 Undergraduate internship program—Executive fellows program. The state internship program shall consist of two individual internship programs as follows:

(1) An undergraduate internship program consisting of three-month to six-month positions for students working toward an undergraduate degree. In addition, a public sector employee, whether working toward a degree or not, shall be eligible to participate in the program upon the written recommendation of the head of the employee's agency.

(2) An executive fellows program consisting of one-year to two-year placements for students who have successfully completed at least one year of graduate level work and have demonstrated a substantial interest in public sector management. Positions in this program shall be as assistants or analysts at the midmanagement level or higher. In addition, a public sector employee, whether working toward an advanced degree or not, or who has not successfully completed one year of graduate-level work as required by this subsection, shall be eligible to participate in the program upon the written recommendation of the head of the employee's agency. Participants in the executive fellows program who were not public employees prior to accepting a position in the program shall receive insurance and retirement credit commensurate with other employees of the employing agency. [1985 c 442 § 3.]

Construction—Severability—1985 c 442: See notes following RCW 43.06.410.

43.06.425 Interns—Effect of employment experience—Rights of reversion—Fringe benefits—Sick and vacation leave. The Washington personnel resources board shall adopt rules to provide that:

(1) Successful completion of an internship under RCW 43.06.420 shall be considered as employment experience at the level at which the intern was placed;

(2) Persons leaving classified or exempt positions in state government in order to take an internship under RCW 43.06.420: (a) Have the right of reversion to the previous position at any time during the internship or upon completion of the internship; and (b) shall continue to receive all fringe benefits as if they had never left their classified or exempt positions;

(3) Participants in the undergraduate internship program who were not public employees prior to accepting a position in the program receive sick leave allowances commensurate with other state employees;

(4) Participants in the executive fellows program who were not public employees prior to accepting a position in the program receive sick and vacation leave allowances commensurate with other state employees. [1993 c 281 § 48; 1985 c 442 § 4.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Construction—Severability—1985 c 442: See notes following RCW 43.06.410.

State internship program—Positions exempt from chapter 41.06 RCW: RCW 41.06.088.

43.06.435 Interns—Effect on full time equivalent staff position limitations. An agency shall not be deemed to exceed any limitation on full time equivalent staff positions on the basis of intern positions established under RCW 43.06.420. [1985 c 442 § 6.]

Construction—Severability—1985 c 442: See notes following RCW 43.06.410.

Chapter 43.06A

OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN

Sections

43.06A.010 Office created—Purpose.

43.06A.020 Ombudsman—Appointment, term of office.

43.06A.030 Duties.

43.06A.040 Juvenile justice or care agency.

43.06A.050 Confidentiality.

43.06A.010 Office created—Purpose. There is hereby created an office of the family and children's ombudsman within the office of the governor for the purpose of promoting public awareness and understanding of family and children services, identifying system issues and responses for the governor and the legislature to act upon, and monitoring and ensuring compliance with administrative acts, relevant statutes, rules, and policies pertaining to family and children's services and the placement, supervision, and treatment of children in the state's care or in state-licensed facilities or residences. The ombudsman shall report directly

to the governor and shall exercise his or her powers and duties independently of the secretary. [1996 c 131 § 2.]

Effective date—1996 c 131 §§ 1-3: See note following RCW 44.04.220.

43.06A.020 Ombudsman—Appointment, term of office. (1) The governor shall appoint an ombudsman who shall be a person of recognized judgment, independence, objectivity, and integrity, and shall be qualified by training or experience, or both, in family and children's services law and policy. Prior to the appointment, the governor shall consult with, and may receive recommendations from the committee, regarding the selection of the ombudsman.

(2) The person appointed ombudsman shall hold office for a term of three years and shall continue to hold office until reappointed or until his or her successor is appointed. The governor may remove the ombudsman only for neglect of duty, misconduct, or inability to perform duties. Any vacancy shall be filled by similar appointment for the remainder of the unexpired term. [1996 c 131 § 3.]

Effective date—1996 c 131 §§ 1-3: See note following RCW 44.04.220.

43.06A.030 Duties. The ombudsman shall perform the following duties:

(1) Provide information as appropriate on the rights and responsibilities of individuals receiving family and children's services, and on the procedures for providing these services;

(2) Investigate, upon his or her own initiative or upon receipt of a complaint, an administrative act alleged to be contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds; however, the ombudsman may decline to investigate any complaint as provided by rules adopted under this chapter;

(3) Monitor the procedures as established, implemented, and practiced by the department to carry out its responsibilities in delivering family and children's services with a view toward appropriate preservation of families and ensuring children's health and safety;

(4) Review periodically the facilities and procedures of state institutions serving children, and state-licensed facilities or residences;

(5) Recommend changes in the procedures for addressing the needs of families and children;

(6) Submit annually to the committee and to the governor by November 1 a report analyzing the work of the office including recommendations;

(7) Grant the committee access to all relevant records in the possession of the ombudsman unless prohibited by law; and

(8) Adopt rules necessary to implement this chapter. [1996 c 131 § 4.]

43.06A.040 Juvenile justice or care agency. The office of family and children's ombudsman shall be a juvenile justice or care agency for the purposes of chapter 13.50 RCW. [1996 c 131 § 5.]

43.06A.050 Confidentiality. The ombudsman shall treat all matters under investigation, including the identities

of service recipients, complainants, and individuals from whom information is acquired, as confidential, except as far as disclosures may be necessary to enable the ombudsman to perform the duties of the office and to support any recommendations resulting from an investigation. Upon receipt of information that by law is confidential or privileged, the ombudsman shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law. Investigative records of the office of the ombudsman are confidential and are exempt from public disclosure under chapter 42.17 RCW. [1996 c 131 § 6.]

Chapter 43.07 SECRETARY OF STATE

Sections

- 43.07.010 Official bond.
- 43.07.020 Assistant and deputy secretary of state.
- 43.07.030 General duties.
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state auditor: RCW 43.09.010.
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Elections

ballot titles and explanatory statement certification: RCW 29.27.060.
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polling places—Standards—Revision, when: RCW 29.57.030.
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publication of election laws by: RCW 29.04.060.
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corporations: Title 23B RCW.
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department of transportation: RCW 47.68.210.
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initiatives and referendums: State Constitution Art. 2 § 1; RCW 29.79.010, 29.79.150.
mutual savings banks: RCW 32.08.061, 32.08.070.
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branch lines into state: RCW 81.36.070.
consolidation with other companies: RCW 81.36.070.
purchase of property of other companies: RCW 81.36.070.
sale of property to other companies: RCW 81.36.070.
savings and loan associations: RCW 33.08.080.
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statute law committee code correction orders: RCW 1.08.016.
trust companies: Chapter 30.08 RCW.

Foreign corporations, duties: Chapters 23B.01 and 23B.15 RCW.

Initiatives and referendums

acceptance or rejection of petitions for filing: RCW 29.79.150.
filing of proposals and petitions with: State Constitution Art. 2 § 1; RCW 29.79.010.
numbering of initiative and referendum measures: RCW 29.79.030.
transmittal of copies to attorney general: RCW 29.79.040.
Jury source list—Master jury list—Creation—Adoption of rules for implementation of methodology and standards by agencies: RCW 2.36.054 and 2.36.0571.

Legislative journals, custodian of: RCW 43.07.040.

Local government redistricting: Chapter 29.70 RCW.

Massachusetts trusts, power to prescribe rules and regulations as to: RCW 23.90.040.

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

Oath of office: RCW 43.01.020.

Official bond: RCW 43.07.010.

Process deposited with

domestic corporation without officer in state upon whom process can be served: RCW 4.28.090.
foreign corporation failing to maintain agent in state: RCW 23B.14.300.
nonadmitted foreign corporations having powers as to notes secured by real estate mortgages: RCW 23B.18.040 and 23B.18.050.
nonresident or former resident motorists: RCW 46.64.040.
trademark registration actions: RCW 19.77.090.

Records, custodian of: State Constitution Art. 3 § 24; RCW 43.07.040.

Registry of governor's acts kept by: RCW 43.07.030.

Residence to be maintained at seat of government: State Constitution Art. 3 § 24.

Salary, amount of: State Constitution Art. 3 § 17, Art. 28 § 1; RCW 43.03.010.

Sale of unneeded toll facility property, secretary to attest deed and deliver: RCW 47.56.255.

Session laws

custodian of: RCW 43.07.040.

engrossed bill filed with: RCW 44.20.010.

numbering of: RCW 44.20.020.

State canvassing board member: RCW 29.62.100.

Statute law committee code correction orders filed with: RCW 1.08.016.

Succession to office of governor: State Constitution Art. 3 § 10.

Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.

Trademarks and trade names

filing fee: RCW 43.07.120.

registration of, duties: Chapter 19.77 RCW.

Voters' pamphlets, rules and regulations promulgated by: RCW 29.81.070.

43.07.010 Official bond. The secretary of state must execute an official bond to the state in the sum of ten thousand dollars, conditioned for the faithful performance of the duties of his office, and shall receive no pay until such bond, approved by the governor, is filed with the state auditor. [1965 c 8 § 43.07.010. Prior: 1890 p 633 § 10; RRS § 10994.]

43.07.020 Assistant and deputy secretary of state. The secretary of state may have one assistant secretary of state and one deputy secretary of state each of whom shall be appointed by him in writing, and continue during his pleasure. The assistant secretary of state and deputy secretary of state shall have the power to perform any act or duty relating to the secretary of state's office, that the secretary of state has, and the secretary of state shall be responsible for the acts of said assistant and deputy. [1965 c 8 § 43.07.020. Prior: 1947 c 107 § 1; 1903 c 75 § 1; 1890 p 633 § 12; RRS § 10995.]

43.07.030 General duties. The secretary of state shall:

(1) Keep a register of and attest the official acts of the governor;

(2) Affix the state seal, with his attestation, to commissions, pardons, and other public instruments to which the signature of the governor is required, and also attestations and authentications of certificates and other documents properly issued by the secretary;

(3) Record all articles of incorporation, deeds, or other papers filed in the secretary of state's office;

(4) Receive and file all the official bonds of officers required to be filed with the secretary of state;

(5) Take and file in the secretary of state's office receipts for all books distributed by him;

(6) Certify to the legislature the election returns for all officers required by the Constitution to be so certified, and certify to the governor the names of all other persons who have received at any election the highest number of votes for any office the incumbent of which is to be commissioned by the governor;

(7) Furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the secretary of state's office;

(8) Present to the speaker of the house of representatives, at the beginning of each regular session of the legislature during an odd-numbered year, a full account of all purchases made and expenses incurred by the secretary of state on account of the state;

(9) File in his office an impression of each and every seal in use by any state officer;

[(10)] Keep a record of all fees charged or received by the secretary of state. [1982 c 35 § 186; 1980 c 87 § 21; 1969 ex.s. c 53 § 3; 1965 c 8 § 43.07.030. Prior: 1890 p 630 § 2; RRS § 10992.]

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

43.07.035 Memorandum of agreement or contract for secretary of state's services with state agencies or private entities. The secretary of state shall have the authority to enter into a memorandum of agreement or contract with any agency of state government or private entity to provide for the performance of any of the secretary of state's services or duties under the various corporation statutes of this state. [1985 c 156 § 19; 1982 c 35 § 190.]

Severability—Effective date—1985 c 156: See RCW 42.44.902 and 42.44.903.

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

43.07.037 Gifts, grants, conveyances—Receipt, sale—Rules. The secretary of state and the *council may accept gifts, grants, conveyances, bequests, and devises, of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms. The secretary of state shall adopt rules to govern and protect the receipt and expenditure of the proceeds. [1996 c 253 § 105.]

***Reviser's note:** 1996 c 253 § 101, which created the international education and exchange council, was vetoed.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 43.292.005.

43.07.040 Custodian of state records. The secretary of state is charged with the custody:

(1) Of all acts and resolutions passed by the legislature;

(2) Of the journals of the legislature;

(3) Of the seal of the state;

(4) Of all books, records, deeds, parchments, maps, and papers required to be kept on deposit in his office pursuant to law;

(5) Of the enrolled copy of the Constitution. [1965 c 8 § 43.07.040. Prior: 1903 c 107 § 1; 1890 p 629 § 1; RRS § 10991.]

43.07.050 Bureau of statistics—Secretary ex officio commissioner. The secretary of state shall be ex officio commissioner of statistics. He shall establish within his office, and under his immediate supervision, a bureau to be

known as the bureau of statistics, agriculture and immigration. [1965 c 8 § 43.07.050. Prior: 1895 c 85 § 1; RRS § 10933.]

43.07.090 Bureau of statistics—Power to obtain statistics—Penalty. The commissioner shall have the power to send for persons and papers whenever in his opinion it is necessary, and he may examine witnesses under oath, being hereby qualified to administer the same in the performance of his duty, and the testimony so taken must be filed and preserved in his office. He shall have free access to all places and works of labor, and any principal, owner, operator, manager, or lessee of any mine, factory, workshop, warehouse, manufacturing or mercantile establishment, or any agent or employee of any such principal, owner, operator, manager, or lessee, who shall refuse to the commissioner or his duly authorized representative admission therein, or who shall, when requested by him, wilfully neglect or refuse to furnish him any statistics or information pertaining to his lawful duties which may be in the possession or under the control of said principal, owner, operator, lessee, manager, or agent thereof, shall be punished by a fine of not less than fifty nor more than two hundred dollars. [1965 c 8 § 43.07.090. Prior: 1895 c 85 § 5; RRS § 10937.]

43.07.100 Bureau of statistics—Information confidential—Penalty. No use shall be made in the report of the bureau of the names of individuals, firms, or corporations supplying the information called for by these sections, such information being deemed confidential and not for the purpose of disclosing any person's affairs; and any agent or employee of said bureau violating this provision shall upon conviction thereof be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not to exceed six months. [1965 c 8 § 43.07.100. Prior: 1895 c 85 § 6; RRS § 10938.]

43.07.110 Bureau of statistics—Deputy commissioner. The commissioner shall appoint a deputy commissioner, who shall act in his absence, and the deputy shall receive the sum of twelve hundred dollars per annum to be paid by the state treasurer in the same manner as other state officers are paid; the sum allowed for deputy and other incidental expenses of the bureau shall not exceed the sum of three thousand dollars any one year. The commissioner shall have authority to employ one person to act as immigration agent, which agent shall reside in such city as said commissioner may designate, and he shall be provided with such literature and incidental accessories as in his judgment may be necessary. [1965 c 8 § 43.07.110. Prior: 1895 c 85 § 7; RRS § 10939.]

43.07.120 Fees. (1) The secretary of state shall establish by rule and collect the fees in this subsection:

- (a) For a copy of any law, resolution, record, or other document or paper on file in the secretary's office;
- (b) For any certificate under seal;
- (c) For filing and recording trademark;
- (d) For each deed or patent of land issued by the governor;

(e) For recording miscellaneous records, papers, or other documents.

(2) The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under Title 23B RCW, chapter 18.100, 19.77, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, 25.15, or 25.10 RCW:

- (a) Any service rendered in-person at the secretary of state's office;
- (b) Any expedited service;
- (c) The electronic or facsimile transmittal of information from corporation records or copies of documents;
- (d) The providing of information by micrographic or other reduced-format compilation;
- (e) The handling of checks, drafts, or credit or debit cards upon adoption of rules authorizing their use for which sufficient funds are not on deposit; and
- (f) Special search charges.

(3) To facilitate the collection of fees, the secretary of state may establish accounts for deposits by persons who may frequently be assessed such fees to pay the fees as they are assessed. The secretary of state may make whatever arrangements with those persons as may be necessary to carry out this section.

(4) The secretary of state may adopt rules for the use of credit or debit cards for payment of fees.

(5) No member of the legislature, state officer, justice of the supreme court, judge of the court of appeals, or judge of the superior court shall be charged for any search relative to matters pertaining to the duties of his or her office; nor may such official be charged for a certified copy of any law or resolution passed by the legislature relative to his or her official duties, if such law has not been published as a state law. [1994 c 211 § 1310; 1994 c 60 § 5; 1993 c 269 § 15; 1991 c 72 § 53; 1989 c 307 § 39; 1982 c 35 § 187; 1971 c 81 § 107; 1965 c 8 § 43.07.120. Prior: 1959 c 263 § 5; 1907 c 56 § 1; 1903 c 151 § 1; 1893 c 130 § 1; RRS § 10993.]

Reviser's note: This section was amended by 1994 c 60 § 5 and by 1994 c 211 § 1310, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Severability—1994 c 211: See RCW 25.15.900 and 25.15.902.

Effective date—1993 c 269: See note following RCW 23.86.070.

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

43.07.125 Fees—Charitable trusts—Charitable solicitations. The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under chapter 11.110 or 19.09 RCW:

- (1) Any service rendered in-person at the secretary of state's office;
- (2) Any expedited service;
- (3) The electronic transmittal of documents;
- (4) The providing of information by microfiche or other reduced-format compilation;
- (5) The handling of checks or drafts for which sufficient funds are not on deposit;

(6) The resubmission of documents previously submitted to the secretary of state where the documents have been returned to the submitter to make such documents conform to the requirements of the applicable statute;

(7) The handling of telephone requests for information; and

(8) Special search charges. [1993 c 471 § 24; 1993 c 269 § 14.]

Severability—Effective date—1993 c 471: See RCW 19.09.914 and 19.09.915.

Effective date—1993 c 269: See note following RCW 23.86.070.

43.07.130 Secretary of state's revolving fund—Publication fees authorized, disposition. There is created within the state treasury a revolving fund, to be known as the "secretary of state's revolving fund," which shall be used by the office of the secretary of state to defray the costs of printing, reprinting, or distributing printed matter authorized by law to be issued by the office of the secretary of state, and any other cost of carrying out the functions of the secretary of state under Title 23B RCW, or chapters 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, 25.15, or 25.10 RCW.

The secretary of state is hereby authorized to charge a fee for such publications in an amount which will compensate for the costs of printing, reprinting, and distributing such printed matter. Fees recovered by the secretary of state under RCW 43.07.120(2), 23B.01.220 (1)(e), (6) and (7), 23B.18.050, 24.03.410, 24.06.455, or 46.64.040, and such other moneys as are expressly designated for deposit in the secretary of state's revolving fund shall be placed in the secretary of state's revolving fund. [1994 c 211 § 1311; 1991 c 72 § 54; 1989 c 307 § 40; 1982 c 35 § 188; 1973 1st ex.s. c 85 § 1; 1971 ex.s. c 122 § 1.]

Effective date—Severability—1994 c 211: See RCW 25.15.900 and 25.15.902.

Legislative finding—1989 c 307: See note following RCW 23.86.007.

Application—1989 c 307: See RCW 23.86.900.

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

43.07.140 Materials specifically authorized to be printed and distributed. The secretary of state is hereby specifically authorized to print, reprint, and distribute the following materials:

- (1) Lists of active corporations;
- (2) The provisions of Title 23 RCW;
- (3) The provisions of Title 23B RCW;
- (4) The provisions of Title 24 RCW;
- (5) The provisions of chapter 25.10 RCW;
- (6) The provisions of Title 29 RCW;
- (7) The provisions of chapter 18.100 RCW;
- (8) The provisions of chapter 19.77 RCW;
- (9) The provisions of chapter 43.07 RCW;
- (10) The provisions of the Washington state Constitution;

(11) The provisions of chapters 40.14, 40.16, and 40.20 RCW, and any statutes, rules, schedules, indexes, guides, descriptions, or other materials related to the public records of state or local government or to the state archives; and

(12) Rules and informational publications related to the statutory provisions set forth above. [1991 c 72 § 55; 1982 c 35 § 189; 1973 1st ex.s. c 85 § 2.]

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

43.07.150 Uniform commercial code powers, duties, and functions transferred to department of licensing. All powers, duties, and functions vested by law in the secretary of state relating to the Uniform Commercial Code are transferred to the department of licensing. [1979 c 158 § 92; 1977 ex.s. c 117 § 1.]

Severability—1977 ex.s. c 117: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 117 § 13.]

Effective date—1977 ex.s. c 117: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1977." [1977 ex.s. c 117 § 14.]

43.07.160 Authenticating officers—Appointment authorized—Use of facsimile signature. The secretary of state may appoint authenticating officers and delegate to the authenticating officers power to sign for the secretary of state any document which, to have legal effect, requires the secretary of state's signature and which is of a class which the secretary of state has authorized for signature by the authenticating officers in a writing on file in the secretary of state's office. Authenticating officers shall sign in the following manner: "., Authenticating Officer for the Secretary of State"

The secretary of state may also delegate to the authenticating officers power to use the secretary of state's facsimile signature for signing any document which, to have legal effect, requires the secretary of state's signature and is of a class with respect to which the secretary of state has authorized use of his or her facsimile signature by a writing filed in the secretary of state's office. As used in this section, "facsimile signature" includes, but is not limited to, the reproduction of any authorized signature by a copper plate, a rubber stamp, or by a photographic, photostatic, or mechanical device.

The secretary of state shall effect the appointment and delegation by placing on file in the secretary of state's office in a single document the names of all persons appointed as authenticating officers and each officer's signature, a list of the classes of documents each authenticating officer is authorized to sign for the secretary of state, a copy of the secretary of state's facsimile signature, and a list of the classes of documents which each authenticating officer may sign for the secretary of state by affixing the secretary of state's facsimile signature. The secretary of state may revoke the appointment or delegation or powers by placing on file in the secretary of state's office a new single document which expressly revokes the authenticating officers and the powers delegated to them. The secretary of state shall record and index documents filed by him or her under this section, and the documents shall be open for public inspection.

The authorized signature of an authenticating officer or an authorized facsimile signature of the secretary of state

shall have the same legal effect and validity as the genuine manual signature of the secretary of state. [1982 c 35 § 2.]

Intent—1982 c 35: "The legislature finds that the secretary of state's office, particularly the corporations division, performs a valuable public service for the business and nonprofit corporate community, and for the state of Washington. The legislature further finds that numerous filing and other requirements of the laws relating to the secretary of state's responsibilities have not been recently updated, thereby causing problems and delays for the corporate community as well as the secretary of state's office.

To provide better service to the corporate community in this state, and to permit the secretary of state to make efficient use of state resources and improve collection of state revenues, statutory changes are necessary. It is the intent of the legislature to provide for the modernization and updating of the corporate laws and other miscellaneous filing statutes and to give the secretary of state the appropriate authority the secretary of state needs to implement the modernization and streamlining effort." [1982 c 35 § 1.]

Severability—1982 c 35: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 35 § 202.]

Effective dates—Application—1982 c 35: "(1) Except as provided under subsection (3) of this section, this act shall take effect July 1, 1982. (2) Sections 6, 14, 47, 72, 75(2), 76(4), 80, 81, 97, 101, 120, 121(4), 124, 169, and 171(4) shall be construed and apply only to actions taken or documents filed after that date.

(3) Sections 39, 45, 46, 52, 61, 63, and 201 of this act shall take effect January 1, 1983." [1982 c 35 § 203.] For codification of 1982 c 35, see Codification Tables, Volume 0.

43.07.170 Establishment of a corporate filing system using other methods authorized. If the secretary of state determines that the public interest and the purpose of the corporation filing statutes administered by the secretary of state would be best served by a filing system utilizing microfilm, microfiche, or methods of reduced-format document recording, the secretary of state may, by rule adopted under chapter 34.05 RCW, establish such a filing system. In connection therewith, the secretary of state may eliminate any requirement for a duplicate original filing copy, and may establish reasonable requirements concerning paper size, print legibility, and quality for photo-reproduction processes as may be necessary to ensure utility and readability of any reduced-format filing system. [1982 c 35 § 191.]

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

43.07.180 Staggered corporate license renewal system authorized. The secretary of state may, by rule adopted under chapter 34.05 RCW, adopt and implement a system of renewals for annual corporate licenses or filings in which the renewal dates are staggered throughout the year.

To facilitate the implementation of the staggered system, the secretary of state may extend the duration of corporate licensing periods or report filing periods and may impose and collect such additional proportional fees as may be required on account of the extended periods. [1982 c 35 § 192.]

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

43.07.190 Use of a summary face sheet or cover sheet with the filing of certain documents authorized. Where the secretary of state determines that a summary face sheet or cover sheet would expedite review of any documents made under Title 23B RCW, or chapter 18.100, 23.86,

23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.36, or 25.10 RCW, the secretary of state may require the use of a summary face sheet or cover sheet that accurately reflects the contents of the attached document. The secretary of state may, by rule adopted under chapter 34.05 RCW, specify the required contents of any summary face sheet and the type of document or documents in which the summary face sheet will be required, in addition to any other filing requirements which may be applicable. [1991 c 72 § 56; 1989 c 307 § 41; 1982 c 35 § 193.]

Legislative finding—1989 c 307: See note following RCW 23.86.007.

Application—1989 c 307: See RCW 23.86.900.

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

43.07.200 Business license center as secretary of state's agent for corporate renewals—Proposals for—Schedule. Not later than July 1, 1982, the secretary of state and the director of licensing shall propose to the director of financial management a contract and working agreement with accompanying fiscal notes designating the business license center as the secretary of state's agent for issuing all or a portion of the corporation renewals within the jurisdiction of the secretary of state. The secretary of state and the director of licensing shall submit the proposed contract and accompanying fiscal notes to the legislature before October 1, 1982.

The secretary of state and the director of licensing shall jointly submit to the legislature by January 10, 1983, a schedule for designating the center as the secretary of state's agent for all such corporate renewals not governed by the contract. [1982 c 182 § 12.]

Severability—1982 c 182: See RCW 19.02.901.

Business license center act: Chapter 19.02 RCW.

Certain business or professional activity licenses exempt: RCW 19.02.800.

Master license system—Existing licenses or permits registered under, when: RCW 19.02.810.

43.07.210 Filing false statements—Penalty. Any person who files a false statement, which he or she knows to be false, in the articles of incorporation or in any other materials required to be filed with the secretary of state shall be guilty of a gross misdemeanor punishable under chapter 9A.20 RCW. [1984 c 75 § 25.]

43.07.220 Oral history program. The secretary of state, at the direction of the oral history advisory committee, shall administer and conduct a program to record and document oral histories of current and former members and staff of the Washington state legislature, current and former state government officials and personnel, and other citizens who have participated in the political history of Washington state. The secretary of state shall contract with independent oral historians and through the history departments of the state universities to interview and record oral histories. The tapes and tape transcripts shall be indexed and made available for research and reference through the state archives. The transcripts, together with current and historical photographs, may be published for distribution to libraries and for sale to the general public. [1991 c 237 § 1.]

Effective date—1991 c 237: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect on July 1, 1991." [1991 c 237 § 6.]

43.07.230 Oral history advisory committee—Members. An oral history advisory committee is created, which shall consist of the following individuals:

(1) Four members of the house of representatives, two from each of the two largest caucuses of the house, appointed by the speaker of the house of representatives;

(2) Four members of the senate, two from each of the two largest caucuses of the senate, appointed by the president of the senate;

(3) The chief clerk of the house of representatives;

(4) The secretary of the senate; and

(5) The secretary of state. [1991 c 237 § 2.]

Effective date—1991 c 237: See note following RCW 43.07.220.

43.07.240 Oral history advisory committee—Duties. The oral history advisory committee shall have the following responsibilities:

(1) To select appropriate oral history interview subjects;

(2) To select transcripts or portions of transcripts, and related historical material, for publication;

(3) To advise the secretary of state on the format and length of individual interview series and on appropriate issues and subjects for related series of interviews;

(4) To advise the secretary of state on the appropriate subjects, format, and length of interviews and on the process for conducting oral history interviews with subjects currently serving in the Washington state legislature;

(5) To advise the secretary of state on joint programs and activities with state universities, colleges, museums, and other groups conducting oral histories; and

(6) To advise the secretary of state on other aspects of the administration of the oral history program and on the conduct of individual interview projects. [1991 c 237 § 3.]

Effective date—1991 c 237: See note following RCW 43.07.220.

43.07.300 Division of elections—Director. The secretary of state shall establish a division of elections within the office of the secretary of state and under the secretary's supervision. The division shall be under the immediate supervision of a director of elections who shall be appointed by the secretary of state and serve at the secretary's pleasure. [1992 c 163 § 1.]

43.07.310 Division of elections—Duties. The secretary of state, through the division of elections, is responsible for the following duties, as prescribed by Title 29 RCW:

(1) The filing, verification of signatures, and certification of state initiative, referendum, and recall petitions;

(2) The production and distribution of a state voters' and candidates' pamphlet;

(3) The examination, testing, and certification of voting equipment, voting devices, and vote-tallying systems;

(4) The administration, canvassing, and certification of the presidential primary, state primaries, and state general elections;

(5) The administration of motor voter and other voter registration and voter outreach programs;

(6) The training, testing, and certification of state and local elections personnel as established in RCW 29.60.030;

(7) The training of state and local party observers required by RCW 29.60.040;

(8) The conduct of postelection reviews as established in RCW 29.60.070; and

(9) Other duties that may be prescribed by the legislature. [1992 c 163 § 2.]

43.07.350 Citizens' exchange program. The secretary of state, in consultation with the *department of trade, the department of agriculture, economic development consultants, the consular corps, and other international trade organizations, shall develop a Washington state citizens' exchange program that will initiate and promote:

(1) Citizen exchanges between Washington state agricultural, technical, and educational groups and organizations with their counterparts in targeted foreign countries.

(2) Expanded educational and training exchanges between Washington state individuals and organizations with similar groups in targeted foreign countries.

(3) Programs to extend Washington state expertise to targeted foreign countries to help promote better health and technical assistance in agriculture, water resources, hydroelectric power, forestry management, education, and other areas.

(4) Efforts where a special emphasis is placed on utilizing Washington state's rich human resources who are retired from public and private life and have the time to assist in this program.

(5) People-to-people programs that may result in increased tourism, business relationships, and trade from targeted foreign nations to the Pacific Northwest. [1993 c 113 § 1.]

***Reviser's note:** The department of trade and economic development was the correct name for this department. The name of the department is now the department of community, trade, and economic development, pursuant to 1993 c 280.

43.07.360 International contact data base—Findings. (Expires December 31, 2000.) (1) The legislature finds that knowledge of international exchange students who have studied in Washington state institutions of higher education, especially those from key trading partner countries, and knowledge of Washington state students, interns, and citizens working and studying abroad, is critical to the ability of Washington businesses and citizens to establish contacts and networks in the competitive world market.

(2) The legislature also finds that knowledge of worldwide business contacts, government contacts, cultural contacts, and international friends is critical to building a solid network of opportunities for developing trade relations for our state.

(3) The secretary of state may develop and maintain a data base, to be known as the international contact data base, listing, in addition to any other information: (a) Washington students, interns, and citizens working and studying overseas; (b) international students who have studied at Washington educational institutions; (c) exchange opportunities for Washington residents wishing to participate in education,

internships, or technical assistance programs in the areas of agriculture, hydroelectric power, aerospace, computers and technology, academics, medicine, and communications; (d) international business contacts of those people interested in doing business with Washington business; and (e) international government contacts, particularly with our key trading partners.

The data base may be designed to be used as a resource for Washington citizens, businesses, and other entities seeking contacts in international trade markets overseas.

(4) The department of community, trade, and economic development, the department of agriculture, and the governor's office of protocol may assist the secretary of state in designing and developing the data base and in obtaining data for inclusion in the data base. Four-year educational institutions and their alumni associations are encouraged to maintain data concerning students studying or working abroad, international students attending their institutions, and exchange opportunities available to their students and other citizens, and to make such data freely available to the secretary of state for inclusion in the data base.

(5) The information contained in the data base may be made available on request for inspection or copying for free or at cost. The secretary of state shall not distinguish among persons requesting information from the data base, though the secretary of state may request information from requesters for purposes of monitoring trade contacts and evaluating the uses and effectiveness of the data base.

(6) Any person listed in the data base may request in writing that his or her name, address, telephone number, or other identifying information be omitted from the data base. Nothing in this section prohibits the secretary of state from refusing to disclose information exempt from disclosure under RCW 42.17.310. [1996 c 253 § 301.]

Expiration date—1996 c 253 §§ 201-205 and 301: See note following RCW 43.292.005.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 43.292.005.

Chapter 43.08

STATE TREASURER

Sections

- 43.08.010 General duties.
- 43.08.015 Cash management duties.
- 43.08.020 Residence—Bond—Oath.
- 43.08.030 Seal.
- 43.08.040 Administration of oaths.
- 43.08.050 Records and accounts—Public inspection.
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- Obstructions on highway right of way, treasurer's duties relating to: RCW 47.32.060.*
- Off-road and nonhighway vehicles, treasurer's duties: RCW 46.09.030, 46.09.170.*
- Payments from, judgments against state: RCW 4.92.040.*

Public employees' retirement, statement concerning: RCW 41.50.260, 41.50.265.

Public funds

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classification by fund or account: RCW 43.88.160.

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revolving funds, custody over: RCW 43.88.190.

Public utility districts, privilege taxes, duties in regard to: RCW 54.28.040.

Puget Sound ferry and toll bridge system, treasurer's powers and duties relating to: Chapter 47.60 RCW.

Purchase of bridges or ferries by department of transportation, treasurer's powers and duties relating to: RCW 47.56.050.

Records and accounts to be kept at seat of government: State Constitution Art. 3 § 24.

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Salary, amount of: State Constitution Art. 3 § 19, Art. 28 § 1; RCW 43.03.010.

Snowmobile act, treasurer's duties: Chapter 46.10 RCW.

State canvassing board member: RCW 29.62.100.

State finance committee

chairman: RCW 43.33.040.

member: RCW 43.33.010.

State trade fair fund, horse racing moneys: RCW 67.16.100.

Succession to governorship: State Constitution Art. 3 § 10.

Surplus funds, investment program: Chapter 43.86A RCW.

Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.

Toll bridges, improvement of existing bridge and construction of new bridge as single project, treasurer's powers and duties relating to: Chapter 47.58 RCW.

Vehicle wreckers' licensing, treasurer's powers and duties relating to: Chapter 46.80 RCW.

Vocational rehabilitation funds, custodian of: RCW 74.29.050.

Volunteer fire fighters' board of trustees, report, duties: RCW 41.24.070.

Warrants or checks, unlawful to issue except upon forms prescribed by director of financial management: RCW 43.88.160.

Washington State University

bonds and securities, annual report to regents: RCW 28B.30.300.

receiving agent for federal aid to: RCW 28B.30.270.

43.08.010 General duties. The state treasurer shall:

(1) Receive and keep all moneys of the state in the manner provided in RCW 43.88.160, as now or hereafter amended;

(2) Disburse the public moneys only upon warrants or checks drawn upon the treasurer in the manner provided by law;

(3) Account for moneys in the manner provided by law;

(4) Render accounts in the manner provided by law;

(5) Indorse on each warrant when required by law, the date of payment, the amount of the principal, and the interest due on that date;

(6) Report annually to the legislature a detailed statement of the condition of the treasury, and of its operations for the preceding fiscal year;

(7) Give information, in writing, to either house of the legislature, whenever required, upon any subject connected with the treasury, or touching any duty of his office;

(8) Account for and pay over all moneys on hand to his successor in office, and deliver all books, vouchers, and effects of office to him, who shall receipt therefor;

(9) Upon payment of any warrant, or check, take upon the back thereof the indorsement of the person to whom it is paid. [1977 c 75 § 38; 1965 c 8 § 43.08.010. Prior: 1890

p 642 § 1; RRS § 11019; prior: 1886 p 134 § 2; 1871 p 77 § 2; 1864 p 52 § 3; 1854 p 413 § 3.]

Budget and accounting system, powers and duties: RCW 43.88.160.

43.08.015 Cash management duties. Within the policies and procedures established pursuant to RCW 43.41.110(13) and 43.88.160(1), the state treasurer shall take such actions as are necessary to ensure the effective cash management of public funds. This cash management shall include the authority to represent the state in all contractual relationships with financial institutions. The state treasurer may delegate cash management responsibilities to the affected agencies with the concurrence of the office of financial management. [1993 c 500 § 3.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.08.020 Residence—Bond—Oath. The state treasurer shall reside and keep his office at the seat of government. Before entering upon his duties, he shall execute and deliver to the secretary of state a bond to the state in a sum of not less than five hundred thousand dollars, to be approved by the secretary of state and one of the justices of the supreme court, conditioned to pay all moneys at such times as required by law, and for the faithful performance of all duties required of him by law. He shall take an oath of office, to be indorsed on his commission, and file a copy thereof, together with the bond, in the office of the secretary of state. [1972 ex.s. c 12 § 1. Prior: 1971 c 81 § 108; 1971 c 14 § 1; 1965 c 8 § 43.08.020; prior: 1890 p 642 § 2; RRS § 11022; prior: 1886 p 133 § 1; 1881 p 18 § 1; 1871 p 76 § 1; 1864 p 51 § 2; 1854 p 413 § 2.]

43.08.030 Seal. The treasurer shall keep a seal of office for the authentication of all papers, writings, and documents required to be certified by him. [1965 c 8 § 43.08.030. Prior: 1890 p 643 § 6; RRS § 11025; prior: 1886 p 135 § 6; 1871 p 78 § 6; 1864 p 53 § 7; 1854 p 414 § 7.]

43.08.040 Administration of oaths. The treasurer may administer all oaths required by law in matters pertaining to the duties of his office. [1965 c 8 § 43.08.040. Prior: 1890 p 643 § 5; RRS § 11024; prior: 1886 p 135 § 5; 1871 p 78 § 5; 1864 p 53 § 6; 1854 p 414 § 6.]

43.08.050 Records and accounts—Public inspection. All the books, papers, letters, and transactions pertaining to the office of treasurer shall be open for the inspection of a committee of the legislature to examine or settle all accounts, and to count all money; and to the inspection of the public generally during office hours; and when the successor of any treasurer is elected and qualified, the state auditor shall examine and settle all the accounts of the treasurer remaining unsettled, and give him a certified statement showing the balance of moneys, securities, and effects for which he is accountable, which have been delivered to his successor, and report the same to the legislature. [1965 c 8 § 43.08.050. Prior: 1890 p 643 § 3; RRS § 11023; prior: 1886 p 134 § 3; 1864 p 53 § 4; 1854 p 414 § 4.]

Public records, budget and accounting system: RCW 43.88.200.

43.08.060 Duplicate receipts. All persons required by law to pay any moneys into the state treasury, or to transmit any public funds to the state treasurer on state accounts, shall, at the time of making such payments or transmissions specify the amount and date of such payment, and for what particular fund or account.

For all sums of money so paid the state treasurer shall forthwith give duplicate receipts in accordance with the rules and regulations promulgated by the office of financial management as authorized by RCW 43.88.160(1). [1979 c 151 § 89; 1977 c 16 § 1; 1965 c 8 § 43.08.060. Prior: 1890 p 643 § 4; RRS § 5504; prior: 1886 p 134 § 4; 1871 p 78 § 4; 1864 p 53 § 5; 1854 p 414 § 5.]

43.08.061 Warrants—Public printer to print—Retention of redeemed warrants. The public printer shall print all state treasury warrants for distribution as directed by the state treasurer. All warrants redeemed by the state treasurer shall be retained for a period of one year, following their redemption, after which they may be destroyed without regard to the requirements imposed for their destruction by chapter 40.14 RCW. [1993 c 38 § 1; 1981 c 10 § 1; 1975 c 48 § 2.]

Actions against state on redeemed warrants, time limitation: RCW 4.92.200.

43.08.062 Warrants—Presentation—Cancellation. Should the payee or legal holder of any warrant drawn against the state treasury fail to present the warrant for payment within one hundred eighty days of the date of its issue or, if registered and drawing interest, within one hundred eighty days of its call, the state treasurer shall enter the same as canceled on the books of his office.

Should the payee or legal owner of such a canceled warrant thereafter present it for payment, the state treasurer may, upon proper showing by affidavit and the delivery of the warrant into his possession, issue a new warrant in lieu thereof, and the state treasurer is authorized to pay the new warrant. [1986 c 99 § 1; 1981 c 10 § 2; 1965 c 8 § 43.08.062. Prior: 1890 p 638 § 13; RRS § 11008; prior: 1883 p 61 § 1. Formerly RCW 43.09.100.]

43.08.064 Lost or destroyed warrants, instruments, or other evidence of indebtedness—Issuing officer to issue duplicate. In case of the loss or destruction of a state warrant for the payment of money, or any bond or other instrument or evidence of indebtedness, issued by any state officer, or agency, such officer, or such agency through its appropriate officer may issue or cause to be issued a duplicate in lieu thereof, bearing the same number, class, or designation in all respects and for the same amount as the original, except that the word duplicate shall plainly appear upon the face of the new instrument in such a manner as to clearly identify it as a duplicate instrument. The duplicate instrument so issued shall be subject in all other respects to the same provisions of law as the original instrument. [1979 ex.s. c 71 § 3; 1975-'76 2nd ex.s. c 77 § 2; 1965 ex.s. c 61 § 1; 1965 c 8 § 43.08.064. Prior: 1890 p 639 § 15; RRS § 11010; prior: 1888 p 236 § 1. Formerly RCW 43.09.110.]

Lost or destroyed evidence of indebtedness issued by local governments: Chapter 39.72 RCW.

43.08.066 Lost or destroyed warrants, instruments, or other evidence of indebtedness—Conditions on issuance. Before a duplicate instrument is issued, the state treasurer or other issuing officer shall require the person making application for its issue to file in his office a written affidavit specifically alleging on oath that he is the proper owner, payee, or legal representative of such owner or payee of the original instrument, giving the date of issue, the number, amount, and for what services or claim or purpose the original instrument or series of instruments of which it is a part was issued, and that the same has been lost or destroyed, and has not been paid, or has not been received by him: PROVIDED, That in the event that an original and its duplicate instrument are both presented for payment as a result of forgery or fraud, the issuing officer shall be the state agency responsible for endeavoring to recover any losses suffered by the state. [1979 ex.s. c 71 § 4; 1972 ex.s. c 74 § 1; 1971 ex.s. c 54 § 1; 1965 ex.s. c 61 § 2; 1965 c 8 § 43.08.066. Prior: 1890 p 639 § 16; RRS § 11011; prior: 1888 p 236 § 2. Formerly RCW 43.09.120.]

43.08.068 Lost or destroyed warrants, instruments, or other evidence of indebtedness—Records to be kept—Cancellation of originals—Notice. The state treasurer or other issuing officer shall keep a full and complete record of all warrants, bonds or other instruments alleged to have been lost or destroyed, which were issued by such agency, and of the issue of any duplicate therefor; and upon the issuance of any duplicate, the officer shall enter upon his books the cancellation of the original instrument and immediately notify the state treasurer, the state auditor, and all trustees and paying agents authorized to redeem such instruments on behalf of the state of Washington, of such cancellation. The treasurer shall keep a similar list of all warrants, bonds or other instruments so canceled. [1965 ex.s. c 61 § 3; 1965 c 8 § 43.08.068. Prior: 1890 p 640 § 17; RRS § 11012; prior: 1888 p 236 § 3. Formerly RCW 43.09.130.]

43.08.070 Warrants—Indorsement—Interest—Issuance of new warrants. Upon the presentation of any state warrant to the state treasurer, if there is not sufficient money then available in the appropriate fund with which to redeem all warrants drawn against such fund which the treasurer anticipates will be presented for payment during the current business day, he may endorse on the warrant, "Not paid for want of funds," with the day and date of presentation, and the warrant shall draw legal interest from and including that date until five days from and after being called for payment in accordance with RCW 43.08.080, or until paid, whichever occurs first; or, in the alternative, the treasurer may prepare and register a single new warrant, drawn against the appropriate fund, and exchange such new warrant for one or more warrants not paid for want of funds when presented for payment totaling a like amount but not exceeding one million dollars, which new warrant shall then draw legal interest from and including its date of issuance until five days from and after being called for payment in accordance with RCW 43.08.080, or until paid, whichever occurs first. The legal rate or rates of interest on these warrants shall be established by the state treasurer in accordance with RCW 39.56.030. [1981 c 10 § 3; 1971 ex.s. c

88 § 2; 1965 c 8 § 43.08.070. Prior: 1869 p 408 § 2; RRS § 5516.]

Severability—1971 ex.s. c 88: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 88 § 6.]

43.08.080 Call of warrants. When the state treasurer deems that there is sufficient money in a fund to pay all or part of the registered warrants of such fund, and the warrants are not presented for payment, he may advertise at least once in some newspaper published at the seat of government, stating the serial number of the warrants he is calling and prepared to pay; and if such warrants are not presented for payment within five days from and after the date of publication of the notice, the warrants shall not then draw any further interest: PROVIDED, That when said fund has a balance in excess of three percent of the preceding monthly warrant issue of said fund, or at any time that the money in the fund exceeds the warrants outstanding, the state treasurer shall similarly advertise a call for all those registered warrants which can be fully paid out of said fund in accordance with their registration sequence. [1971 ex.s. c 88 § 3; 1965 c 8 § 43.08.080. Prior: 1890 p 644 § 8; RRS § 5517; prior: 1886 p 135 § 9; 1871 p 79 § 9.]

Severability—1971 ex.s. c 88: See note following RCW 43.08.070.

43.08.090 Fiscal agent for state. The state treasurer shall be ex officio the fiscal agent of the state. [1965 c 8 § 43.08.090. Prior: 1891 c 138 § 1; RRS § 5484.]

Fiscal agencies: Chapter 43.80 RCW.

43.08.100 Fiscal agent for state—Duties of fiscal agent. The fiscal agent of the state shall receive all moneys due the state from any other state or from the federal government, take all necessary steps for the collection thereof, and apply the same to the funds to which they belong. He shall collect from time to time all moneys that may accrue to the state by virtue of section 13 of the enabling act, or from any other source not otherwise provided for by law. [1965 c 8 § 43.08.100. Prior: (i) 1891 c 138 § 2; RRS § 5485. (ii) 1891 c 138 § 4; RRS § 5487.]

43.08.110 Fiscal agent for state—Fiscal agent's receipts. The fiscal agent shall issue the necessary receipts for all moneys collected, and such receipts shall show the date when paid, the amount, from whom received, and on what account the money was collected.

One or more copies of such receipt shall be given to the persons from whom the money was received, and one copy shall be given to the director of financial management. [1979 c 151 § 90; 1965 c 8 § 43.08.110. Prior: 1891 c 138 § 3; RRS § 5486.]

43.08.120 Assistant—Deputies—Responsibility for acts. The state treasurer may appoint an assistant state treasurer, who shall have the power to perform any act or duty which may be performed by the state treasurer, and in case of a vacancy in the office of state treasurer, perform the duties of the office until the vacancy is filled as provided by law.

The state treasurer may appoint no more than three deputy state treasurers, who shall have the power to perform any act or duty which may be performed by the state treasurer.

The assistant state treasurer and the deputy state treasurers shall be exempt from the provisions of chapter 41.06 RCW and shall hold office at the pleasure of the state treasurer; they shall, before entering upon the duties of their office, take and subscribe, and file with the secretary of state, the oath of office provided by law for other state officers.

The state treasurer shall be responsible on his official bond for all official acts of the assistant state treasurer and the deputy state treasurers. [1973 c 10 § 1; 1971 c 15 § 1; 1965 c 8 § 43.08.120. Prior: 1921 c 36 § 1; RRS § 11020.]

43.08.130 Wilful refusal to pay warrants—Exceptions—Recovery. If the state treasurer wilfully refuses to pay except in accordance with the provisions of RCW 43.08.070 or by cash or check any warrant designated as payable in the state treasurer's office which is lawfully drawn upon the state treasury, or knowingly pays any warrant otherwise than as provided by law, then any person injured thereby may recover by action against the treasurer and the sureties on his official bond. [1972 ex.s. c 145 § 2; 1965 c 8 § 43.08.130. Prior: 1890 p 644 § 7; RRS § 11026; prior: 1886 p 135 § 8; 1871 p 78 § 8; 1864 p 53 § 8; 1854 p 414 § 8.]

43.08.135 Cash or demand deposits—Duty to maintain—RCW 9A.56.060(1) not deemed violated, when. The state treasurer shall maintain at all times cash, or demand deposits in qualified public depositories in an amount needed to meet the operational needs of state government: PROVIDED, That the state treasurer shall not be considered in violation of RCW 9A.56.060(1) if he maintains demand accounts in public depositories in an amount less than all treasury warrants issued and outstanding. [1983 c 3 § 100; 1972 ex.s. c 145 § 3.]

43.08.140 Embezzlement—Penalty. If any person holding the office of state treasurer fails to account for and pay over all moneys in his or her hands in accordance with law, or unlawfully converts to his or her own use in any way whatever, or uses by way of investment in any kind of property, or loans without authority of law, any portion of the public money intrusted to him or her for safekeeping, transfer, or disbursement, or unlawfully converts to his or her own use any money that comes into his or her hands by virtue of his or her office, the person shall be guilty of embezzlement, and upon conviction thereof, shall be imprisoned in a state correctional facility not exceeding fourteen years, and fined a sum equal to the amount embezzled. [1992 c 7 § 40; 1965 c 8 § 43.08.140. Prior: 1890 p 644 § 10; RRS § 11027; prior: 1886 p 105 § 11.]

Misappropriation of funds: RCW 42.20.070, 42.20.090.

43.08.150 Monthly financial report on funds and accounts. As soon as possible after the close of each calendar month, the state treasurer shall prepare a report as

to the state of the general fund and every other fund under his control itemized as to:

- (1) The amount in the fund at the close of business at the end of the preceding month;
- (2) The amount of revenue deposited or transferred to the credit of each fund during the current month;
- (3) The amount of withdrawals or transfers from each fund during the current month; and
- (4) The amount on hand in each fund at the close of business at the end of the current month.

One copy of each report shall be provided promptly to those requesting them so long as the supply lasts. [1977 c 75 § 39; 1965 c 8 § 43.08.150. Prior: 1947 c 32 § 1; Rem. Supp. 1947 § 11019-1.]

Biennial reports, periods: RCW 43.01.035.

Investment of surplus funds, rules and allocations to be published in report: RCW 43.86A.050.

Reports, budget and accounting system: RCW 43.88.160.

43.08.160 Monthly financial report—Report to be printed. The state treasurer shall cause all such reports to be printed as other public documents are printed and the approval of no other officer of the state shall be necessary in carrying out the purposes of RCW 43.08.150. [1965 c 8 § 43.08.160. Prior: 1947 c 32 § 2; Rem. Supp. 1947 § 11019-2.]

43.08.180 Cashing checks, drafts, and state warrants—Discretionary—Conditions—Procedure upon dishonor. The state treasurer is hereby authorized, in the treasurer's discretion and as a service to state officers and employees, and to those known by the treasurer or the treasurer's staff, to accept in exchange for cash the checks, drafts, or Washington state warrants drawn or endorsed by these authorized persons and presented to the treasurer's office as meet each of the following conditions:

- (1) The check or draft must be drawn to the order of cash or bearer and be immediately payable by a drawee financial institution; and
- (2) The person presenting the check, draft, or Washington state warrant to the treasurer must produce such identification as the treasurer may require.

In the event that any check or draft cashed for a state officer or employee by the state treasurer under this section is dishonored by the drawee financial institution when presented for payment, the treasurer is authorized, after notice to the drawer or endorser of the dishonor, to withhold from the drawer's or endorser's next state salary warrant the full amount of the dishonored check or draft. [1984 c 74 § 1; 1971 c 5 § 1.]

43.08.190 State treasurer's service fund—Creation—Purpose. There is hereby created a fund within the state treasury to be known as the "state treasurer's service fund". Such fund shall be used solely for the payment of costs and expenses incurred in the operation and administration of the state treasurer's office.

Moneys shall be allocated monthly and placed in the state treasurer's service fund equivalent to a maximum of one percent of the trust and treasury average daily cash balances from the earnings generated under the authority of

RCW 43.79A.040 and 43.84.080 other than earnings generated from investment of balances in funds and accounts specified in RCW *43.79.040(2)(b) or **43.84.092(2)(b). The allocation shall precede the distribution of the remaining earnings as prescribed under RCW 43.79A.040 and 43.84.092. The state treasurer shall establish a uniform allocation rate based on the appropriations for the treasurer's office. [1991 sp.s. c 13 § 83; 1985 c 405 § 506; 1973 c 27 § 2.]

Reviser's note: *(1) The reference to RCW 43.79.040(2)(b) is incorrect. RCW 43.79A.040(2)(b) was apparently intended; and was subsequently amended by 1993 sp.s. c 8 § 2 deleting subsection (2)(b).

** (2) RCW 43.84.092 was amended by 1993 c 500 § 6, changing subsection (2)(b) to subsection (4)(b).

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—1985 c 405: See note following RCW 9.46.100.

43.08.200 State treasurer's service fund—Expenditure limitation. All moneys deposited in the state treasurer's service fund shall be expended only pursuant to legislative appropriation and for the purposes set forth in RCW 43.08.190, 43.08.200, and *43.85.241. [1973 c 27 § 3.]

***Reviser's note:** RCW 43.85.241 was repealed by 1985 c 57 § 90, effective July 1, 1985.

43.08.250 Public safety and education account—Use. The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the public safety and education account which is hereby created in the state treasury. The legislature shall appropriate the funds in the account to promote traffic safety education, highway safety, criminal justice training, crime victims' compensation, judicial education, the judicial information system, civil representation of indigent persons, winter recreation parking, and state game programs. During the fiscal biennium ending June 30, 1997, the legislature may appropriate moneys from the public safety and education account for purposes of appellate indigent defense, the criminal litigation unit of the attorney general's office, the treatment alternatives to street crimes program, crime victims advocacy programs, justice information network telecommunication planning, sexual assault treatment, operations of the office of administrator for the courts, security in the common schools, programs for alternative dispute resolution of farmworker employment claims, criminal justice data collection, and Washington state patrol criminal justice activities. [1996 c 283 § 901; 1995 2nd sp.s. c 18 § 912; 1993 sp.s. c 24 § 917; 1992 c 54 § 3. Prior: 1991 sp.s. c 16 § 919; 1991 sp.s. c 13 § 25; 1985 c 57 § 27; 1984 c 258 § 338.]

Severability—1996 c 283: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 283 § 904.]

Effective date—1996 c 283: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 30, 1996]." [1996 c 283 § 905.]

Severability—Effective date—1995 2nd sp.s. c 18: See notes following RCW 19.118.110.

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

Effective date—1992 c 54: See note following RCW 36.18.020.

Severability—Effective date—1991 sp.s. c 16: See notes following RCW 9.46.100.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

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

Intent—1984 c 258: See note following RCW 3.46.120.

Public safety and education assessment: RCW 3.62.090.

43.08.260 Public safety and education account to fund civil representation of indigent persons—When authorized. (1) Any money appropriated from the public safety and education account pursuant to RCW 43.08.250 for civil representation of indigent persons shall be used solely for the purpose of contracting with qualified legal aid programs for legal representation of indigent persons in matters relating to: (a) Domestic relations and family law matters, (b) public assistance, health care, and entitlement programs, (c) public housing and utilities, and (d) unemployment compensation. For purposes of this section, a "qualified legal aid program" means a not-for-profit corporation incorporated and operating exclusively in Washington which has received basic field funding for the provision of civil legal services to indigents under Public Law 101-515.

(2) Funds distributed to qualified legal aid programs under this section shall be distributed on a basis proportionate to the number of individuals with incomes below the official federal poverty income guidelines who reside within the counties in the geographic service areas of such programs. The department of community, trade, and economic development shall use the same formula for determining this distribution as is used by the legal services corporation in allocating funds for basic field services in the state of Washington.

(3)(a) Funds distributed to qualified legal aid programs under this section may not be used directly or indirectly for lobbying or in class action suits. Further, these funds are subject to all limitations and conditions imposed on use of funds made available to legal aid programs under the legal services corporation act of 1974 (P.L. 93-355; P.L. 95-222) as currently in effect or hereafter amended.

(b)(i) For purposes of this section, "lobbying" means any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device directly or indirectly intended to influence any member of congress or any other federal, state, or local nonjudicial official, whether elected or appointed:

(A) In connection with any act, bill, resolution, or similar legislation by the congress of the United States or by any state or local legislative body, or any administrative rule, standard, rate, or other enactment by any federal, state, or local administrative agency;

(B) In connection with any referendum, initiative, constitutional amendment, or any similar procedure of the congress, any state legislature, any local council, or any similar governing body acting in a legislative capacity; or

(C) In connection with inclusion of any provision in a legislative measure appropriating funds to, or defining or

limiting the functions or authority of, the recipient of funds pursuant to chapter 54, Laws of 1992.

(ii) "Lobbying" does not include the response of an employee of a legal aid program to a written request from a governmental agency, an elected or appointed official, or committee on a specific matter. This exception does not authorize communication with anyone other than the requesting party, or agent or employee of such agency, official, or committee. [1995 c 399 § 62; 1992 c 54 § 4.]

Effective date—1992 c 54: See note following RCW 36.18.020.

Chapter 43.09 STATE AUDITOR

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Justice and inferior courts act of 1961, financial records prescribed by: RCW 3.30.070.

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Succession: State Constitution Art. 3 § 10.

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bonds, auditor to sign: RCW 47.56.140.

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administrator for the courts: RCW 2.56.090.

disbursement of public moneys, duties transferred: RCW 43.88.210.

GENERALLY

43.09.010 Residence—Office—Bond—Oath. The state auditor shall reside and keep his or her office at the seat of government. Before entering upon his or her duties he or she shall execute and deliver to the secretary of state a bond to the state in the sum of fifty thousand dollars, to be approved by the governor, conditioned for the faithful performance of all duties required by law. He or she shall take an oath of office before any person authorized to administer oaths, and file a copy thereof, together with the required bond, in the office of the secretary of state. [1995 c 301 § 1; 1965 c 8 § 43.09.010. Prior: 1890 p 634 § 1; RRS § 10996; prior: Code 1881 § 2566; 1871 p 96 § 1; 1854 p 409 § 2.]

43.09.020 Auditor of public accounts. The auditor shall be auditor of public accounts, and shall have such powers and perform such duties in connection therewith as may be prescribed by law. [1989 c 140 § 1; 1965 c 8 § 43.09.020. Prior: 1890 p 635 § 2; RRS § 10997; prior: Code 1881 § 2567; 1871 p 97 § 4; 1854 p 409 § 3.]

Budget and accounting system, powers and duties: RCW 43.88.160.

Fiscal records open to public: RCW 43.88.200.

43.09.025 Deputy auditors—Assistant directors. The state auditor may appoint deputies and assistant directors as necessary to carry out the duties of the office of the state auditor. These individuals serve at the pleasure of the state

auditor and are exempt from the provisions of chapter 41.06 RCW as stated in *RCW 41.06.070(1)(y). [1995 c 301 § 2.]

*Reviser's note: RCW 41.06.070 was amended by 1994 c 163 § 1, changing subsection (1)(y) to subsection (1)(x).

43.09.035 Assistants—Personnel. The state auditor may appoint and employ other assistants and personnel necessary to carry out the work of the office of the state auditor. [1995 c 301 § 3.]

43.09.045 Contracts with certified public accountants. The state auditor may contract with public accountants certified in Washington to carry out those portions of the duties of auditing state agencies and local governments as the state auditor may determine. [1995 c 301 § 4.]

43.09.050 General duties of auditor. The auditor shall:

(1) Except as otherwise specifically provided by law, audit the accounts of all collectors of the revenue and other holders of public money required by law to pay the same into the treasury;

(2) In his or her discretion, inspect the books of any person charged with the receipt, safekeeping, and disbursement of public moneys;

(3) Investigate improper governmental activity under chapter 42.40 RCW;

(4) Inform the attorney general in writing of the necessity for the attorney general to direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state;

(5) Give information in writing to the legislature, whenever required, upon any subject relating to the financial affairs of the state, or touching any duties of his or her office;

(6) Report to the director of financial management in writing the names of all persons who have received any moneys belonging to the state, and have not accounted therefor;

(7) Authenticate with his or her official seal papers issued from his or her office;

(8) Make his or her official report annually on or before the 31st of December. [1992 c 118 § 6; 1979 c 151 § 91. Prior: 1977 ex.s. c 144 § 7; 1977 c 75 § 40; 1971 ex.s. c 170 § 1; 1965 c 8 § 43.09.050; prior: 1890 p 636 § 5; RRS § 11001; prior: Code 1881 § 2570; 1854 p 410 § 5.]

Severability—1971 ex.s. c 170: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 170 § 5.]

Advances: Chapter 42.24 RCW.

Information to legislature: RCW 43.88.160.

Investigations of improper governmental actions—Protection of employee disclosures: Chapter 42.40 RCW.

Post-audit duties: RCW 43.88.160.

Powers and duties, budget and accounting system: RCW 43.88.160.

Report of irregularities to attorney general: RCW 43.88.160.

Report to legislature: RCW 43.88.160.

43.09.165 Subpoenas—Compulsory process—Witnesses—Oaths—Testimony—Penalty. The state auditor, his or her employees and every person legally appointed to perform such service, may issue subpoenas and compulsory process and direct the service thereof by any constable or sheriff, compel the attendance of witnesses and the production of books and papers before him or her at any designated time and place, and may administer oaths.

When any person summoned to appear and give testimony neglects or refuses to do so, or neglects or refuses to answer any question that may be put to him or her touching any matter under examination, or to produce any books or papers required, the person making such examination shall apply to a superior court judge of the proper county to issue a subpoena for the appearance of such person before him or her, and the judge shall order the issuance of a subpoena for the appearance of such person forthwith before him or her to give testimony; and if any person so summoned fails to appear, or appearing, refuses to testify, or to produce any books or papers required, he or she shall be subject to like proceedings and penalties for contempt as witnesses in the superior court. Willful false swearing in any such examination shall be perjury and punishable as such. [1995 c 301 § 5.]

43.09.170 May administer oaths. The state auditor may administer all oaths required by law in matters pertaining to the duties of his or her office. [1995 c 301 § 6; 1965 c 8 § 43.09.170. Prior: 1890 p 641 § 23; RRS § 11017; prior: Code 1881 § 2586.]

43.09.180 Seal—Copies of documents as evidence. The state auditor shall keep a seal of office for the identification of all papers, writings, and documents required by law to be certified by him or her, and copies authenticated and certified of all papers and documents lawfully deposited in his or her office shall be received in evidence with the same effect as the originals. [1995 c 301 § 7; 1965 c 8 § 43.09.180. Prior: 1890 p 641 § 24; RRS § 11018; prior: Code 1881 § 2587.]

43.09.185 Loss of public funds—Illegal activity—Report to state auditor's office. State agencies and local governments shall immediately report to the state auditor's office known or suspected loss of public funds or assets or other illegal activity. [1995 c 301 § 8.]

LOCAL GOVERNMENT ACCOUNTING

43.09.200 Local government accounting—Uniform system of accounting. The state auditor shall formulate, prescribe, and install a system of accounting and reporting for all local governments, which shall be uniform for every public institution, and every public office, and every public account of the same class.

The system shall exhibit true accounts and detailed statements of funds collected, received, and expended for account of the public for any purpose whatever, and by all public officers, employees, or other persons.

The accounts shall show the receipt, use, and disposition of all public property, and the income, if any, derived therefrom; all sources of public income, and the amounts due and received from each source; all receipts, vouchers, and other documents kept, or required to be kept, necessary to isolate and prove the validity of every transaction; all statements and reports made or required to be made, for the internal administration of the office to which they pertain; and all reports published or required to be published, for the information of the people regarding any and all details of the financial administration of public affairs. [1995 c 301 § 9; 1965 c 8 § 43.09.200. Prior: 1909 c 76 § 2; RRS § 9952.]

Electronic transfer of public funds to be in compliance with: RCW 39.58.750.

School districts budgets to be in compliance with: RCW 28A.505.120.

43.09.205 Local government accounting—Costs of public works—Standard form. The state auditor shall prescribe a standard form with which the accounts and records of costs of all local governments shall be maintained as required under RCW 39.04.070. [1995 c 301 § 10; 1987 c 120 § 4.]

43.09.210 Local government accounting—Separate accounts for each fund or activity. Separate accounts shall be kept for every appropriation or fund of a taxing or legislative body showing date and manner of each payment made therefrom, the name, address, and vocation of each person, organization, corporation, or association to whom paid, and for what purpose paid.

Separate accounts shall be kept for each department, public improvement, undertaking, institution, and public service industry under the jurisdiction of every taxing body.

All service rendered by, or property transferred from, one department, public improvement, undertaking, institution, or public service industry to another, shall be paid for at its true and full value by the department, public improvement, undertaking, institution, or public service industry receiving the same, and no department, public improvement, undertaking, institution, or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another.

All unexpended balances of appropriations shall be transferred to the fund from which appropriated, whenever the account with an appropriation is closed. [1965 c 8 § 43.09.210. Prior: 1909 c 76 § 3; RRS § 9953.]

43.09.220 Local government accounting—Separate accounts for public service industries. Separate accounts shall be kept for every public service industry of every local government, which shall show the true and entire cost of the ownership and operation thereof, the amount collected annually by general or special taxation for service rendered to the public, and the amount and character of the service rendered therefor, and the amount collected annually from private users for service rendered to them, and the amount and character of the service rendered therefor. [1995 c 301 § 11; 1965 c 8 § 43.09.220. Prior: 1909 c 76 § 4; RRS § 9954.]

43.09.230 Local government accounting—Annual reports—Comparative statistics. The state auditor shall require from every local government financial reports covering the full period of each fiscal year, in accordance with the forms and methods prescribed by the state auditor, which shall be uniform for all accounts of the same class.

Such reports shall be prepared, certified, and filed with the state auditor within one hundred fifty days after the close of each fiscal year.

The reports shall contain accurate statements, in summarized form, of all collections made, or receipts received, by the officers from all sources; all accounts due the public treasury, but not collected; and all expenditures for every purpose, and by what authority authorized; and also: (1) A statement of all costs of ownership and operation, and of all income, of each and every public service industry owned and operated by a local government; (2) a statement of the entire public debt of every local government, to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, and the provisions made for the payment thereof; (3) a classified statement of all receipts and expenditures by any public institution; and (4) a statement of all expenditures for labor relations consultants, with the identification of each consultant, compensation, and the terms and conditions of each agreement or arrangement; together with such other information as may be required by the state auditor.

The reports shall be certified as to their correctness by the state auditor, the state auditor's deputies, or other person legally authorized to make such certification.

Their substance shall be published in an annual volume of comparative statistics at the expense of the state as a public document. [1995 c 301 § 12; 1993 c 18 § 2; 1989 c 168 § 1; 1977 c 75 § 41; 1965 c 8 § 43.09.230. Prior: 1909 c 76 § 5; RRS § 9955.]

Finding—Purpose—1993 c 18: "The legislature finds and declares that the use of outside consultants is an increasing element in public sector labor relations. The public has a right to be kept informed about the role of outside consultants in public sector labor relations. The purpose of this act is to help ensure that public information is available." [1993 c 18 § 1.]

43.09.240 Local government accounting—Public officers and employees—Duty to account and report—Removal from office—Deposit of collections. Every public officer and employee of a local government shall keep all accounts of his or her office in the form prescribed and make all reports required by the state auditor. Any public officer or employee who refuses or willfully neglects to perform such duties shall be subject to removal from office in an appropriate proceeding for that purpose brought by the attorney general or by any prosecuting attorney.

Every public officer and employee, whose duty it is to collect or receive payments due or for the use of the public shall deposit such moneys collected or received by him or her with the treasurer of the local government once every twenty-four consecutive hours. The treasurer may in his or her discretion grant an exception where such daily transfers would not be administratively practical or feasible.

In case a public officer or employee collects or receives funds for the account of a local government of which he or she is an officer or employee, the treasurer shall, by Friday of each week, pay to the proper officer of the local govern-

ment for the account of which the collection was made or payment received, the full amount collected or received during the current week for the account of the district. [1995 c 301 § 13; 1991 c 245 § 13; 1965 c 8 § 43.09.240. Prior: 1963 c 209 § 2; 1911 c 30 § 1; 1909 c 76 § 6; RRS § 9956; prior: 1890 p 638 § 11; Code 1881 § 2577; 1854 p 411 § 7.]

43.09.245 Local government accounting—Examination of financial affairs. The state auditor has the power to examine all the financial affairs of every local government and its officers and employees. [1995 c 301 § 14.]

43.09.260 Local government accounting—Examination of local governments—Reports—Action by attorney general. The examination of the financial affairs of all local governments shall be made at such reasonable, periodic intervals as the state auditor shall determine. However, an examination of the financial affairs of all local governments shall be made at least once in every three years, and an examination of individual local government health and welfare benefit plans and local government self-insurance programs shall be made at least once every two years. The term local governments for purposes of this chapter includes but is not limited to all counties, cities, and other political subdivisions, municipal corporations, and quasi-municipal corporations, however denominated.

The state auditor shall establish a schedule to govern the auditing of local governments which shall include: A designation of the various classifications of local governments; a designation of the frequency for auditing each type of local government; and a description of events which cause a more frequent audit to be conducted.

On every such examination, inquiry shall be made as to the financial condition and resources of the local government; whether the Constitution and laws of the state, the ordinances and orders of the local government, and the requirements of the state auditor have been properly complied with; and into the methods and accuracy of the accounts and reports.

A report of such examination shall be made and filed in the office of state auditor, and one copy shall be transmitted to the local government. A copy of any report containing findings of noncompliance with state law shall be transmitted to the attorney general. If any such report discloses malfeasance, misfeasance, or nonfeasance in office on the part of any public officer or employee, within thirty days from the receipt of his or her copy of the report, the attorney general shall institute, in the proper county, such legal action as is proper in the premises by civil process and prosecute the same to final determination to carry into effect the findings of the examination.

It shall be unlawful for any local government or the responsible head thereof, to make a settlement or compromise of any claim arising out of such malfeasance, misfeasance, or nonfeasance, or any action commenced therefor, or for any court to enter upon any compromise or settlement of such action, without the written approval and consent of the attorney general and the state auditor. [1995 c 301 § 15;

1991 sp.s. c 30 § 26; 1979 c 71 § 1; 1965 c 8 § 43.09.260. Prior: 1909 c 76 § 8; RRS § 9958.]

Effective date, implementation, application—Severability—1991 sp.s. c 30: See RCW 48.62.900 and 48.62.901.

School district budgeting violations not to affect duties of attorney general under RCW 43.09.260: RCW 28A.505.150.

43.09.265 Local government accounting—Review of tax levies of local governments. The state auditor shall review the tax levies of all local governments in the regular examinations under RCW 43.09.260. [1995 c 301 § 16; 1979 ex.s. c 218 § 7.]

43.09.270 Local government accounting—Expense of audit, what constitutes. The expense of auditing local governments and those expenses directly related to prescribing accounting systems, training, maintenance of working capital including reserves for late and uncollectible accounts and necessary adjustments to billings, and field audit supervision, shall be considered expenses of auditing public accounts within the meaning of RCW 43.09.280 and 43.09.282, and shall be prorated for that purpose equally among all entities directly affected by such service. [1995 c 301 § 17; 1993 c 315 § 1; 1991 sp.s. c 16 § 920; 1982 c 206 § 1; 1965 c 8 § 43.09.270. Prior: 1963 c 209 § 4; 1911 c 30 § 1; 1909 c 76 § 10; RRS § 9960.]

Effective date—1993 c 315: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 315 § 2.]

Severability—Effective date—1991 sp.s. c 16: See notes following RCW 9.46.100.

43.09.280 Local government accounting—Expense of examination. The expense of auditing public accounts shall be borne by each entity subject to such audit for the auditing of all accounts under its jurisdiction and the state auditor shall certify the expense of such audit to the fiscal or warrant-issuing officer of such entity, who shall immediately make payment to the state auditor. If the expense as certified is not paid by any local government within thirty days from the date of certification, the state auditor may certify the expense to the auditor of the county in which the local government is situated, who shall promptly issue his or her warrant on the county treasurer payable out of the current expense fund of the county, which fund, except as to auditing the financial affairs and making inspection and examination of the county, shall be reimbursed by the county auditor or chief financial officer out of the money due the local government at the next monthly settlement of the collection of taxes and shall be transferred to the current expense fund. [1995 c 301 § 18; 1979 c 71 § 2; 1965 c 8 § 43.09.280. Prior: 1963 c 209 § 5; 1911 c 30 § 1; 1909 c 76 § 11; RRS § 9961.]

43.09.2801 Local government accounting—Expense of audit—Additional charge. (1) From July 1, 1992, to June 30, 1995, the state auditor shall charge an entity subject to an audit an additional ten cents per hour billed under RCW 43.09.270 and 43.09.280, to be deposited in the local government administrative hearings account.

(2) After June 30, 1995, the state auditor shall base the amount to be collected and deposited into the local government administrative hearings account on the funds remaining in the account on June 30, 1995, and the anticipated caseload for the future.

(3) The state auditor may exempt a local government that certifies that it is in compliance with RCW 42.41.050 from a charge added under subsection (1) or (2) of this section. [1995 c 301 § 19; 1992 c 44 § 11.]

Effective dates—Severability—1992 c 44: See RCW 42.41.901 and 42.41.902.

Local government administrative hearings account: RCW 42.41.060.

43.09.281 Appeal procedure to be adopted—Inclusion of number and disposition of appeals in annual report. The state auditor shall adopt appropriate rules pursuant to chapter 34.05 RCW, the administrative procedure act, to provide a procedure whereby a *taxing district may appeal charges levied under RCW 43.09.280. Such procedure shall provide for an administrative review process and an external review process which shall be advisory to the state auditor's office. The number of appeals and their disposition shall be included in the auditor's annual report. [1982 c 206 § 3.]

***Reviser's note:** "Taxing district" was redesignated "local government" by 1995 c 301 § 18.

43.09.282 Local government accounting—Municipal revolving account—Records of auditing costs. For the purposes of centralized funding, accounting, and distribution of the costs of the audits performed on local governments by the state auditor, there is hereby created an account entitled the municipal revolving account. The state treasurer shall be custodian of the account. All moneys received by the state auditor or by any officer or employee thereof shall be deposited with the state treasurer and credited to the municipal revolving account. Only the state auditor or the auditor's designee may authorize expenditures from the account. No appropriation is required for expenditures. The state auditor shall keep such records as are necessary to detail the auditing costs attributable to the various types of local governments. [1995 c 301 § 20; 1982 c 206 § 2; 1965 c 8 § 43.09.282. Prior: 1963 c 209 § 6.]

Effective date—1982 c 206 § 2: "Section 2 of this act shall take effect on July 1, 1983." [1982 c 206 § 4.]

43.09.285 Joint operations by municipal corporations or political subdivisions—Deposit and control of funds. Whenever by law, two or more municipal corporations or political subdivisions of the state are permitted by law to engage in a joint operation, the funds of such joint operation shall be deposited in the public treasury of the municipal corporation or political subdivision embracing the largest population or the public treasury of any other as so agreed upon by the parties; and such deposit shall be subject to the same audit and fiscal controls as the public treasury where the funds are so deposited: PROVIDED, That whenever the laws applicable to any particular joint operation specifically state a contrary rule for deposits, the specific rule shall apply in lieu of the provisions of this section: PROVIDED, FURTHER, That nothing contained herein shall

be construed as limiting the power or authority of the disbursing officer of such joint operation from making disbursements in accordance with the provisions of any contract or agreement entered into between the parties to the joint operation. [1967 c 41 § 1.]

43.09.2851 Repayment of amounts charged to another fund within same political subdivision to be credited to original fund or appropriation—Expenditure. Except as otherwise provided by law, amounts charged by a county, city, or other municipal or quasi municipal corporation for providing services or furnishing materials to or for another fund within the same county, city, or other municipal or quasi municipal corporation pursuant to RCW 43.09.210 or other law shall be repaid and credited to the fund or appropriation against which the expenditure originally was charged. Amounts representing a return of expenditures from an appropriation shall be considered as returned loans of services or goods, supplies, or other materials furnished and may be expended as part of the original appropriation to which they belong, without further or additional appropriation.

Except as otherwise provided by law, this section shall not apply to the furnishing of materials or services by one fund to another when other funds have been provided specifically for that purpose pursuant to law. [1981 c 39 § 1. Formerly RCW 39.58.160.]

43.09.2853 Municipal corporations authorized to establish line of credit for payment of warrants—Interest. Any municipal corporation is authorized to establish a line of credit with any *qualified public depository to be drawn upon for cashing its warrants, to delegate to a fiscal officer authority to determine the amount of credit extended, and to pay interest and other finance or service charges. The interest rate may be a fixed rate set periodically or a fluctuating rate determined by agreement of the parties. If any warrant of a municipal corporation is presented and not paid for lack of funds, the interest rate set on unpaid warrants shall apply. Nothing in this section affects the priority for payment of warrants established by law. [1981 c 156 § 37. Formerly RCW 39.58.170.]

***Reviser's note:** The term "qualified public depository" was redefined as "public depository" by 1996 c 256 § 1.

43.09.2855 Local governments—Use of credit cards. (1) Local governments, including counties, cities, towns, special purpose districts, municipal and quasi-municipal corporations, and political subdivisions, are authorized to use credit cards for official government purchases and acquisitions.

(2) A local government may contract for issuance of the credit cards.

(3) The legislative body shall adopt a system for:

(a) The distribution of the credit cards;

(b) The authorization and control of the use of credit card funds;

(c) The credit limits available on the credit cards;

(d) Payment of the bills; and

(e) Any other rule necessary to implement or administer the system under this section.

(4) As used in this section, "credit card" means a card or device issued under an arrangement pursuant to which the issuer gives to a card holder the privilege of obtaining credit from the issuer.

(5) Any credit card system adopted under this section is subject to examination by the state auditor's office pursuant to chapter 43.09 RCW.

(6) Cash advances on credit cards are prohibited. [1995 c 30 § 2. Formerly RCW 39.58.180.]

Findings—1995 c 30: "The legislature finds that (1) the use of credit cards is a customary and economical business practice to improve cash management, reduce costs, and increase efficiency; and (2) local governments should consider and use credit cards when appropriate." [1995 c 30 § 1.]

AGENCY AUDITS

43.09.290 Post-audit of state agencies—Definitions.

For the purposes of RCW 43.09.290 through 43.09.340 and 43.09.410 through 43.09.418, post-audit means an audit of the books, records, funds, accounts, and financial transactions of a state agency for a complete fiscal period; pre-audit means all other audits and examinations; state agency means elective officers and offices, and every other office, officer, department, board, council, committee, commission, or authority of the state government now existing or hereafter created, supported, wholly or in part, by appropriations from the state treasury or funds under its control, or by the levy, assessment, collection, or receipt of fines, penalties, fees, licenses, sales of commodities, service charges, rentals, grants-in-aid, or other income provided by law, and all state educational, penal, reformatory, charitable, eleemosynary, or other institutions, supported, wholly or in part, by appropriations from the state treasury or funds under its control. [1995 c 301 § 21; 1981 c 336 § 6; 1965 c 8 § 43.09.290. Prior: 1941 c 196 § 1; Rem. Supp. 1941 § 11018-1.]

Effective date—1981 c 336: See note following RCW 43.09.410.

Petty cash: RCW 42.26.080.

Post-audit duties, budget and accounting system: RCW 43.88.160.

43.09.310 Audit of state-wide combined financial statements—Post-audits of state agencies—Periodic audits—Reports—Filing. The state auditor shall annually audit the state-wide combined financial statements prepared by the office of financial management and make post-audits of state agencies. Post-audits of state agencies shall be made at such periodic intervals as is determined by the state auditor. Audits of combined financial statements shall include determinations as to the validity and accuracy of accounting methods, procedures and standards utilized in their preparation, as well as the accuracy of the financial statements themselves. A report shall be made of each such audit and post-audit upon completion thereof, and one copy shall be transmitted to the governor, one to the director of financial management, one to the state agency audited, one to the joint legislative audit and review committee, one each to the standing committees on ways and means of the house and senate, one to the chief clerk of the house, one to the secretary of the senate, and at least one shall be kept on file in the office of the state auditor. A copy of any report containing findings of noncompliance with state law shall be transmitted to the attorney general. [1996 c 288 § 35; 1995

c 301 § 22; 1981 c 217 § 1; 1979 c 151 § 92; 1975-'76 2nd ex.s. c 17 § 1. Prior: 1975 1st ex.s. c 293 § 1; 1975 1st ex.s. c 193 § 1; 1971 ex.s. c 170 § 2; 1965 c 8 § 43.09.310; prior: 1947 c 114 § 1; 1941 c 196 § 3; Rem. Supp. 1947 § 11018-3.]

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

Severability—1971 ex.s. c 170: See note following RCW 43.09.050. *Reports of post-audits:* RCW 43.88.160.

43.09.330 Audit disclosing malfeasance or nonfeasance—Action by attorney general. If any audit of a state agency discloses malfeasance, misfeasance, or nonfeasance in office on the part of any public officer or employee, within thirty days from the receipt of his or her copy of the report, the attorney general shall institute and prosecute in the proper county, appropriate legal action to carry into effect the findings of such post-audit. It shall be unlawful for any state agency or the responsible head thereof, to make a settlement or compromise of any claim arising out of such malfeasance, misfeasance, or nonfeasance, or any action commenced therefor, or for any court to enter upon any compromise or settlement of such action without the written approval and consent of the attorney general and the state auditor. [1995 c 301 § 23; 1965 c 8 § 43.09.330. Prior: 1941 c 196 § 5; Rem. Supp. 1941 § 11018-5.]

43.09.340 Post-audit of books of state auditor. The governor shall, at least every two years, provide for a post-audit of the books, accounts, and records of the state auditor, and the funds under his or her control, to be made either by independent qualified public accountants or the director of financial management, as he or she may determine. The expense of making such audit shall be paid from appropriations made therefor from the general fund. [1995 c 301 § 24; 1979 c 151 § 93; 1965 c 8 § 43.09.340. Prior: 1947 c 114 § 2; 1941 c 196 § 6; Rem. Supp. 1947 § 11018-6.]

43.09.410 Auditing services revolving account—Created—Purpose. An auditing services revolving account is hereby created in the state treasury for the purpose of a centralized funding, accounting, and distribution of the actual costs of the audits provided to state agencies by the state auditor. [1995 c 301 § 25; 1981 c 336 § 1.]

Effective date—1981 c 336: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1981." [1981 c 336 § 8.]

43.09.412 Auditing services revolving account—Transfers and payments into account—Allotments to state auditor. The amounts to be disbursed from the auditing services revolving account shall be paid from funds appropriated to any and all state agencies for auditing services or administrative expenses. State agencies operating in whole or in part from nonappropriated funds shall pay into the auditing services revolving account such funds as will fully reimburse funds appropriated to the state auditor for auditing services provided.

The director of financial management shall allot all such funds to the state auditor for the operation of his or her

office, pursuant to appropriation, in the same manner as appropriated funds are allocated to other state agencies headed by elected officers under chapter 43.88 RCW. [1995 c 301 § 26; 1987 c 165 § 1; 1981 c 336 § 2.]

Effective date—1981 c 336: See note following RCW 43.09.410.

43.09.414 Auditing services revolving account—Disbursements. Disbursements from the auditing services revolving account shall be made pursuant to vouchers executed by the state auditor or his or her designee in accordance with RCW 43.09.412. [1995 c 301 § 27; 1981 c 336 § 3.]

Effective date—1981 c 336: See note following RCW 43.09.410.

43.09.416 Auditing services revolving account—Allocation of costs to funds, accounts, and agencies—Billing rate. The state auditor shall keep such records as are necessary to facilitate proper allocation of costs to funds and accounts and state agencies served and the director of financial management shall prescribe appropriate accounting procedures to accurately allocate costs to funds and accounts and state agencies served. The billing rate shall be established based on costs incurred in the prior biennium and anticipated costs in the new biennium. Those expenses related to training, maintenance of working capital including reserves for late and uncollectible accounts, and necessary adjustments to billings, shall be considered as expenses of auditing public accounts. Working capital shall not exceed five percent of the auditing services revolving account appropriation. [1995 c 301 § 28; 1987 c 165 § 2; 1981 c 336 § 4.]

Effective date—1981 c 336: See note following RCW 43.09.410.

43.09.418 Auditing services revolving account—Direct payments from state agencies. In cases where there are unanticipated demands for auditing services or where there are insufficient funds on hand or available for payment through the auditing services revolving account or in other cases of necessity, the state auditor may request payment for auditing services directly from state agencies for whom the services are performed to the extent that revenues or other funds are available. Upon approval by the director of financial management the state agency shall make the requested payment. The payment may be made on either an advance or reimbursable basis as approved by the director of financial management. [1995 c 301 § 29; 1981 c 336 § 5.]

Effective date—1981 c 336: See note following RCW 43.09.410.

43.09.420 Audit of revolving, local, and other funds and accounts. As part of the routine audits of state agencies, the state auditor shall audit all revolving funds, local funds, and other state funds and state accounts that are not managed by or in the care of the state treasurer and that are under the control of state agencies, including but not limited to state departments, boards, and commissions. In conducting the audits of these funds and accounts, the auditor shall examine revenues and expenditures or assets and liabilities, accounting methods and procedures, and recordkeeping practices. In addition to including the results of these examinations as part of the routine audits of the agencies, the auditor shall report to the legislature on the status of all such funds

and accounts that have been examined during the preceding biennium and any recommendations for their improved financial management. Such a report shall be filed with the legislature within five months of the end of each biennium regarding the funds and accounts audited during the biennium. The first such report shall be filed by December 1, 1993, regarding any such funds and accounts audited during the 1991-93 biennium. [1993 c 216 § 1.]

Chapter 43.10 ATTORNEY GENERAL

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43.10.010 Qualifications—Oath—Bond. No person shall be eligible to be attorney general unless he is a qualified practitioner of the supreme court of this state.

Before entering upon the duties of his office, any person elected or appointed attorney general shall take, subscribe, and file the oath of office as required by law; take, subscribe, and file with the secretary of state an oath to comply with the provisions of RCW 43.10.115; and execute and file with the secretary of state, a bond to the state, in the sum of five thousand dollars, with sureties to be approved by the governor, conditioned for the faithful performance of his duties and the paying over of all moneys, as provided by law. [1973 c 43 § 1; 1965 c 8 § 43.10.010. Prior: 1929 c 92 § 1, part; RRS § 11030, part; prior: 1921 c 119 § 1; 1888 p 7 § 4.]

Severability—1973 c 43: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 43 § 6.]

43.10.020 Additional bond—Penalty for failure to furnish. If the governor deems any bond filed by the attorney general insufficient, he may require an additional bond for any amount not exceeding five thousand dollars.

If any attorney general fails to give such additional bond as required by the governor within twenty days after notice in writing of such requirement, his office may be declared vacant by the governor and filled as provided by law. [1965 c 8 § 43.10.020. Prior: (i) 1929 c 92 § 1, part; RRS § 11030, part. (ii) 1929 c 92 § 2; RRS § 11031; prior: 1921 c 119 § 1; 1888 p 7 §§ 4, 5.]

43.10.030 General powers and duties. The attorney general shall:

(1) Appear for and represent the state before the supreme court or the court of appeals in all cases in which the state is interested;

(2) Institute and prosecute all actions and proceedings for, or for the use of the state, which may be necessary in the execution of the duties of any state officer;

(3) Defend all actions and proceedings against any state officer or employee acting in his official capacity, in any of the courts of this state or the United States;

(4) Consult with and advise the several prosecuting attorneys in matters relating to the duties of their office, and when the interests of the state require, he shall attend the trial of any person accused of a crime, and assist in the prosecution;

(5) Consult with and advise the governor, members of the legislature, and other state officers, and when requested, give written opinions upon all constitutional or legal questions relating to the duties of such officers;

(6) Prepare proper drafts of contracts and other instruments relating to subjects in which the state is interested;

(7) Give written opinions, when requested by either branch of the legislature, or any committee thereof, upon constitutional or legal questions;

(8) Enforce the proper application of funds appropriated for the public institutions of the state, and prosecute corporations for failure or refusal to make the reports required by law;

(9) Keep in proper books a record of all cases prosecuted or defended by him, on behalf of the state or its officers, and of all proceedings had in relation thereto, and deliver the same to his successor in office;

(10) Keep books in which he shall record all the official opinions given by him during his term of office, and deliver the same to his successor in office;

(11) Pay into the state treasury all moneys received by him for the use of the state. [1975 c 40 § 5; 1971 c 81 § 109; 1965 c 8 § 43.10.030. Prior: (i) 1929 c 92 § 3; RRS § 112. (ii) 1929 c 92 § 4; RRS § 11032; prior: 1891 c 55 § 2; 1888 p 8 § 6.]

43.10.035 Prosecutions for official delinquencies in the assessment, collection and payment of revenue; failure to pay over or deliver public money or property; and against all debtors of the state. Upon receipt of information from the state auditor as provided in *RCW 43.09.050(3) as now or hereafter amended, the attorney general shall direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state. [1977 ex.s. c 144 § 9.]

*Reviser's note: RCW 43.09.050 was amended by 1992 c 118 § 6, changing subsection (3) to subsection (4).

43.10.040 Representation of boards, commissions and agencies. The attorney general shall also represent the state and all officials, departments, boards, commissions and agencies of the state in the courts, and before all administrative tribunals or bodies of any nature, in all legal or quasi legal matters, hearings, or proceedings, and advise all officials, departments, boards, commissions, or agencies of the state in all matters involving legal or quasi legal questions, except those declared by law to be the duty of the prosecuting attorney of any county. [1965 c 8 § 43.10.040. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part.]

43.10.045 Retention of counsel by legislature—Notice—Representation in absence of notice. The legislature may employ or retain counsel of its own choosing. However, the legislature shall notify the attorney general whenever it makes a decision to use the services of such counsel to represent it or any of its members in a particular judicial or administrative proceeding. With respect to any such proceeding where the legislature has not so notified the attorney general, the attorney general shall represent the legislature until so notified. For purposes of this section, "legislature" means the senate and house of representatives together. The major purposes of this section are to confirm and implement in statute law the constitutional power of the

legislative branch to select its own counsel. [1986 c 323 § 1.]

43.10.050 Authority to execute appeal and other bonds. The attorney general may execute, on behalf of the state, any appeal or other bond required to be given by the state in any judicial proceeding to which it is a party in any court, and procure sureties thereon. [1965 c 8 § 43.10.050. Prior: 1929 c 92 § 6; RRS § 11034; prior: 1905 c 99 § 1.]

43.10.060 Appointment and authority of assistants. The attorney general may appoint necessary assistants, who shall hold office at his pleasure, and who shall have the power to perform any act which the attorney general is authorized by law to perform. [1965 c 8 § 43.10.060. Prior: 1929 c 92 § 7, part; RRS § 11034-1, part.]

43.10.065 Employment of attorneys and employees to transact state's legal business. The attorney general may employ or discharge attorneys and employees to transact for the state, its departments, officials, boards, commissions, and agencies, all business of a legal or quasi legal nature, except those declared by law to be the duty of the judge of any court, or the prosecuting attorney of any county. [1965 c 8 § 43.10.065. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part. Formerly RCW 43.10.060, part.]

43.10.067 Employment of attorneys by others restricted. No officer, director, administrative agency, board, or commission of the state, other than the attorney general, shall employ, appoint or retain in employment any attorney for any administrative body, department, commission, agency, or tribunal or any other person to act as attorney in any legal or quasi legal capacity in the exercise of any of the powers or performance of any of the duties specified by law to be performed by the attorney general, except where it is provided by law to be the duty of the judge of any court or the prosecuting attorney of any county to employ or appoint such persons: PROVIDED, That RCW 43.10.040, and 43.10.065 through 43.10.080 shall not apply to the administration of the judicial council, the commission on judicial conduct, the state law library, the law school of the state university, the administration of the state bar act by the Washington State Bar Association, or the representation of an estate administered by the director of the department of revenue or the director's designee pursuant to chapter 11.28 RCW.

The authority granted by chapter 1.08 RCW, RCW *44.28.140, and 47.01.061 shall not be affected hereby. [1987 c 364 § 1; 1987 c 186 § 7. Prior: 1985 c 133 § 2; 1985 c 7 § 108; 1981 c 268 § 1; 1965 c 8 § 43.10.067; prior: (i) 1941 c 50 § 2; Rem. Supp. 1941 § 11034-4. (ii) 1941 c 50 § 4; Rem. Supp. 1941 § 11034-6. Formerly RCW 43.01.080.]

Reviser's note: *(1) RCW 44.28.140 was recodified as RCW 44.28.065 pursuant to 1996 c 288 § 55.

(2) This section was amended by 1987 c 186 § 7 and by 1987 c 364 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

43.10.070 Compensation of assistants, attorneys and employees. The attorney general shall fix the compensation of all assistants, attorneys, and employees, and in the event they are assigned to any department, board, or commission, such department, board, or commission shall pay the compensation as fixed by the attorney general, not however in excess of the amount made available to the department by law for legal services. [1965 c 8 § 43.10.070. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part.]

43.10.080 Employment of experts, technicians. The attorney general may employ such skilled experts, scientists, technicians, or other specially qualified persons as he deems necessary to aid him in the preparation or trial of actions or proceedings. [1965 c 8 § 43.10.080. Prior: 1941 c 50 § 3; Rem. Supp. 1941 § 11034-5.]

43.10.090 Criminal investigations—Supervision. Upon the written request of the governor the attorney general shall investigate violations of the criminal laws within this state.

If, after such investigation, the attorney general believes that the criminal laws are improperly enforced in any county, and that the prosecuting attorney of the county has failed or neglected to institute and prosecute violations of such criminal laws, either generally or with regard to a specific offense or class of offenses, the attorney general shall direct the prosecuting attorney to take such action in connection with any prosecution as the attorney general determines to be necessary and proper.

If any prosecuting attorney, after the receipt of such instructions from the attorney general, fails or neglects to comply therewith within a reasonable time, the attorney general may initiate and prosecute such criminal actions as he shall determine. In connection therewith, the attorney general shall have the same powers as would otherwise be vested in the prosecuting attorney.

From the time the attorney general has initiated or taken over a criminal prosecution, the prosecuting attorney shall not have power or authority to take any legal steps relating to such prosecution, except as authorized or directed by the attorney general. [1965 c 8 § 43.10.090. Prior: 1937 c 88 § 1; RRS § 112-1.]

Corporations, governor may require attorney general to investigate: RCW 43.06.010.

Prosecuting attorneys, governor may require attorney general to aid: RCW 43.06.010.

43.10.101 Report to legislative transportation committee—Tort claims. The attorney general shall prepare annually a report to the legislative transportation committee comprising a comprehensive summary of all cases involving tort claims against the department of transportation involving highways which were concluded and closed in the previous calendar year. The report shall include for each case closed:

- (1) A summary of the factual background of the case;
- (2) Identification of the attorneys representing the state and the opposing parties;
- (3) A synopsis of the legal theories asserted and the defenses presented;

(4) Whether the case was tried, settled, or dismissed, and in whose favor;

(5) The approximate number of attorney hours expended by the state on the case, together with the corresponding dollar amount billed therefore; and

(6) Such other matters relating to the case as the attorney general deems relevant or appropriate, especially including any comments or recommendations for changes in statute law or agency practice that might effectively reduce the exposure of the state to such tort claims. [1995 2nd sp.s. c 14 § 527.]

Effective dates—1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Severability—1995 2nd sp.s. c 14: See note following RCW 43.105.017.

43.10.110 Other powers and duties. The attorney general shall have the power and it shall be his duty to perform any other duties that are, or may from time to time be required of him by law. [1965 c 8 § 43.10.110. Prior: 1929 c 92 § 8; RRS § 11034-2.]

43.10.115 Private practice of law—Attorney general—Prohibited. The attorney general shall not practice law for remuneration in his private capacity:

(1) As an attorney in any court of this state during his continuance in office; or

(2) As adviser or advocate for any person who may wish to become his client. [1973 c 43 § 2.]

Severability—1973 c 43: See note following RCW 43.10.010.

43.10.120 Private practice of law—Deputies and assistants—Prohibited. No full time deputy or assistant attorney general shall practice law for remuneration in his private capacity:

(1) As an attorney in any court of this state during his continuance in office; or

(2) As adviser or advocate for any person who may wish to become his client. [1973 c 43 § 3.]

Severability—1973 c 43: See note following RCW 43.10.010.

43.10.125 Private practice of law—Special assistant attorney generals. Special assistant attorney generals employed on less than a full time basis to transact business of a legal or quasi legal nature for the state, such assistants and attorneys may practice law in their private capacity as attorney. [1973 c 43 § 4.]

Severability—1973 c 43: See note following RCW 43.10.010.

43.10.130 Private practice of law—Exceptions. None of the provisions of RCW 43.10.010 and 43.10.115 through 43.10.125 shall be construed as prohibiting the attorney general or any of his full time deputies or assistants from:

(1) Performing legal services for himself or his immediate family; or

(2) Performing legal services of a charitable nature. [1973 c 43 § 5.]

Severability—1973 c 43: See note following RCW 43.10.010.

43.10.150 Legal services revolving fund—Created—Purpose. A legal services revolving fund is hereby created in the state treasury for the purpose of a centralized funding, accounting, and distribution of the actual costs of the legal services provided to agencies of the state government by the attorney general. [1974 ex.s. c 146 § 1; 1971 ex.s. c 71 § 1.]

Effective date—1974 ex.s. c 146: "This act shall take effect on July 1, 1974 for costs, billings and charges affecting the 1975 fiscal year and subsequent biennia." [1974 ex.s. c 146 § 5.]

Legal services revolving fund—Approval of certain changes required: RCW 43.88.350.

43.10.160 Legal services revolving fund—Transfers and payments into fund—Allotments to attorney general. The amounts to be disbursed from the legal services revolving fund from time to time shall be transferred thereto by the state treasurer from funds appropriated to any and all agencies for legal services or administrative expenses on a quarterly basis. Agencies operating in whole or in part from nonappropriated funds shall pay into the legal services revolving fund such funds as will fully reimburse funds appropriated to the attorney general for any legal services provided activities financed by nonappropriated funds.

The director of financial management shall allot all such funds to the attorney general for the operation of his office, pursuant to appropriation, in the same manner as appropriated funds are allocated to other agencies headed by elected officers under chapter 43.88 RCW. [1979 c 151 § 94; 1974 ex.s. c 146 § 2; 1971 ex.s. c 71 § 2.]

Effective date—1974 ex.s. c 146: See note following RCW 43.10.150.

43.10.170 Legal services revolving fund—Disbursements. Disbursements from the legal services revolving fund shall be pursuant to vouchers executed by the attorney general or his designee in accordance with the provisions of RCW 43.88.160. [1971 ex.s. c 71 § 3.]

43.10.180 Legal services revolving fund—Allocation of costs to funds and agencies—Accounting—Billing. The attorney general shall keep such records as are necessary to facilitate proper allocation of costs to funds and agencies served and the director of financial management shall prescribe appropriate accounting procedures to accurately allocate costs to funds and agencies served. Billings shall be adjusted in line with actual costs incurred at intervals not to exceed six months. [1979 c 151 § 95; 1974 ex.s. c 146 § 3; 1971 ex.s. c 71 § 4.]

Effective date—1974 ex.s. c 146: See note following RCW 43.10.150.

43.10.190 Legal services revolving fund—Direct payments from agencies. In cases where there are unanticipated demands for legal services or where there are insufficient funds on hand or available for payment through the legal services revolving fund or in other cases of necessity, the attorney general may request payment for legal services directly from agencies for whom the services are performed to the extent that revenues or other funds are available. Upon approval by the director of financial management the

agency shall make the requested payment. The payment may be made on either an advance or reimbursable basis as approved by the director of financial management. [1979 c 151 § 96; 1971 ex.s. c 71 § 5.]

43.10.200 Legal services revolving fund—Recovered court costs, fees and expenses—Deposit in fund—Expenditure. Court costs, attorneys' fees, and other expenses recovered by the attorney general shall be deposited in the legal services revolving fund and shall be considered as returned loans of materials supplied or services rendered. Such amounts may be expended in the same manner and under the same conditions and restrictions as set forth in section 11, chapter 282, Laws of 1969 ex. sess. [1971 ex.s. c 71 § 6.]

43.10.210 Antitrust revolving fund—Legislative finding and purpose. The legislature having found that antitrust laws and the enforcement thereof are necessary for the protection of consumers and businesses, and further that the creation of an antitrust revolving fund provides a reasonable means of funding antitrust actions by the attorney general, and that the existence of such a fund increases the possibility of obtaining funding from other sources, now therefore creates the antitrust revolving fund. [1974 ex.s. c 162 § 1.]

43.10.215 Antitrust revolving fund—Created—Contents. There is hereby created the antitrust revolving fund in the custody of the state treasurer which shall consist of: Funds appropriated to the revolving fund, funds transferred to the revolving fund pursuant to a court order or judgment in an antitrust action; gifts or grants made to the revolving fund; and funds awarded to the state or any agency thereof for the recovery of costs and attorney fees in an antitrust action: PROVIDED HOWEVER, That to the extent that such costs constitute reimbursement for expenses directly paid from constitutionally dedicated funds, such recoveries shall be transferred to the constitutionally dedicated fund. [1974 ex.s. c 162 § 2.]

43.10.220 Antitrust revolving fund—Expenditures. The attorney general is authorized to expend from the antitrust revolving fund, created by RCW 43.10.210 through 43.10.220, such funds as are necessary for the payment of costs, expenses and charges incurred in the preparation, institution and maintenance of antitrust actions under the state and federal antitrust acts. [1974 ex.s. c 162 § 3.]

43.10.230 Purpose. The purpose of RCW 43.10.232 is to grant authority to the attorney general concurrent with the county prosecuting attorneys to investigate and prosecute crimes. The purpose of *RCW 43.10.234 is to insure access by the attorney general to the procedural powers of the various prosecuting attorneys in exercising criminal prosecutorial authority granted in RCW 43.10.232 or otherwise granted by the legislature. [1981 c 335 § 1.]

***Reviser's note:** The reference to RCW 43.10.234 appears to be erroneous. RCW 10.01.190 was apparently intended.

43.10.232 Concurrent authority to investigate crimes and initiate and conduct prosecutions—Payment of costs. (1) The attorney general shall have concurrent authority and power with the prosecuting attorneys to investigate crimes and initiate and conduct prosecutions upon the request of or with the concurrence of any of the following:

- (a) The county prosecuting attorney of the jurisdiction in which the offense has occurred;
- (b) The governor of the state of Washington; or
- (c) A majority of the committee charged with the oversight of the organized crime intelligence unit.

(2) Such request or concurrence shall be communicated in writing to the attorney general.

(3) Prior to any prosecution by the attorney general under this section, the attorney general and the county in which the offense occurred shall reach an agreement regarding the payment of all costs, including expert witness fees, and defense attorneys' fees associated with any such prosecution. [1986 c 257 § 16; 1981 c 335 § 2.]

Severability—1986 c 257: See note following RCW 9A.56.010.

43.10.234 Determination of prosecuting authority if defendant charged by attorney general and prosecuting attorney. If both a prosecuting attorney and the attorney general file an information or indictment charging a defendant with substantially the same offense(s), the court shall, upon motion of either the prosecuting attorney or the attorney general:

(1) Determine whose prosecution of the case will best promote the interests of justice and enter an order designating that person as the prosecuting authority in the case; and

(2) Enter an order dismissing the information or indictment filed by the person who was not designated the prosecuting authority. [1981 c 335 § 3.]

43.10.240 Investigative and criminal prosecution activity—Annual report—Security protection. The attorney general shall annually report to the organized crime advisory board a summary of the attorney general's investigative and criminal prosecution activity conducted pursuant to this chapter. Except to the extent the summary describes information that is a matter of public record, the information made available to the board shall be given all necessary security protection in accordance with the terms and provisions of applicable laws and rules and shall not be revealed or divulged publicly or privately by members of the board. [1985 c 251 § 1.]

43.10.250 Appellate review of criminal case. Upon request of a prosecuting attorney, the attorney general may assume responsibility for the appellate review of a criminal case or assist the prosecuting attorney in the appellate review if the attorney general finds that the case involves fundamental issues affecting the public interest and the administration of criminal justice in this state. [1985 c 251 § 2.]

43.10.260 Criminal profiteering—Assistance to local officials. The attorney general may: (1) Assist local law enforcement officials in the development of cases arising under the criminal profiteering laws with special emphasis on narcotics related cases; (2) assist local prosecutors in the

litigation of criminal profiteering or drug asset forfeiture cases, or, at the request of a prosecutor's office, litigate such cases on its behalf; and (3) conduct seminars and training sessions on prosecution of criminal profiteering cases and drug asset forfeiture cases. [1991 c 345 § 2.]

Findings—1991 c 345: "The legislature finds that drug asset forfeiture and criminal profiteering laws allow law enforcement officials and the courts to strip drug dealers and other successful criminals of the wealth they have acquired from their crimes and the assets they have used to facilitate those crimes. These laws are rarely used by prosecutors, however, because of the difficulty in identifying profiteering and the assets that criminals may have as a result of their crimes. It is the intent of the legislature to provide assistance to local law enforcement officials and state agencies to seize the assets of criminals and the proceeds of their profiteering." [1991 c 345 § 1.]

43.10.270 Criminal profiteering—Asset recovery.

All assets recovered pursuant to RCW 43.10.260 shall be distributed in the following manner: (1) For drug asset forfeitures, pursuant to the provisions of RCW 69.50.505; and (2) for criminal profiteering cases, pursuant to the provisions of RCW 9A.82.100. [1991 c 345 § 3.]

Findings—1991 c 345: See note following RCW 43.10.260.

Chapter 43.12

COMMISSIONER OF PUBLIC LANDS

Sections

- 43.12.010 Powers and duties—Generally.
 - 43.12.025 Sealing of open holes and mine shafts.
 - 43.12.035 Mine owners—Maps of property surface and underground workings—Filing.
 - 43.12.045 Rule-making authority.
 - 43.12.055 Enforcement in accordance with RCW 43.05.100 and 43.05.110.
- Abstracts of state lands maintained by:* RCW 79.01.304.
- Administrator of natural resources:* RCW 43.30.050.
- Assistant commissioner:* RCW 79.01.056.
- Attorney general to represent:* RCW 79.01.736.
- Board of natural resources secretary:* RCW 43.30.150.
- Bonds:* RCW 79.01.064.
- City or metropolitan park district parks or playgrounds, member of citizens committee to investigate and determine needs for tidelands and shorelands:* RCW 79.08.080.
- Duties of, to be prescribed by legislature:* State Constitution Art. 3 § 23.
- Election:* State Constitution Art. 3 § 1.
- Eminent domain against state lands*
filing judgment with commissioner of public lands: RCW 8.28.010.
service of process on: RCW 8.28.010.
by corporations, service on: RCW 8.20.020.
- Employees:* RCW 79.01.060.
- Escheats*
conveyance of real property to claimant: RCW 11.08.270.
jurisdiction and supervision over real property: RCW 11.08.220.
land acquired by, management and control over: RCW 79.01.612.
- Fees:* RCW 79.01.720, 79.01.724.
- Funds, daily deposit of funds in state treasury:* RCW 43.85.130.
- Harbor line relocation, platting of additional tidelands and shorelands created by:* RCW 79.92.020.
- Interagency committee for outdoor recreation, membership:* RCW 43.99.110.
- Land inspectors*
compensation: RCW 79.01.068.
employment of: RCW 79.01.060.

false statements by, penalty: RCW 79.01.072.

oath: RCW 79.01.068.

Local and other improvements and assessments against state lands, tidelands and harbor area assessments, disapproval, effect: RCW 79.44.140.

Mistakes, recall of leases, contract or deeds to correct: RCW 79.01.740.

Oath of office: RCW 43.01.020, 79.01.056.

Office may be abolished by legislature: State Constitution Art. 3 § 25.

Powers and duties transferred to natural resources department: RCW 43.30.130.

Recall of leases, contracts, or deeds to correct mistakes: RCW 79.01.740.

Reclamation projects of state: RCW 89.16.080.

Reconsideration of official acts: RCW 79.01.740.

Records to be kept at state capitol: State Constitution Art. 3 § 24.

Reports to legislature: RCW 79.01.744.

Salary

amount of: RCW 43.03.010.

regulated by legislature: State Constitution Art. 3 § 23.

School lands, data and information furnished to department of natural resources as to sale or lease of: RCW 79.01.094.

State capitol committee

member: RCW 43.34.010.

secretary of: RCW 43.34.015.

State lands: Chapter 79.01 RCW.

State parks, withdrawal of public lands from sale, exchange for highway abutting lands, duties: RCW 43.51.110.

Subpoena power: RCW 79.01.704.

Succession to governorship: State Constitution Art. 3 § 10.

Survey and map agency, advisory board, appointment: RCW 58.24.020.

Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.

Tidelands and shorelands in tidal rivers located by, finality of location: RCW 79.92.120.

Underground storage of natural gas

lease of public lands for: RCW 80.40.060.

notice of application for sent to: RCW 80.40.040.

United States land offices, appearance before: RCW 79.01.732.

Washington State University real property, annual report as to: RCW 28B.30.310.

Wildlife and recreation lands; funding of maintenance and operation: Chapter 43.98B RCW.

Withdrawal of state land from lease for game purposes, powers and duties concerning: RCW 77.12.360.

43.12.010 Powers and duties—Generally. The commissioner of public lands shall exercise such powers and perform such duties as are prescribed by law. [1965 c 8 § 43.12.010. Prior: 1921 c 7 § 119; RRS § 10877.]

43.12.025 Sealing of open holes and mine shafts. The department of natural resources shall work with federal officials and private mine owners to ensure the prompt sealing of open holes and mine shafts that constitute a threat to safety. [1985 c 459 § 7.]

Severability—1985 c 459: See note following RCW 79.01.668.

43.12.035 Mine owners—Maps of property surface and underground workings—Filing. The owner of each mine shall make a map of the surface of the property. The owner of each active mine shall make a map of the underground workings. All maps shall be filed with the department of natural resources. The department shall estab-

lish by rule the scale and contents required for the maps. [1985 c 459 § 8.]

Severability—1985 c 459: See note following RCW 79.01.668.

43.12.045 Rule-making authority. For rules adopted after July 23, 1995, the commissioner of public lands may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. [1995 c 403 § 101.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

43.12.055 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the commissioner of public lands shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 622.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

Chapter 43.17

ADMINISTRATIVE DEPARTMENTS AND AGENCIES—GENERAL PROVISIONS

Sections

- 43.17.010 Departments created.
- 43.17.020 Chief executive officers—Appointment.
- 43.17.030 Powers and duties—Oath.
- 43.17.040 Chief assistant director—Powers.
- 43.17.050 Office at capital—Branch offices.
- 43.17.060 Departmental rules and regulations.
- 43.17.065 Expeditious exercise of power to issue permits, licenses, certifications, contracts, and grants—Cooperation.
- 43.17.070 Administrative committees.
- 43.17.100 Surety bonds for appointive state officers and employees.
- 43.17.110 Data, information, interdepartmental assistance.
- 43.17.120 Designation of agency to carry out federal social security disability program.
- 43.17.130 Designation of agency to carry out federal social security disability program—Appointment of personnel.
- 43.17.150 Receipt of property or money from United States attorney general—Use, expenditure—Deposit.
- 43.17.200 Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions.
- 43.17.205 Purchase of works of art—Interagency reimbursement for expenditure by visual arts program.
- 43.17.210 Purchase of works of art—Procedure.
- 43.17.215 Purchase of works of art—Limitation for department of corrections buildings—Report to legislature—Expiration of section.
- 43.17.230 Emergency information telephone services—Accessibility from all phones required—Charges.
- 43.17.240 Debts owed to the state—Interest rate.
- 43.17.250 County-wide planning policy incentives.
- 43.17.310 Businesses—Rules coordinator to provide list of rules.
- 43.17.320 Interagency disputes—Alternative dispute resolution—Definitions.
- 43.17.330 Interagency disputes—Alternative dispute resolution—Methods.
- 43.17.340 Interagency disputes—Alternative dispute resolution—Exception.

43.17.350 Health-related state agencies—Professional health services—Fee schedules.

43.17.360 Lease of real property—Term of a lease—Use of proceeds. *Collection agency use by state:* RCW 19.16.500.

Debts owed to state, interest rate: RCW 43.17.240.

Facilitating recovery from Mt. St. Helens eruption—Scope of state agency action: RCW 43.01.210.

43.17.010 Departments created. There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of community, trade, and economic development, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, and (14) the department of health, and (15) the department of financial institutions, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide. [1993 sp.s. c 2 § 16; 1993 c 472 § 17; 1993 c 280 § 18; 1989 1st ex.s. c 9 § 810; 1987 c 506 § 2; 1985 c 466 § 47; 1984 c 125 § 12; 1981 c 136 § 61; 1979 c 10 § 1. Prior: 1977 ex.s. c 334 § 5; 1977 ex.s. c 151 § 20; 1977 c 7 § 1; prior: 1975-'76 2nd ex.s. c 115 § 19; 1975-'76 2nd ex.s. c 105 § 24; 1971 c 11 § 1; prior: 1970 ex.s. c 62 § 28; 1970 ex.s. c 18 § 50; 1969 c 32 § 1; prior: 1967 ex.s. c 26 § 12; 1967 c 242 § 12; 1965 c 156 § 20; 1965 c 8 § 43.17.010; prior: 1957 c 215 § 19; 1955 c 285 § 2; 1953 c 174 § 1; prior: (i) 1937 c 111 § 1, part; RRS § 10760-2, part. (ii) 1935 c 176 § 1; 1933 c 3 § 1; 1929 c 115 § 1; 1921 c 7 § 2; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part. (iv) 1947 c 114 § 5; Rem. Supp. 1947 § 10786-10c.]

Reviser's note: This section was amended by 1993 c 280 § 18, 1993 c 472 § 17, and by 1993 sp.s. c 2 § 16, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability—1993 sp.s. c 2: See RCW 43.300.901.

Effective date—Implementation—1993 c 472: See RCW 43.320.900 and 43.320.901.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

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

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.005.

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Effective date—1981 c 136: See RCW 72.09.900.

Effective date—1977 ex.s. c 334: See note following RCW 46.01.011.

Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Severability—1975-'76 2nd ex.s. c 105: See note following RCW 41.04.270.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

Department of

agriculture: Chapter 43.23 RCW.
community, trade, and economic development: Chapter 43.330 RCW.
corrections: Chapter 72.09 RCW.
ecology: Chapter 43.21A RCW.
employment security: Chapter 50.08 RCW.
financial institutions: Chapter 43.320 RCW.
fish and wildlife: Chapters 43.300, 75.08, and 77.04 RCW.
general administration: Chapter 43.19 RCW.
health: Chapter 43.70 RCW.
information services: Chapter 43.105 RCW.
labor and industries: Chapter 43.22 RCW.
licensing: Chapters 43.24, 46.01 RCW.
natural resources: Chapter 43.30 RCW.
personnel: Chapter 41.06 RCW.
retirement systems: Chapter 41.50 RCW.
revenue: Chapter 82.01 RCW.
services for the blind: Chapter 74.18 RCW.
social and health services: Chapter 43.20A RCW.
transportation: Chapter 47.01 RCW.
veterans affairs: Chapter 43.60A RCW.

43.17.020 Chief executive officers—Appointment.

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, and (14) the secretary of health, and (15) the director of financial institutions.

Such officers, except the secretary of transportation and the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055. [1995 1st sp.s. c 2 § 2 (Referendum Bill No. 45, approved November 7, 1995). Prior: 1993 sp.s. c 2 § 17; 1993 c 472 § 18; 1993 c 280 § 19; 1989 1st ex.s. c 9 § 811; 1987 c 506 § 3; 1985 c 466 § 48; 1984 c 125 § 13; 1981 c 136 § 62; 1979 c 10 § 2; prior: 1977 ex.s. c 334 § 6; 1977 ex.s. c 151 § 21; 1977 c 7 § 2; prior: 1975-'76 2nd ex.s. c 115 § 20; 1975-'76 2nd ex.s. c 105 § 25; 1971 c 11 § 2; prior: 1970 ex.s. c 62 § 29; 1970 ex.s. c 18 § 51; 1969 c 32 § 2; prior: 1967 ex.s. c 26 § 13; 1967 c 242 § 13; 1965 c 156 § 21; 1965 c 8 § 43.17.020; prior: 1957 c 215 § 20; 1955 c 285 § 3; 1953 c 174 § 2; prior: (i) 1935 c 176 § 2; 1933 c 3 § 2; 1929 c 115 § 2; 1921 c 7 § 3; RRS § 10761. (ii) 1937 c 111 § 1, part; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part.]

Effective date—1995 1st sp.s. c 2: "Sections 2 through 43 of this act shall take effect July 1, 1996." [1995 1st sp.s. c 2 § 45.]

Referral to electorate—1995 1st sp.s. c 2: See note following RCW 75.08.013.

Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability—1993 sp.s. c 2: See RCW 43.300.901.

Effective date—Implementation—1993 c 472: See RCW 43.320.900 and 43.320.901.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

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

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Effective date—1981 c 136: See RCW 72.09.900.

Effective date—1977 ex.s. c 334: See note following RCW 46.01.011.

Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Severability—1975-'76 2nd ex.s. c 105: See note following RCW 41.04.270.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

43.17.030 Powers and duties—Oath. The directors of the several departments shall exercise such powers and perform such executive and administrative duties as are provided by law.

Each appointive officer before entering upon the duties of his office shall take and subscribe the oath of office prescribed by law for elective state officers, and file the same in the office of the secretary of state. [1965 c 8 § 43.17.030. Prior: 1921 c 7 § 18; RRS § 10776.]

Oaths of elective state officers: RCW 43.01.020.

43.17.040 Chief assistant director—Powers. The director of each department may, from time to time, designate and deputize one of the assistant directors of his department to act as the chief assistant director, who shall have charge and general supervision of the department in the absence or disability of the director, and who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director. [1965 c 8 § 43.17.040. Prior: 1921 c 7 § 118; RRS § 10876.]

43.17.050 Office at capital—Branch offices. Each department shall maintain its principal office at the state capital. The director of each department may, with the approval of the governor, establish and maintain branch offices at other places than the state capital for the conduct of one or more of the functions of his department.

The governor, in his discretion, may require all administrative departments of the state and the appointive officers thereof, other than those created by this chapter, to maintain their principal offices at the state capital in rooms to be furnished by the director of general administration. [1965 c 8 § 43.17.050. Prior: (i) 1921 c 7 § 20; RRS § 10778. (ii) 1921 c 7 § 134; RRS § 10892.]

Departments to share occupancy—Capital projects surcharge: RCW 43.01.090.

Housing for state offices, departments, and institutions: Chapter 43.82 RCW.

43.17.060 Departmental rules and regulations. The director of each department may prescribe rules and regulations, not inconsistent with law, for the government of his department, the conduct of its subordinate officers and employees, the disposition and performance of its business, and the custody, use, and preservation of the records, papers, books, documents, and property pertaining thereto. [1965 c 8 § 43.17.060. Prior: 1921 c 7 § 19; RRS § 10777.]

43.17.065 Expeditious exercise of power to issue permits, licenses, certifications, contracts, and grants—Cooperation. (1) Where power is vested in a department to issue permits, licenses, certifications, contracts, grants, or otherwise authorize action on the part of individuals, businesses, local governments, or public or private organizations, such power shall be exercised in an expeditious manner. All departments with such power shall cooperate with officials of the *business assistance center of the department of community, trade, and economic development, and any other state officials, when such officials request timely action on the part of the issuing department.

(2) After August 1, 1991, any agency to which subsection (1) of this section applies shall, with regard to any permits or other actions that are necessary for economic development in rural natural resources impact areas, as defined in RCW 43.31.601, respond to any completed application within forty-five days of its receipt; any response, at a minimum, shall include:

(a) The specific steps that the applicant needs to take in order to have the application approved; and

(b) The assistance that will be made available to the applicant by the agency to expedite the application process.

(3) The agency rural community assistance task force established in RCW 43.31.621 shall oversee implementation of this section.

(4) Each agency shall define what constitutes a completed application and make this definition available to applicants. [1995 c 226 § 24; 1993 c 280 § 37; 1991 c 314 § 28; 1990 1st ex.s. c 17 § 77.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Sunset Act application: See note following RCW 43.31.601.

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

43.17.070 Administrative committees. There shall be administrative committees of the state government, which shall be known as: (1) The state finance committee and (2) the state capitol committee. [1982 c 40 § 8; 1965 c 8 § 43.17.070. Prior: 1929 c 115 § 3; 1921 c 7 § 4; RRS § 10762.]

Severability—1982 c 40: See note following RCW 29.33.041.

State capitol committee: Chapter 43.34 RCW.

State finance committee: Chapter 43.33 RCW.

43.17.100 Surety bonds for appointive state officers and employees. Every appointive state officer and employee of the state shall give a surety bond, payable to the state in such sum as shall be deemed necessary by the director of the department of general administration, conditioned for the honesty of the officer or employee and for the accounting of all property of the state that shall come into his possession by virtue of his office or employment, which bond shall be approved as to form by the attorney general and shall be filed in the office of the secretary of state.

The director of general administration may purchase one or more blanket surety bonds for the coverage required in this section.

Any bond required by this section shall not be considered an official bond and shall not be subject to chapter 42.08 RCW. [1977 ex.s. c 270 § 7; 1975 c 40 § 6; 1965 c 8 § 43.17.100. Prior: 1921 c 7 § 16; RRS § 10774.]

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

Official bonds: Chapter 42.08 RCW.

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

43.17.110 Data, information, interdepartmental assistance. Where power is vested in a department or officer to inspect, examine, secure data or information from, or procure assistance from, another department or officer, such other department or officer shall submit to such inspection or examination, and furnish the data, information, or assistance required. [1965 c 8 § 43.17.110. Prior: 1921 c 7 § 128; RRS § 10886.]

43.17.120 Designation of agency to carry out federal social security disability program. Such state agency as the governor may designate is hereby authorized to enter into an agreement on behalf of the state with the Secretary of Health, Education and Welfare to carry out the provisions of the federal social security act, as amended, relating to the making of determinations of disability under title II of such act. [1965 c 8 § 43.17.120. Prior: 1955 c 200 § 1. Formerly RCW 74.44.010.]

Federal social security for public employees: Chapters 41.33, 41.41, 41.47, and 41.48 RCW.

43.17.130 Designation of agency to carry out federal social security disability program—Appointment of personnel. The state agency entering into such agreement shall appoint such professional personnel and other assistants and employees as may be reasonably necessary to carry out the provisions of RCW 43.17.120 and 43.17.130. [1965 c 8 § 43.17.130. Prior: 1955 c 200 § 2. Formerly RCW 74.44.020.]

43.17.150 Receipt of property or money from United States attorney general—Use, expenditure—Deposit. (1) Each state agency is authorized to receive property or money made available by the attorney general of the United States under section 881(e) of Title 21 of the United States Code and, except as required to the contrary under subsection (2) of this section, to use the property or spend the money for such purposes as are permitted under

both federal law and the state law specifying the powers and duties of the agency.

(2) Unless precluded by federal law, all funds received by a state agency under section 881(e) of Title 21 of the United States Code shall be promptly deposited into the public safety and education account established in RCW 43.08.250. [1986 c 246 § 1.]

43.17.200 Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions. All state agencies including all state departments, boards, councils, commissions, and quasi public corporations shall allocate, as a nondeductible item, out of any moneys appropriated for the original construction of any public building, an amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission for the acquisition of works of art. The works of art may be placed on public lands, integral to or attached to a public building or structure, detached within or outside a public building or structure, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities. In addition to the cost of the works of art the one-half of one percent of the appropriation as provided herein shall be used to provide for the administration of the visual arts program by the Washington state arts commission and all costs for installation of the works of art. For the purpose of this section building shall not include highway construction sheds, warehouses or other buildings of a temporary nature. [1983 c 204 § 4; 1974 ex.s. c 176 § 2.]

Severability—1983 c 204: See note following RCW 43.46.090.

Acquisition of works of art for public buildings and lands—Visual arts program established: RCW 43.46.090.

Purchase of works of art interagency reimbursement for expenditure by visual arts program: RCW 43.17.205.

procedure: RCW 43.19.455.

State art collection: RCW 43.46.095.

43.17.205 Purchase of works of art—Interagency reimbursement for expenditure by visual arts program. The funds allocated under RCW 43.17.200, 28A.335.210, and 28B.10.025 shall be subject to interagency reimbursement for expenditure by the visual arts program of the Washington state arts commission when the particular law providing for the appropriation becomes effective. For appropriations which are dependent upon the sale of bonds, the amount or proportionate amount of the moneys under RCW 43.17.200, 28A.335.210, and 28B.10.025 shall be subject to interagency reimbursement for expenditure by the visual arts program of the Washington state arts commission thirty days after the sale of a bond or bonds. [1990 c 33 § 574; 1983 c 204 § 3.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1983 c 204: See note following RCW 43.46.090.

43.17.210 Purchase of works of art—Procedure. The Washington state arts commission shall determine the amount to be made available for the purchase of art in consultation with the agency, except where another person or agency is specified under RCW 43.19.455, 28A.335.210, or

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28B.10.025, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the directors of the state agencies. However, the costs to carry out the Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to in RCW 43.17.200, 43.19.455, 28A.335.210, or 28B.10.025, but shall be contingent upon adequate appropriations being made for that purpose. [1990 c 33 § 575; 1983 c 204 § 5.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1983 c 204: See note following RCW 43.46.090.

43.17.215 Purchase of works of art—Limitation for department of corrections buildings—Report to legislature—Expiration of section. (1) Through June 30, 1997, moneys shall not be appropriated or expended for acquisition of works of art under this chapter to be placed integral to, attached to, or detached within or outside a building or structure owned or operated by the department of corrections if the building or structure is not in existence or under construction as of June 15, 1995.

(2) The Washington state arts commission and the department of corrections shall prepare and deliver a report to the legislature by July 1, 1996, on the feasibility of creating class I or class II correctional industries for the creation of works of art created by resident Washington state artists and funded under this chapter for placement integral to, attached to, or detached within or outside buildings and structures owned or operated by the department of corrections.

(3) The report shall include, but not be limited to, a review of and recommendations on: (a) Whether to provide preferences or incentives to units of government other than the state to acquire works of art created by artists and produced in the department of corrections; (b) the size of a market for public and private sales of art produced in the department of corrections; (c) the appropriate process for selection of works of art to be produced in the department of corrections; and (d) the appropriate work and education skills that would be achieved by inmates engaged in the production of art.

(4) This section expires June 30, 1997. [1995 1st sp.s. c 19 § 24.]

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

43.17.230 Emergency information telephone services—Accessibility from all phones required—Charges. (1) The legislature finds that when the state provides emergency information by telephone to citizens that is of a critical nature, such as road or weather hazards, the information should be accessible from all residential, commercial, and coin-operated telephones. Information such as road and weather conditions should be available to all persons traveling within the state whether they own a telephone in this state or not.

(2) If an agency or department of the state makes emergency information services available by telephone, the agency or department shall ensure that the telephone line is accessible from all coin-operated telephones in this state by both the use of coins and the use of a telephone credit card.

(3) A state agency that provides an emergency information service by telephone may establish charges to recover the cost of those services. However, an agency charging for the service shall not price it at a profit to create excess revenue for the agency. The agency shall do a total cost-benefit analysis of the available methods of providing the service and shall adopt the method that provides the service at the lowest cost to the user and the agency.

(4) "Emergency information services," as used in this section, includes information on road and weather conditions. [1986 c 45 § 1.]

43.17.240 Debts owed to the state—Interest rate.

Interest at the rate of one percent per month, or fraction thereof, shall accrue on debts owed to the state, starting on the date the debts become past due. This section does not apply to: (1) Any instance where such interest rate would conflict with the provisions of a contract or with the provisions of any other law; or (2) debts to be paid by other governmental units. The office of financial management may adopt rules specifying circumstances under which state agencies may waive interest, such as when assessment or collection of interest would not be cost-effective. This section does not affect any authority of the state to charge or collect interest under any other law on a debt owed to the state by a governmental unit. This section applies only to debts which become due on or after July 28, 1991. [1991 c 85 § 2.]

Collection agency use by state: RCW 19.16.500.

43.17.250 County-wide planning policy incentives.

Whenever a state agency is considering awarding grants or loans for a county, city, or town to finance public facilities, it shall consider whether the county, city, or town that is requesting the grant or loan is a party to a county-wide planning policy under RCW 36.70A.210 relating to the type of public facility for which the grant or loan is sought, and shall accord additional preference to the county, city, or town if such county-wide planning policy exists. Whenever a state agency is considering awarding grants or loans to a special district for public facilities, it shall consider whether the county, city, or town in whose planning jurisdiction the proposed facility is located is a party to a county-wide planning policy under RCW 36.70A.210 relating to the type of public facility for which the grant or loan is sought. [1991 sp.s. c 32 § 25.]

Reviser's note: 1991 sp.s. c 32 directed that this section be added to chapter 43.01 RCW. The placement appears inappropriate and the section has been codified as part of chapter 43.17 RCW.

Section headings not law—1991 sp.s. c 32: See RCW 36.70A.902.

43.17.310 Businesses—Rules coordinator to provide list of rules. The rules coordinator under RCW 34.05.310 shall be knowledgeable regarding the agency's rules that affect businesses. The rules coordinator shall provide a list of agency rules applicable at the time of the request to a

specific class or line of business, which are limited to that specific class or line as opposed to generic rules applicable to most businesses, to the *business assistance center when so requested by the *business assistance center for the specific class or line of business. [1992 c 197 § 5.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

43.17.320 Interagency disputes—Alternative dispute resolution—Definitions. For purposes of RCW 43.17.320 through 43.17.340, "state agency" means:

(1) Any agency for which the executive officer is listed in RCW 42.17.2401(1); and

(2) The office of the secretary of state; the office of the state treasurer; the office of the state auditor; the department of natural resources; the office of the insurance commissioner; and the office of the superintendent of public instruction. [1993 c 279 § 2.]

Intent—1993 c 279: "It is the intent of the legislature to reduce the number of time-consuming and costly lawsuits between state agencies by establishing alternative dispute resolution processes available to any agency." [1993 c 279 § 1.]

43.17.330 Interagency disputes—Alternative dispute resolution—Methods.

Whenever a dispute arises between state agencies, agencies shall employ every effort to resolve the dispute themselves without resorting to litigation. These efforts shall involve alternative dispute resolution methods. If a dispute cannot be resolved by the agencies involved, any one of the disputing agencies may request the governor to assist in the resolution of the dispute. The governor shall employ whatever dispute resolution methods that the governor deems appropriate in resolving the dispute. Such methods may include, but are not limited to, the appointment by the governor of a mediator, acceptable to the disputing agencies, to assist in the resolution of the dispute. The governor may also request assistance from the attorney general to advise the mediator and the disputing agencies. [1993 c 279 § 3.]

Intent—1993 c 279: See note following RCW 43.17.320.

43.17.340 Interagency disputes—Alternative dispute resolution—Exception.

RCW 43.17.320 and 43.17.330 shall not apply to any state agency that is a party to a lawsuit, which: (1) Impleads another state agency into the lawsuit when necessary for the administration of justice; or (2) files a notice of appeal, petitions for review, or makes other filings subject to time limits, in order to preserve legal rights and remedies. [1993 c 279 § 4.]

Intent—1993 c 279: See note following RCW 43.17.320.

43.17.350 Health-related state agencies—Professional health services—Fee schedules.

For the purpose of accurately describing professional health services purchased by the state, health-related state agencies may develop fee schedules based on billing codes and service descriptions published by the American medical association or the United States federal health care financing administration, or develop agency unique codes and service descriptions. [1995 1st sp.s. c 6 § 20.]

Effective date—1995 1st sp.s. c 6: See note following RCW 28A.400.410.

43.17.360 Lease of real property—Term of a lease—Use of proceeds. (1) The department of social and health services and other state agencies may lease real property and improvements thereon to a consortium of three or more counties in order for the counties to construct or otherwise acquire correctional facilities for juveniles or adults.

(2) A lease governed by subsection (1) of this section shall not charge more than one dollar per year for the land value and facilities value, during the initial term of the lease, but the lease may include provisions for payment of any reasonable operation and maintenance expenses incurred by the state.

The initial term of a lease governed by subsection (1) of this section shall not exceed twenty years. A lease renewed under subsection (1) of this section after the initial term shall charge the fair rental value for the land and facilities, and may include provisions for payment of any reasonable operation and maintenance expenses incurred by the state. For the purposes of this subsection, fair rental value shall be determined by the commissioner of public lands in consultation with the department.

(3) The net proceeds generated from any lease entered or renewed under subsection (1) of this section involving land and facilities on the grounds of eastern state hospital shall be used solely for the benefit of eastern state hospital programs for the long-term care needs of patients with mental disorders. These proceeds shall not supplant or replace funding from traditional sources for the normal operations and maintenance or capital budget projects. It is the intent of this subsection to ensure that eastern state hospital receives the full benefit intended by this section, and that such effect will not be diminished by budget adjustments inconsistent with this intent. [1996 c 261 § 2.]

Chapter 43.19

DEPARTMENT OF GENERAL ADMINISTRATION

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Rules and regulations: RCW 43.17.060.

43.19.010 Divisions of department—Authority and salary of director. The department of general administration shall be organized into divisions, which shall include (1) the division of capitol buildings, (2) the division of purchasing, (3) the division of engineering and architecture, and (4) the division of motor vehicle transportation service.

The director of general administration shall have charge and general supervision of the department. He or she may appoint and deputize such clerical and other assistants as may be necessary for the general administration of the department. The director of general administration shall receive a salary in an amount fixed by the governor. [1993 c 472 § 19; 1988 c 25 § 10; 1975 1st ex.s. c 167 § 1; 1965 c 8 § 43.19.010. Prior: 1959 c 301 § 1; 1955 c 285 § 4; 1955 c 195 § 6; 1935 c 176 § 11; prior: 1909 c 38 §§ 1-7; 1907 c 166 §§ 3-5; 1901 c 119 §§ 1-9; RRS § 10786-10.]

Effective date—Implementation—1993 c 472: See RCW 43.320.900 and 43.320.901.

Severability—1975 1st ex.s. c 167: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1975 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 167 § 20.]

43.19.013 Deputy director. The director of general administration may appoint and deputize an assistant director to be known as the deputy director, and who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director. [1967 c 27 § 1.]

43.19.015 Certain powers and duties of director of financial public institutions transferred to director of financial

institutions. The director of financial institutions shall have the power and duties of the director of public institutions contained in the following chapters of RCW: Chapter 33.04 RCW concerning savings and loan associations; and chapter 39.32 RCW concerning purchase of federal property. [1994 c 92 § 495; 1984 c 29 § 2; 1983 c 3 § 101; 1981 c 115 § 2; 1965 c 8 § 43.19.015. Prior: 1955 c 285 § 18.]

Effective date—1981 c 115: See note following RCW 40.14.020.

43.19.123 Powers, duties, and functions pertaining to energy efficiency in public buildings—Transfer from state energy office—References to director or state energy office. (1) All powers, duties, and functions of the state energy office pertaining to energy efficiency in public buildings are transferred to the department of general administration. All references to the director or the state energy office in the Revised Code of Washington shall be construed to mean the director or the department of general administration when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the state energy office pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of general administration. All cabinets, furniture, office equipment, software, data base, motor vehicles, and other tangible property employed by the state energy office in carrying out the powers, functions, and duties transferred shall be made available to the department of general administration. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of general administration.

(b) Any appropriations made to the state energy office for carrying out the powers, functions, and duties transferred shall, on July 1, 1996, be transferred and credited to the department of general administration.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) Within funds available, employees of the state energy office whose primary responsibility is performing the powers, functions, and duties pertaining to energy efficiency in public buildings are transferred to the jurisdiction of the department of general administration. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of general administration to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the state energy office pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of general administration. All existing contracts and obligations, excluding personnel contracts and obligations, shall remain in full force and shall be performed by the department of general administration.

(5) The transfer of the powers, duties, functions, and personnel of the state energy office shall not affect the validity of any act performed before July 1, 1996.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification. [1996 c 186 § 401.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

State energy office—Services for employees affected by elimination of office—1996 c 186: See note following RCW 43.330.904.

43.19.125 Powers and duties—Division of capitol buildings. The director of general administration, through the division of capitol buildings, shall have custody and control of the capitol buildings and grounds, supervise and direct proper care, heating, lighting and repairing thereof, and designate rooms in the capitol buildings to be occupied by various state officials. [1965 c 8 § 43.19.125. Prior: 1959 c 301 § 2; 1955 c 285 § 9.]

Capitol campus design advisory committee: RCW 43.34.080.

East capitol site, acquisition and development: RCW 79.24.500 through 79.24.600.

Housing for state offices: Chapter 43.82 RCW.

Parking facilities and traffic on capitol grounds: RCW 79.24.300 through 79.24.320, 46.08.150.

Public buildings, earthquake standards for construction: Chapter 70.86 RCW.

43.19.180 State purchasing and material control director—Appointment—Personnel. The director of general administration shall appoint and deputize an assistant director to be known as the state purchasing and material control director, who shall have charge and supervision of the division of purchasing. In this capacity he shall ensure that overall state purchasing and material control policy is implemented by state agencies, including educational institutions, within established time limits.

With the approval of the director of general administration, he may appoint and employ such assistants and personnel as may be necessary to carry on the work of the division. [1975-'76 2nd ex.s. c 21 § 1; 1965 c 8 § 43.19.180. Prior: 1955 c 285 § 10; 1935 c 176 § 16; RRS § 10786-15; prior: 1921 c 7 § 31; RRS § 10789.]

Severability—1975-'76 2nd ex.s. c 21: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 21 § 14.]

43.19.185 State purchasing and material control director—System for the use of credit cards or similar devices to be developed—Rules. (1) The director of general administration through the state purchasing and material control director shall develop a system for state agencies and departments to use credit cards or similar devices to make purchases. The director may contract to administer the credit cards.

(2) The director of general administration through the state purchasing and material control director shall adopt rules for:

- (a) The distribution of the credit cards;
- (b) The authorization and control of the use of the credit cards;
- (c) The credit limits available on the credit cards;
- (d) Instructing users of gasoline credit cards to use self-service islands whenever possible;
- (e) Payments of the bills; and
- (f) Any other rule necessary to implement or administer the program under this section. [1987 c 47 § 1; 1982 1st ex.s. c 45 § 1.]

43.19.190 State purchasing and material control director—Powers and duties. The director of general administration, through the state purchasing and material control director, shall:

(1) Establish and staff such administrative organizational units within the division of purchasing as may be necessary for effective administration of the provisions of RCW 43.19.190 through 43.19.1939;

(2) Purchase all material, supplies, services, and equipment needed for the support, maintenance, and use of all state institutions, colleges, community colleges, technical colleges, college districts, and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state: **PROVIDED**, That the provisions of RCW 43.19.190 through 43.19.1937 do not apply in any manner to the operation of the state legislature except as requested by the legislature: **PROVIDED**, That any agency may purchase material, supplies, services, and equipment for which the agency has notified the purchasing and material control director that it is more cost-effective for the agency to make the purchase directly from the vendor: **PROVIDED**, That primary authority for the purchase of specialized equipment, instructional, and research material for their own use shall rest with the colleges, community colleges, and universities: **PROVIDED FURTHER**, That universities operating hospitals and the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations: **PROVIDED FURTHER**, That primary authority for the purchase of materials, supplies, and equipment for resale to other than public agencies shall rest with the state agency concerned: **PROVIDED FURTHER**, That authority to purchase services as included herein does not apply to personal services as defined in chapter 39.29 RCW, unless such organization specifically requests assistance from the division of purchasing in obtaining personal services and resources are available within the division to provide such assistance: **PROVIDED FURTHER**, That the authority for the purchase of insurance and bonds shall rest with the risk manager under RCW 43.19.1935: **PROVIDED FURTHER**,

That, except for the authority of the risk manager to purchase insurance and bonds, the director is not required to provide purchasing services for institutions of higher education that choose to exercise independent purchasing authority under RCW 28B.10.029;

(3) Have authority to delegate to state agencies authorization to purchase or sell, which authorization shall specify restrictions as to dollar amount or to specific types of material, equipment, services, and supplies. Acceptance of the purchasing authorization by a state agency does not relieve such agency from conformance with other sections of RCW 43.19.190 through 43.19.1939, or from policies established by the director. Also, delegation of such authorization to a state agency, including an educational institution to which this section applies, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies as established herein;

(4) Contract for the testing of material, supplies, and equipment with public and private agencies as necessary and advisable to protect the interests of the state;

(5) Prescribe the manner of inspecting all deliveries of supplies, materials, and equipment purchased through the division;

(6) Prescribe the manner in which supplies, materials, and equipment purchased through the division shall be delivered, stored, and distributed;

(7) Provide for the maintenance of a catalogue library, manufacturers' and wholesalers' lists, and current market information;

(8) Provide for a commodity classification system and may, in addition, provide for the adoption of standard specifications;

(9) Provide for the maintenance of inventory records of supplies, materials, and other property;

(10) Prepare rules and regulations governing the relationship and procedures between the division of purchasing and state agencies and vendors;

(11) Publish procedures and guidelines for compliance by all state agencies, including those educational institutions to which this section applies, which implement overall state purchasing and material control policies;

(12) Advise state agencies, including educational institutions, regarding compliance with established purchasing and material control policies under existing statutes. [1995 c 269 § 1401; 1994 c 138 § 1; 1993 sp.s. c 10 § 2; 1993 c 379 § 102; 1991 c 238 § 135. Prior: 1987 c 414 § 10; 1987 c 70 § 1; 1980 c 103 § 1; 1979 c 88 § 1; 1977 ex.s. c 270 § 4; 1975-'76 2nd ex.s. c 21 § 2; 1971 c 81 § 110; 1969 c 32 § 3; prior: 1967 ex.s. c 104 § 2; 1967 ex.s. c 8 § 51; 1965 c 8 § 43.19.190; prior: 1959 c 178 § 1; 1957 c 187 § 1; 1955 c 285 § 12; prior: (i) 1935 c 176 § 21; RRS § 10786-20. (ii) 1921 c 7 § 42; RRS § 10800. (iii) 1955 c 285 § 12; 1921 c 7 § 37, part; RRS § 10795, part.]

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

Purpose—1993 sp.s. c 10: "The legislature recognizes the need for state agencies to maximize the buying power of increasingly scarce resources for the purchase of goods and services. The legislature seeks to

provide state agencies with the ability to purchase goods and services at the lowest cost." [1993 sp.s. c 10 § 1.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability—1987 c 414: See RCW 39.29.900.

Severability—1980 c 103: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 103 § 3.]

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

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

Federal surplus property: Chapter 39.32 RCW.

Purchase of blind made products and services: Chapter 19.06 RCW.

43.19.1901 "Purchase" includes leasing or renting—Electronic data processing equipment excepted. The term "purchase" as used in RCW 43.19.190 through 43.19.200, and as they may hereafter be amended, shall include leasing or renting; PROVIDED, That the purchasing, leasing or renting of electronic data processing equipment shall not be included in the term "purchasing" if and when such transactions are otherwise expressly provided for by law.

The acquisition of job services and all other services for the family independence program under *chapter 74.21 RCW shall not be included in the term "purchasing" under this chapter. [1987 c 434 § 23; 1983 c 3 § 102; 1967 ex.s. c 104 § 1.]

***Reviser's note:** Chapter 74.21 RCW expired June 30, 1993, pursuant to 1988 c 43 § 5.

43.19.1905 State-wide policy for purchasing and material control—Establishment—Functions covered. The director of general administration shall establish overall state policy for compliance by all state agencies, including educational institutions, regarding the following purchasing and material control functions:

(1) Development of a state commodity coding system, including common stock numbers for items maintained in stores for reissue;

(2) Determination where consolidations, closures, or additions of stores operated by state agencies and educational institutions should be initiated;

(3) Institution of standard criteria for determination of when and where an item in the state supply system should be stocked;

(4) Establishment of stock levels to be maintained in state stores, and formulation of standards for replenishment of stock;

(5) Formulation of an overall distribution and redistribution system for stock items which establishes sources of supply support for all agencies, including interagency supply support;

(6) Determination of what function data processing equipment, including remote terminals, shall perform in state-wide purchasing and material control for improvement of service and promotion of economy;

(7) Standardization of records and forms used state-wide for supply system activities involving purchasing, receiving, inspecting, storing, requisitioning, and issuing functions,

including a standard notification form for state agencies to report cost-effective direct purchases, which shall at least identify the price of the goods as available through the division of purchasing, the price of the goods as available from the alternative source, the total savings, and the signature of the notifying agency's director or the director's designee;

(8) Screening of supplies, material, and equipment excess to the requirements of one agency for overall state need before sale as surplus;

(9) Establishment of warehouse operation and storage standards to achieve uniform, effective, and economical stores operations;

(10) Establishment of time limit standards for the issuing of material in store and for processing requisitions requiring purchase;

(11) Formulation of criteria for determining when centralized rather than decentralized purchasing shall be used to obtain maximum benefit of volume buying of identical or similar items, including procurement from federal supply sources;

(12) Development of criteria for use of leased, rather than state owned, warehouse space based on relative cost and accessibility;

(13) Institution of standard criteria for purchase and placement of state furnished materials, carpeting, furniture, fixtures, and nonfixed equipment, in newly constructed or renovated state buildings;

(14) Determination of how transportation costs incurred by the state for materials, supplies, services, and equipment can be reduced by improved freight and traffic coordination and control;

(15) Establishment of a formal certification program for state employees who are authorized to perform purchasing functions as agents for the state under the provisions of chapter 43.19 RCW;

(16) Development of performance measures for the reduction of total overall expense for material, supplies, equipment, and services used each biennium by the state;

(17) Establishment of a standard system for all state organizations to record and report dollar savings and cost avoidance which are attributable to the establishment and implementation of improved purchasing and material control procedures;

(18) Development of procedures for mutual and voluntary cooperation between state agencies, including educational institutions, and political subdivisions for exchange of purchasing and material control services;

(19) Resolution of all other purchasing and material matters which require the establishment of overall state-wide policy for effective and economical supply management;

(20) Development of guidelines and criteria for the purchase of vehicles, alternate vehicle fuels and systems, equipment, and materials that reduce overall energy-related costs and energy use by the state, including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002). [1995 c 269 § 1402; 1993 sp.s. c 10 § 3; 1987 c 504 § 16; 1980 c 172 § 7; 1975-'76 2nd ex.s. c 21 § 5.]

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

Notification forms—1993 sp.s. c 10: "The department of general administration shall forward copies of notification forms required under RCW 43.19.1905(7) to the office of financial management. By September 1, 1994, the department of general administration shall report to the house of representatives fiscal committees and senate ways and means committee on the volume and type of purchases made and the aggregate savings identified by state agencies making purchases as authorized by this act for fiscal year 1994." [1993 sp.s. c 10 § 4.]

Purpose—1993 sp.s. c 10: See note following RCW 43.19.190.

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

Energy conservation—Legislative finding—Declaration—Purpose: RCW 43.19.668 and 43.19.669.

43.19.19052 Initial purchasing and material control policy—Reports—Legislative intent—Agency cooperation. Initial policy determinations for the functions described in RCW 43.19.1905 shall be developed and published within the 1975-77 biennium by the director for guidance and compliance by all state agencies, including educational institutions, involved in purchasing and material control. Modifications to these initial supply management policies established during the 1975-77 biennium shall be instituted by the director in future biennia as required to maintain an efficient and up-to-date state supply management system. The director shall transmit to the governor and the legislature in June 1976 and June 1977 a progress report which indicates the degree of accomplishment of each of these assigned duties, and which summarizes specific achievements obtained in increased effectiveness and dollar savings or cost avoidance within the overall state purchasing and material control system. The second progress report in June 1977 shall include a comprehensive supply management plan which includes the recommended organization of a state-wide purchasing and material control system and development of an orderly schedule for implementing such recommendation. In the interim between these annual progress reports, the director shall furnish periodic reports to the office of financial management for review of progress being accomplished in achieving increased efficiencies and dollar savings or cost avoidance.

It is the intention of the legislature that measurable improvements in the effectiveness and economy of supply management in state government shall be achieved during the 1975-77 biennium, and each biennium thereafter. All agencies, departments, offices, divisions, boards, and commissions and educational, correctional, and other types of institutions are required to cooperate with and support the development and implementation of improved efficiency and economy in purchasing and material control. To effectuate this legislative intention, the director, through the state purchasing and material control director, shall have the authority to direct and require the submittal of data from all state organizations concerning purchasing and material control matters. [1995 c 269 § 1403; 1986 c 158 § 9; 1979 c 151 § 98; 1975-'76 2nd ex.s. c 21 § 6.]

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.19054 Exemptions from state-wide policy for purchasing and material control. The provisions of RCW 43.19.1905 shall not apply to materials, supplies, and equipment purchased for resale to other than public agencies by state agencies, including educational institutions. In addition, RCW 43.19.1905 shall not apply to liquor purchased by the state for resale under the provisions of Title 66 RCW. [1975-'76 2nd ex.s. c 21 § 7.]

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.1906 Competitive bids—Sealed bids, exceptions. Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed bid procedure shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the state purchasing and material control director and under the powers granted by RCW 43.19.190 through 43.19.1939. This requirement also applies to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 or under RCW 28B.10.029. However, formal sealed bidding is not necessary for:

(1) Emergency purchases made pursuant to RCW 43.19.200 if the sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) Purchases not exceeding thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management: PROVIDED, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies shall not be made so as to avoid the thirty-five thousand dollar bid limitation, or subsequent bid limitations as calculated by the office of financial management: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce the formal sealed bid limits of thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, to a lower dollar amount for purchases by individual state agencies if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from four hundred dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. The agency shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. A record of competition for all such purchases from four hundred dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be documented for audit pur-

poses. Purchases up to four hundred dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost: PROVIDED, That this four hundred dollar direct buy limit without competitive bids may be increased incrementally as required to a maximum of eight hundred dollars, if warranted by increases in purchasing costs due to inflationary trends;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation;

(4) Purchases of insurance and bonds by the risk management office under RCW 43.19.1935;

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: PROVIDED, That this exemption is effective only when the state purchasing and material control director, after consultation with the director of the division of vocational rehabilitation and appropriate department of social and health services procurement personnel, declares that such purchases may be best executed through direct negotiation with one or more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients;

(6) Purchases by universities for hospital operation or biomedical teaching or research purposes and by the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, made by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations;

(7) Purchases by institutions of higher education not exceeding thirty-five thousand dollars: PROVIDED, That for purchases between two thousand five hundred dollars and thirty-five thousand dollars quotations shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. For purchases between two thousand five hundred dollars and thirty-five thousand dollars, each institution of higher education shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. A record of competition for all such purchases made from two thousand five hundred to thirty-five thousand dollars shall be documented for audit purposes; and

(8) Beginning on July 1, 1995, and on July 1 of each succeeding odd-numbered year, the dollar limits specified in this section shall be adjusted as follows: The office of financial management shall calculate such limits by adjusting the previous biennium's limits by the appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest one hundred dollars. [1995 c 269 § 1404; 1994 c 300 § 1; 1993 c 379 § 103; 1992 c 85 § 1. Prior: 1987 c 81 § 1; 1987 c 70 § 2; 1985 c 342 § 1; 1984 c 102 § 3; 1983 c 141 § 1; 1980 c 103 § 2; 1979 ex.s. c 14 § 1; 1977

ex.s. c 270 § 5; 1975-'76 2nd ex.s. c 21 § 8; 1965 c 8 § 43.19.1906; prior: 1959 c 178 § 4.]

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Findings—1984 c 102: See note following RCW 43.19.200.

Severability—1980 c 103: See note following RCW 43.19.190.

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

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.1908 Bids—Solicitation, notices—Qualified bidders—Writing. Competitive bidding required by RCW 43.19.190 through 43.19.1939 shall be solicited by public notice, and through the sending of notices by mail, electronic transmission, or other means to bidders on the appropriate list of bidders who shall have qualified by application to the division of purchasing. Bids may be solicited by the purchasing division from any source thought to be of advantage to the state. All bids shall be in writing and conform to rules of the division of purchasing. [1994 c 300 § 2; 1965 c 8 § 43.19.1908. Prior: 1959 c 178 § 5.]

43.19.1911 Competitive bids—Notice of modification or cancellation—Cancellation requirements—Lowest responsible bidder—Preferential purchase—Life cycle costing. (1) Preservation of the integrity of the competitive bid system dictates that after competitive bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid pursuant to subsections (7) and (9) of this section, unless there is a compelling reason to reject all bids and cancel the solicitation.

(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the purchasing agency, division, or department head, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a solicitation.

(3) After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made on the initial solicitation and an increase in requirements may be treated as a new acquisition.

(4) A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the purchasing agency, division, or department head determines in writing that:

(a) Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation;

(b) Specifications, terms, conditions, or requirements have been revised;

(c) The supplies or services being contracted for are no longer required;

(d) The solicitation did not provide for consideration of all factors of cost to the agency;

(e) Bids received indicate that the needs of the agency can be satisfied by a less expensive article differing from that for which the bids were invited;

(f) All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the agency cannot determine the reasonableness of the bid price;

(g) No responsive bid has been received from a responsible bidder; or

(h) The bid process was not fair or equitable.

(5) The agency, division, or department head may not delegate his or her authority under this section.

(6) After the opening of bids, an agency may not reject all bids and enter into direct negotiations to complete the planned acquisition. However, the agency can enter into negotiations exclusively with the lowest responsible bidder in order to determine if the lowest responsible bid may be improved. An agency shall not use this negotiation opportunity to permit a bidder to change a nonresponsive bid into a responsive bid.

(7) In determining the lowest responsible bidder, the agency shall consider any preferences provided by law to Washington products and vendors and to RCW 43.19.704, and further, may take into consideration the quality of the articles proposed to be supplied, their conformity with specifications, the purposes for which required, and the times of delivery.

(8) Each bid with the name of the bidder shall be entered of record and each record, with the successful bid indicated, shall, after letting of the contract, be open to public inspection.

(9) In determining "lowest responsible bidder", in addition to price, the following elements shall be given consideration:

(a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(c) Whether the bidder can perform the contract within the time specified;

(d) The quality of performance of previous contracts or services;

(e) The previous and existing compliance by the bidder with laws relating to the contract or services;

(f) Such other information as may be secured having a bearing on the decision to award the contract: PROVIDED, That in considering bids for purchase, manufacture, or lease, and in determining the "lowest responsible bidder," whenever there is reason to believe that applying the "life cycle costing" technique to bid evaluation would result in lowest total cost to the state, first consideration shall be given by state purchasing activities to the bid with the lowest life cycle cost which complies with specifications. "Life cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner. Nothing in

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this section shall prohibit any state agency, department, board, commission, committee, or other state-level entity from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused. [1996 c 69 § 2; 1989 c 431 § 60; 1983 c 183 § 4; 1980 c 172 § 8; 1965 c 8 § 43.19.1911. Prior: 1959 c 178 § 6.]

Intent—1996 c 69: "It is the intent of the legislature to preserve the integrity of the competitive bidding system for state contracts. This dictates that, after competitive bids have been opened, the agency must award the contract to the responsible bidder who submitted the lowest responsive bid and that only in limited compelling circumstances may the agency reject all bids and cancel the solicitation. Further, after opening the competitive bids, the agency may not reject all bids and enter into direct negotiations with the bidders to complete the acquisition." [1996 c 69 § 1.]

Severability—1989 c 431: See RCW 70.95.901.

Energy conservation—Legislative finding—Declaration—Purpose: RCW 43.19.668 and 43.19.669.

43.19.1913 Rejection of bid for previous unsatisfactory performance. The division of purchasing may reject the bid of any bidder who has failed to perform satisfactorily a previous contract with the state. [1965 c 8 § 43.19.1913. Prior: 1959 c 178 § 7.]

43.19.1914 Low bidder claiming error—Prohibition on later bid for same project. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same purchase or project if a second or subsequent call for bids is made for the project. [1996 c 18 § 7.]

43.19.1915 Bidder's bond—Annual bid bond. When any bid has been accepted, the division of purchasing may require of the successful bidder a bond payable to the state in such amount with such surety or sureties as determined by the division of purchasing, conditioned that he will fully, faithfully and accurately execute the terms of the contract into which he has entered. The bond shall be filed in the office of the division of purchasing. Bidders who regularly do business with the state shall be permitted to file with the division of purchasing an annual bid bond in an amount established by the division and such annual bid bond shall be acceptable as surety in lieu of furnishing surety with individual bids. [1965 c 8 § 43.19.1915. Prior: 1959 c 178 § 8.]

43.19.1917 Records of equipment owned by state—Inspection—"State equipment" defined. All state agencies, including educational institutions, shall maintain a perpetual record of ownership of state owned equipment, which shall be available for the inspection and check of those officers who are charged by law with the responsibility for auditing the records and accounts of the state organizations owning the equipment, or to such other special investigators and others as the governor may direct. In addition, these records shall be made available to members of the legislature, the legislative committees, and legislative staff on request.

All state agencies, including educational institutions, shall account to the office of financial management upon request for state equipment owned by, assigned to, or otherwise possessed by them and maintain such records as

the office of financial management deems necessary for proper accountability therefor. The office of financial management shall publish a procedural directive for compliance by all state agencies, including educational institutions, which establishes a standard method of maintaining records for state owned equipment, including the use of standard state forms. This published directive also shall include instructions for reporting to the division of purchasing all state equipment which is excess to the needs of state organizations owning such equipment. The term "state equipment" means all items of machines, tools, furniture, or furnishings other than expendable supplies and materials as defined by the office of financial management. [1979 c 88 § 3; 1975-'76 2nd ex.s. c 21 § 9; 1969 ex.s. c 53 § 2; 1965 c 8 § 43.19.1917. Prior: 1959 c 178 § 9.]

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.1919 Surplus personal property—Sale, exchange—Authority—Procedure—Restrictions—Exemption. (Expires June 30, 1997.) Except as provided in RCW 43.19.1920, 43.105.017, and section 507, chapter 14, Laws of 1995 2nd sp. sess., the division of purchasing shall sell or exchange personal property belonging to the state for which the agency, office, department, or educational institution having custody thereof has no further use, at public or private sale, and cause the moneys realized from the sale of any such property to be paid into the fund from which such property was purchased or, if such fund no longer exists, into the state general fund: PROVIDED, Sales of capital assets may be made by the division of purchasing and a credit established in central stores for future purchases of capital items as provided for in RCW 43.19.190 through 43.19.1939, as now or hereafter amended: PROVIDED FURTHER, That personal property, excess to a state agency, including educational institutions, shall not be sold or disposed of prior to reasonable efforts by the division of purchasing to determine if other state agencies have a requirement for such personal property. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known. Surplus items may be disposed of without prior notification to state agencies if it is determined by the director of general administration to be in the best interest of the state. The division of purchasing shall maintain a record of disposed surplus property, including date and method of disposal, identity of any recipient, and approximate value of the property: PROVIDED, FURTHER, That this section shall not apply to personal property acquired by a state organization under federal grants and contracts if in conflict with special title provisions contained in such grants or contracts.

This section does not apply to property under RCW 27.53.045. [1995 2nd sp.s. c 14 § 513; 1991 c 216 § 2; 1989 c 144 § 1; 1988 c 124 § 8; 1975-'76 2nd ex.s. c 21 § 11; 1965 c 8 § 43.19.1919. Prior: 1959 c 178 § 10.]

Expiration date—1995 2nd sp.s. c 14 §§ 511-523, 528-533: See note following RCW 43.105.017.

Effective dates—1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Severability—1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Findings—1991 c 216: "The legislature finds that (1) there are an increasing number of persons who are unable to meet their basic needs relating to shelter, clothing, and nourishment; (2) there are many nonprofit organizations and units of local government that provide shelter and other assistance to these persons but that these organizations are finding it difficult to meet the increasing demand for such assistance; and (3) the numerous agencies and institutions of state government generate a significant quantity of surplus, tangible personal property that would be of great assistance to homeless persons throughout the state. Therefore, the legislature finds that it is in the best interest of the state to provide for the donation of state-owned, surplus, tangible property to assist the homeless in meeting their basic needs." [1991 c 216 § 1.]

Severability—Intent—Application—1988 c 124: See RCW 27.53.901 and notes following RCW 27.53.030.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.1919 Surplus personal property—Sale, exchange—Authority—Procedure—Restrictions—Exemption. (Effective June 30, 1997.) Except as provided in RCW 43.19.1920, the division of purchasing shall sell or exchange personal property belonging to the state for which the agency, office, department, or educational institution having custody thereof has no further use, at public or private sale, and cause the moneys realized from the sale of any such property to be paid into the fund from which such property was purchased or, if such fund no longer exists, into the state general fund: PROVIDED, Sales of capital assets may be made by the division of purchasing and a credit established in central stores for future purchases of capital items as provided for in RCW 43.19.190 through 43.19.1939, as now or hereafter amended: PROVIDED FURTHER, That personal property, excess to a state agency, including educational institutions, shall not be sold or disposed of prior to reasonable efforts by the division of purchasing to determine if other state agencies have a requirement for such personal property. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known. Surplus items may be disposed of without prior notification to state agencies if it is determined by the director of general administration to be in the best interest of the state. The division of purchasing shall maintain a record of disposed surplus property, including date and method of disposal, identity of any recipient, and approximate value of the property: PROVIDED, FURTHER, That this section shall not apply to personal property acquired by a state organization under federal grants and contracts if in conflict with special title provisions contained in such grants or contracts.

This section does not apply to property under RCW 27.53.045. [1991 c 216 § 2; 1989 c 144 § 1; 1988 c 124 § 8; 1975-'76 2nd ex.s. c 21 § 11; 1965 c 8 § 43.19.1919. Prior: 1959 c 178 § 10.]

Findings—1991 c 216: "The legislature finds that (1) there are an increasing number of persons who are unable to meet their basic needs relating to shelter, clothing, and nourishment; (2) there are many nonprofit organizations and units of local government that provide shelter and other assistance to these persons but that these organizations are finding it difficult to meet the increasing demand for such assistance; and (3) the numerous agencies and institutions of state government generate a significant quantity of surplus, tangible personal property that would be of great assistance to homeless persons throughout the state. Therefore, the legislature finds that it is in the best interest of the state to provide for the donation of state-owned, surplus, tangible property to assist the homeless in meeting their basic needs." [1991 c 216 § 1.]

Severability—Intent—Application—1988 c 124: See RCW 27.53.901 and notes following RCW 27.53.030.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.1920 Surplus personal property—Donation to emergency shelters. The division of purchasing may donate state-owned, surplus, tangible personal property to shelters that are: Participants in the department of community, trade, and economic development's emergency shelter assistance program; and operated by nonprofit organizations or units of local government providing emergency or transitional housing for homeless persons. A donation may be made only if all of the following conditions have been met:

(1) The division of purchasing has made reasonable efforts to determine if any state agency has a requirement for such personal property and no such agency has been identified. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known;

(2) The agency owning the property has authorized the division of purchasing to donate the property in accordance with this section;

(3) The nature and quantity of the property in question is directly germane to the needs of the homeless persons served by the shelter and the purpose for which the shelter exists and the shelter agrees to use the property for such needs and purposes; and

(4) The director of general administration has determined that the donation of such property is in the best interest of the state. [1995 c 399 § 63; 1991 c 216 § 3.]

Findings—1991 c 216: See note following RCW 43.19.1919.

Emergency shelter assistance program: Chapter 365-120 WAC.

43.19.19201 Affordable housing—Inventory of suitable property. (1) The department of general administration shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department of general administration shall provide a copy of the inventory to the department of community, trade, and economic development by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department of general administration shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1995 c 399 § 64; 1993 c 461 § 7.]

Finding—1993 c 461: See note following RCW 43.63A.510.

43.19.1921 Central stores warehouse facilities—Central maintenance, repair—Sales, exchanges, between state agencies. The director of general administration, through the division of purchasing, shall:

(1) Establish and maintain warehouses hereinafter referred to as "central stores" for the centralized storage and distribution of such supplies, equipment, and other items of common use in order to effect economies in the purchase of supplies and equipment for state agencies. To provide central stores warehouse facilities the division of purchasing may, by arrangement with the state agencies, utilize any surplus available state owned space, and may acquire other needed warehouse facilities by lease or purchase of the necessary premises;

(2) Provide for the central salvage, maintenance, repair, and servicing of equipment, furniture, or furnishings used by state agencies, and also by means of such a service provide an equipment pool for effecting sales and exchanges of surplus and unused property by and between state agencies. Funds derived from the sale and exchange of property shall be placed to the account of the appropriate state agency on the central stores accounts but such funds may not be expended through central stores without prior approval of the office of financial management. [1979 c 151 § 100; 1965 c 8 § 43.19.1921. Prior: 1959 c 178 § 11.]

43.19.1923 Central stores revolving fund. There is created within the department of general administration a revolving fund to be known as the central stores revolving fund, which shall be used for the purchase of supplies and equipment handled or rented through central stores, and the payment of salaries, wages, and other costs incidental to the acquisition, operation, and maintenance of the central stores, and other activities connected therewith, which shall include utilities services. Disbursements from the fund for the purchasing and contract administration activities of the division of purchasing within the department are subject to appropriation and allotment procedures under chapter 43.88 RCW. Disbursements for all other activities within the central stores are not subject to appropriation. The fund shall be credited with all receipts from the rental, sale or distribution of supplies, equipment, and services rendered to the various state agencies. Central stores, utilities services, and other activities within the central stores revolving fund shall be treated as separate operating entities for financial and accounting control. Financial records involving the central stores revolving fund shall be designed to provide data for achieving maximum effectiveness and economy of each individual activity within the fund. [1991 sp.s. c 16 § 921; 1987 c 504 § 17; 1975-'76 2nd ex.s. c 21 § 12; 1967 ex.s. c 104 § 5; 1965 c 8 § 43.19.1923. Prior: 1959 c 178 § 12.]

Severability—1991 sp.s. c 16: See notes following RCW 9.46.100.

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.1925 Combined purchases of commonly used items—Advance payments by state agencies—Costs of operating central stores. To supply such funds as may be necessary for making combined purchases of items or services of common use by central stores, state agencies shall, upon request of the division of purchasing, from time to time, make advance payments into the central stores

revolving fund from funds regularly appropriated to them for the procurement of supplies, equipment, and services: PROVIDED, That advance payment for services shall be on a quarterly basis: PROVIDED FURTHER, That any person, firm or corporation other than central stores rendering services for which advance payments are made shall deposit cash or furnish surety bond coverage to the state in an amount as shall be fixed by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general administration. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. Funds so advanced to central stores shall be used only for the combined procurement, storage, and delivery of such stocks of supplies, equipment, and services as are requisitioned by the agency and shall be offset and repaid to the respective state agencies by an equivalent value in merchandise supplied and charged out from time to time from central stores. Costs of operation of central stores may be recovered by charging as part of the value of materials, supplies, or services an amount sufficient to cover the costs of operating central stores. [1975 c 40 § 8; 1973 c 104 § 2; 1965 c 8 § 43.19.1925. Prior: 1959 c 178 § 13.]

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

43.19.1927 Deposit of central stores revolving fund.

The central stores revolving fund shall be deposited in such banks and financial institutions as may be selected by the state treasurer, which shall furnish to him surety bonds or collateral eligible as security for the deposit of state funds, in at least the full amount of deposit in each such bank or financial institution. [1965 c 8 § 43.19.1927. Prior: 1959 c 178 § 14.]

43.19.1932 Correctional industries goods and services—Sales and purchases. The department of corrections shall be exempt from the following provisions of this chapter in respect to goods or services purchased or sold pursuant to the operation of correctional industries: RCW 43.19.180, 43.19.190, 43.19.1901, 43.19.1905, 43.19.1906, 43.19.1908, 43.19.1911, 43.19.1913, 43.19.1915, 43.19.1917, 43.19.1919, 43.19.1921, 43.19.1925, and 43.19.200. [1989 c 185 § 2; 1981 c 136 § 14.]

Effective date—1981 c 136: See RCW 72.09.900.

43.19.1935 Insurance and bonds—Procurement through risk management office. As a means of providing for the procurement of insurance and bonds on a volume rate basis, the director of general administration through the risk management office shall purchase or contract for the needs of state agencies in relation to all such insurance and bonds: PROVIDED, That authority to purchase insurance may be delegated to state agencies. Insurance in force shall be reported to the risk management office periodically under rules established by the director. Nothing contained in this section shall prohibit the use of licensed agents or brokers for the procurement and service of insurance.

The amounts of insurance or bond coverage shall be as fixed by law, or if not fixed by law, such amounts shall be

as fixed by the director of the department of general administration.

The premium cost for insurance acquired and bonds furnished shall be paid from appropriations or other appropriate resources available to the state agency or agencies for which procurement is made, and all vouchers drawn in payment therefor shall bear the written approval of the risk management office prior to the issuance of the warrant in payment therefor. Where deemed advisable the premium cost for insurance and bonds may be paid by the central stores revolving fund which fund shall be reimbursed by the agency or agencies for which procurement is made. [1985 c 188 § 1; 1977 ex.s. c 270 § 6; 1975 c 40 § 9; 1965 c 8 § 43.19.1935. Prior: 1959 c 178 § 18.]

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

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

43.19.1936 Purchase of insurance for municipalities—Request—Procurement through risk management office. The director of general administration, through the risk management office, may purchase, or contract for the purchase of, property and liability insurance for any municipality upon request of the municipality.

As used in this section, "municipality" means any city, town, county, special purpose district, municipal corporation, or political subdivision of the state of Washington. [1985 c 188 § 5.]

43.19.19361 Risk management—State program of—Principles. It is the policy of the state for the management of risks to which it is exposed to apply the following principles consistently in a state program of risk management:

- (1) To identify those liability and property risks which may have a significant economic impact on the state;
- (2) To evaluate risk in terms of the state's ability to fund potential loss rather than the ability of an individual agency to fund potential loss;
- (3) To eliminate or improve conditions and practices which contribute to loss whenever practical;
- (4) To assume risks to the maximum extent practical;
- (5) To provide flexibility within the state program to meet the unique requirements of any state agency for insurance coverage or service;
- (6) To purchase commercial insurance:
 - (a) When the size and nature of the potential loss make it in the best interest of the state to purchase commercial insurance; or
 - (b) When the fiduciary of encumbered property insists on commercial insurance; or
 - (c) When the interest protected is not a state interest and an insurance company is desirable as an intermediary; or
 - (d) When services provided by an insurance company are considered necessary; or
 - (e) When services or coverages provided by an insurance company are cost-effective; or
 - (f) When otherwise required by statute; and
- (7) To develop plans for the management and protection of the revenues and assets of the state. [1985 c 188 § 2; 1977 ex.s. c 270 § 1.]

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

43.19.19362 Risk management—Office created—Powers and duties—Reports—Contents. There is hereby created a risk management office within the department of general administration. The director of general administration shall implement the risk management policy in RCW 43.19.19361 through the risk management office. The director of general administration shall appoint a risk manager to supervise the risk management office. The risk management office shall make recommendations when appropriate to state agencies on the application of prudent safety, security, loss prevention, and loss minimization methods so as to reduce or avoid risk or loss. The director of general administration shall submit a risk management report biennially to the governor, with copies to the chairs of the standing committees having jurisdiction on judiciary and insurance and the ways and means and state governmental operations committees in the senate and the house of representatives, including one copy to the staff of each of the committees. The management report shall describe the plans, policies, and operation of the risk management office and shall at least include the following:

- (1) Success in implementing stated goals and objectives for the risk management office;
- (2) Improving loss control and prevention practices;
- (3) Self-insuring risks of loss to state-owned property except where bond indentures or other special considerations require the purchase of insurance;
- (4) Consolidating insurance coverages for properties requiring insurance by bond indenture;
- (5) Establishing an emergency fund to provide assistance to state agencies in the event of serious property loss;
- (6) Self-insuring liability risks to public and professional third parties;
- (7) Funding of the tort claims revolving fund on an actuarial basis;
- (8) A program of excess liability coverage above a selected self-insurance limit;
- (9) Identification of cost savings and cost avoidances achieved during the preceding two years; and
- (10) Appropriate recommendations for new or amended legislation. [1987 c 505 § 25; 1985 c 188 § 3; 1977 ex.s. c 270 § 2.]

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

43.19.19363 Risk management—Definitions applicable to RCW 43.19.19361 and 43.19.19362. As used in RCW 43.19.19361 and 43.19.19362:

- (1) "State agency" includes any state office, agency, commission, department, or institution, including colleges, universities, and community colleges, financed in whole or part from funds appropriated by the legislature; and
- (2) "Risk management" means the total effort and continuous step by step process of risk identification, measurement, minimization, assumption, transfer, and loss adjustment which is aimed at protecting assets and revenues against accidental loss. [1977 ex.s. c 270 § 3.]

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

43.19.19364 Construction—1977 ex.s. c 270. Nothing in *this 1977 amendatory act shall be construed as amending, repealing, or otherwise affecting RCW 28B.20.250 through 28B.20.255. [1977 ex.s. c 270 § 9.]

*Reviser's note: "This 1977 amendatory act" consists of the enactment of RCW 43.19.19361, 43.19.19362, 43.19.19363, 43.19.19364, and 43.19.19365; the 1977 amendments to RCW 43.17.100, 43.19.030, 43.19.190, 43.19.1906, and 43.19.1935; and the repeal of RCW 75.08.023.

43.19.19367 Risk management office—Enforcement of bonds under RCW 39.59.010. The director of general administration, through the risk management office, shall receive and enforce bonds posted pursuant to RCW 39.59.010 (3) and (4). [1988 c 281 § 6.]

Severability—1988 c 281: See RCW 39.59.900.

43.19.19368 Risk management—Safety and loss control program established. (1) The office of risk management shall establish a coordinated safety and loss control program to reduce liability exposure, safeguard state assets, and reduce costs associated with state liability and property losses.

(2) State agencies shall provide top management support and commitment to safety and loss control, and develop awareness through education, training, and information sharing.

(3) The office of risk management shall develop and maintain centralized loss history information for the purpose of identifying and analyzing risk exposures. Loss history information shall be privileged and confidential and reported only to appropriate agencies.

(4) The office of risk management shall develop methods of statistically monitoring agency and state-wide effectiveness in controlling losses.

(5) The office of risk management will routinely review agency loss control programs as appropriate to suggest improvements, and observe and recognize successful safety policies and procedures.

(6) The office of risk management shall provide direct assistance to smaller state agencies in technical aspects of proper safety and loss control procedures, upon request. [1989 c 419 § 6.]

Intent—Effective date—1989 c 419: See notes following RCW 4.92.006.

43.19.19369 Risk management—Liability account—Actuarial studies. The department of general administration shall conduct periodic actuarial studies to determine the amount of money needed to adequately fund the liability account. [1989 c 419 § 11.]

Intent—Effective date—1989 c 419: See notes following RCW 4.92.006.

Liability account created: RCW 4.92.130.

43.19.1937 Acceptance of benefits, gifts, etc., prohibited—Penalties. No state employee whose duties performed for the state include:

- (1) Advising on or drawing specifications for supplies, equipment, commodities, or services;
- (2) Suggesting or determining vendors to be placed upon a bid list;

(3) Drawing requisitions for supplies, equipment, commodities, or services;

(4) Evaluating specifications or bids and suggesting or determining awards; or

(5) Accepting the receipt of supplies, equipment, and commodities or approving the performance of services or contracts;

shall accept or receive, directly or indirectly, a personal financial benefit, or accept any gift, token, membership, or service, as a result of a purchase entered into by the state, from any person, firm, or corporation engaged in the sale, lease, or rental of property, material, supplies, equipment, commodities, or services to the state of Washington.

Violation of this section shall be considered a malfeasance and may cause loss of position, and the violator shall be liable to the state upon his official bond for all damages sustained by the state. Contracts involved may be canceled at the option of the state. Penalties provided in this section are not exclusive, and shall not bar action under any other statute penalizing the same act or omission. [1995 c 269 § 1405; 1975-'76 2nd ex.s. c 21 § 13; 1965 c 8 § 43.19.1937. Prior: 1959 c 178 § 19.]

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

Public officers

code of ethics: Chapters 42.23 and 42.52 RCW.

misconduct: Chapter 42.20 RCW.

43.19.1939 Unlawful to offer, give, accept, benefits as inducement for or to refrain from bidding—Penalty.

When any competitive bid or bids are to be or have been solicited, requested, or advertised for by the state under the provisions of RCW 43.19.190 through 43.19.1939, it shall be unlawful for any person acting for himself, or as agent of another, to offer, give, or promise to give, any money, check, draft, property, or other thing of value, to another for the purpose of inducing such other person to refrain from submitting any bids upon such purchase or to enter into any agreement, understanding or arrangement whereby full and unrestricted competition for the securing of such public work will be suppressed, prevented, or eliminated; and it shall be unlawful for any person to solicit, accept or receive any money, check, draft, property, or other thing of value upon a promise or understanding, express or implied, that he individually or as an agent or officer of another will refrain from bidding upon such contract, or that he will on behalf of himself or such others submit or permit another to submit for him any bid upon such purchase in such sum as to eliminate full and unrestricted competition thereon. Any person violating any provision of this section shall be guilty of a misdemeanor. [1965 c 8 § 43.19.1939. Prior: 1959 c 178 § 20.]

Competitive bidding on public works, suppression or collusion, penalty: RCW 9.18.120 through 9.18.150.

43.19.200 Duty of others in relation to purchases—Emergency purchases—Written notifications.

(1) The governing authorities of the state's educational institutions, the elective state officers, the supreme court, the court of

appeals, the administrative and other departments of the state government, and all appointive officers of the state, shall prepare estimates of the supplies required for the proper conduct and maintenance of their respective institutions, offices, and departments, covering periods to be fixed by the director, and forward them to the director in accordance with his directions. No such authorities, officers, or departments, or any officer or employee thereof, may purchase any article for the use of their institutions, offices, or departments, except in case of emergency purchases as provided in subsection (2) of this section.

(2) The authorities, officers, and departments enumerated in subsection (1) of this section may make emergency purchases in response to unforeseen circumstances beyond the control of the agency which present a real, immediate, and extreme threat to the proper performance of essential functions or which may reasonably be expected to result in excessive loss or damage to property, bodily injury, or loss of life. When an emergency purchase is made, the agency head shall submit written notification of the purchase, within three days of the purchase, to the director of general administration. This notification shall contain a description of the purchase, description of the emergency and the circumstances leading up to the emergency, and an explanation of why the circumstances required an emergency purchase.

(3) Purchases made for the state's educational institutions, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of the state government, and the offices of all appointive officers of the state, shall be paid for out of the moneys appropriated for supplies, material, and service of the respective institutions, offices, and departments.

(4) The director of general administration shall submit, on an annual basis, the written notifications required by subsection (2) of this section to the director of financial management. [1986 c 158 § 10; 1984 c 102 § 2; 1971 c 81 § 111; 1965 c 8 § 43.19.200. Prior: 1955 c 285 § 13; prior: 1921 c 7 § 37, part; RRS § 10795, part.]

Findings—1984 c 102: "The legislature finds that the emergency purchasing provisions of state law are being more liberally construed than the legislature originally intended. Therefore, the legislature finds that it is necessary to clarify the law as it pertains to emergency purchases and to provide a mechanism for legislative oversight." [1984 c 102 § 1.]

43.19.450 Supervisor of engineering and architecture—Qualifications—Appointment—Powers and duties—Delegation of authority.

The director of general administration shall appoint and deputize an assistant director to be known as the supervisor of engineering and architecture who shall have charge and supervision of the division of engineering and architecture. With the approval of the director, the supervisor may appoint and employ such assistants and personnel as may be necessary to carry out the work of the division.

No person shall be eligible for appointment as supervisor of engineering and architecture unless he or she is licensed to practice the profession of engineering or the profession of architecture in the state of Washington and for the last five years prior to his or her appointment has been licensed to practice the profession of engineering or the profession of architecture.

As used in this section, "state facilities" includes all state buildings, related structures, and appurtenances constructed for any elected state officials, institutions, departments, boards, commissions, colleges, community colleges, except the state universities, The Evergreen State College and regional universities. "State facilities" does not include facilities owned by or used for operational purposes and constructed for the department of transportation, department of fish and wildlife, department of natural resources, or state parks and recreation commission.

The director of general administration, through the division of engineering and architecture shall:

(1) Prepare cost estimates and technical information to accompany the capital budget and prepare or contract for plans and specifications for new construction and major repairs and alterations to state facilities.

(2) Contract for professional architectural, engineering, and related services for the design of new state facilities and major repair or alterations to existing state facilities.

(3) Provide contract administration for new construction and the repair and alteration of existing state facilities.

(4) In accordance with the public works laws, contract on behalf of the state for the new construction and major repair or alteration of state facilities.

The director may delegate any and all of the functions under subsections (1) through (4) of this section to any agency upon such terms and conditions as considered advisable.

The director may delegate the authority granted to the department under RCW 39.04.150 to any agency upon such terms as considered advisable. [1994 c 264 § 15; 1988 c 36 § 14; 1982 c 98 § 3; 1981 c 136 § 63; 1979 c 141 § 45; 1965 c 8 § 43.19.450. Prior: 1959 c 301 § 4.]

Effective date—1981 c 136: See RCW 72.09.900.

Department of general administration authorized to establish small works roster of public works contractors: RCW 39.04.150.

43.19.455 Purchase of works of art—Procedure.

Except as provided under RCW 43.17.210, the Washington state arts commission shall determine the amount to be made available for the purchase of art under RCW 43.17.200 in consultation with the director of general administration, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the director of general administration. However, the costs to carry out the Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to under this section, RCW 43.17.200, 28A.335.210, or 28B.10.025, but shall be contingent upon adequate appropriations being made for that purpose. [1990 c 33 § 576; 1983 c 204 § 6; 1974 ex.s. c 176 § 3.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1983 c 204: See note following RCW 43.46.090.

Acquisition of works of art for public buildings and lands—Visual arts program established: RCW 43.46.090.

Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions: RCW 43.17.200.

State art collection: RCW 43.46.095.

43.19.500 Department of general administration facilities and services revolving fund. There is hereby created a fund within the state treasury designated as the "department of general administration facilities and services revolving fund". Such revolving fund shall be used by the department of general administration for the payment of certain costs, expenses, and charges, as specified in this section, incurred by it in the operation and administration of the department in the rendering of services, the furnishing or supplying of equipment, supplies and materials, and for providing or allocating facilities, including the operation, maintenance, rehabilitation, or furnishings thereof to other agencies, offices, departments, activities, and other entities enumerated in RCW 43.01.090 and including the rendering of services in acquiring real estate under RCW 43.82.010 and the operation and maintenance of nonassigned public spaces in Thurston county. The department shall treat the rendering of services in acquiring real estate and the operation and maintenance of nonassigned public spaces as separate operating entities within the fund for financial accounting and control.

The schedule of services, facilities, equipment, supplies, materials, maintenance, rehabilitation, furnishings, operations, and administration to be so financed and recovered shall be determined jointly by the director of general administration and the director of financial management, in equitable amounts which, together with any other income or appropriation, will provide the department of general administration with funds to meet its anticipated expenditures during any allotment period.

The director of general administration may adopt rules governing the provisions of RCW 43.01.090 and this section and the relationships and procedures between the department of general administration and such other entities. [1994 c 219 § 17; 1982 c 41 § 2; 1979 c 151 § 101; 1971 ex.s. c 159 § 2.]

Findings—Purpose—1994 c 219: See note following RCW 43.01.090.

Finding—1994 c 219: See note following RCW 43.88.030.

Effective dates—1982 c 41: See note following RCW 43.82.010.

Agricultural commodity commissions exempt: RCW 15.04.200.

General administration facilities and services revolving fund—Approval of certain changes required: RCW 43.88.350.

43.19.501 Thurston county capital facilities account.

The Thurston county capital facilities account is created in the state treasury. The account is subject to the appropriation and allotment procedures under chapter 43.88 RCW. Moneys in the account may be expended for capital projects in facilities owned and managed by the department of general administration in Thurston county. [1994 c 219 § 18.]

Findings—Purpose—1994 c 219: See note following RCW 43.01.090.

Finding—1994 c 219: See note following RCW 43.88.030.

43.19.520 Purchase of products and services from sheltered workshops and programs—Intent. It is the intent of the legislature to encourage state agencies and de-

partments to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services which operate facilities serving the handicapped and disadvantaged. [1974 ex.s. c 40 § 1.]

43.19.525 . Purchase of products and services from sheltered workshops and programs—Definitions. As used in RCW 43.19.520 and 43.19.530 the term "sheltered workshops" shall have the meaning ascribed to it by RCW 82.04.385 and "programs of the department of social and health services" shall mean the group training homes and day training centers defined in *RCW 72.33.800. [1974 ex.s. c 40 § 2.]

*Reviser's note: RCW 72.33.800 was repealed by 1988 c 176 § 1007. See Title 71A RCW.

43.19.530 Purchase of products and services from sheltered workshops and programs—Authorized—Fair market price. The state agencies and departments are hereby authorized to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services. Such purchases shall be at the fair market price of such products and services as determined by the division of purchasing of the department of general administration. To determine the fair market price the division shall use the last comparable bid on the products and/or services or in the alternative the last price paid for the products and/or services. The increased cost of labor, materials, and other documented costs since the last comparable bid or the last price paid are additional cost factors which shall be considered in determining fair market price. Upon the establishment of the fair market price as provided for in this section the division is hereby empowered to negotiate directly with sheltered workshops or officials in charge of the programs of the department of social and health services for the purchase of the products or services. [1977 ex.s. c 10 § 2; 1974 ex.s. c 40 § 3.]

43.19.534 Purchase of articles or products from inmate work programs—Replacement of goods and services obtained from outside the state—Rules. State agencies, the legislature, and departments shall purchase for their use all goods and services required by the legislature, agencies, or departments that are produced or provided in whole or in part from class II inmate work programs operated by the department of corrections through state contract. These goods and services shall not be purchased from any other source unless, upon application by the department or agency: (1) The department of general administration finds that the articles or products do not meet the reasonable requirements of the agency or department, (2) are not of equal or better quality, or (3) the price of the product or service is higher than that produced by the private sector. However, the criteria contained in (1), (2), and (3) of this section for purchasing goods and services from sources other than correctional industries do not apply to goods and services produced by correctional industries that primarily replace goods manufactured or services obtained from outside the state. The department of corrections and

department of general administration shall adopt administrative rules that implement this section. [1993 sp.s. c 20 § 1; 1986 c 94 § 2.]

Severability—1993 sp.s. c 20: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 sp.s. c 20 § 9.]

43.19.535 Purchase of goods and services from inmate work programs. Any person, firm, or organization which makes any bid to provide any goods or any services to any state agency shall be granted a preference over other bidders if (1) the goods or services have been or will be produced or provided in whole or in part by an inmate work program of the department of corrections and (2) an amount equal to at least fifteen percent of the total bid amount has been paid or will be paid by the person, firm, or organization to inmates as wages. The preference provided under this section shall be equal to ten percent of the total bid amount. [1981 c 136 § 15.]

Effective date—1981 c 136: See RCW 72.09.900.

43.19.536 Contracts subject to requirements established under office of minority and women's business enterprises. All contracts entered into and purchases made, including leasing or renting, under this chapter on or after September 1, 1983, are subject to the requirements established under chapter 39.19 RCW. [1983 c 120 § 13.]

Effective date—Applicability—Severability—Conflict with federal requirements—1983 c 120: See RCW 39.19.910, 39.19.920.

43.19.538 Purchase of products containing recycled material—Preference—Specifications and rules—Review. (1) The director of general administration, through the state purchasing director, shall develop specifications and adopt rules for the purchase of products which will provide for preferential purchase of products containing recycled material by:

(a) The use of a weighting factor determined by the amount of recycled material in a product, where appropriate and known in advance to potential bidders, to determine the lowest responsible bidder. The actual dollars bid shall be the contracted amount. If the department determines, according to criteria established by rule that the use of this weighting factor does not encourage the use of more recycled material, the department shall consider and award bids without regard to the weighting factor. In making this determination, the department shall consider but not be limited to such factors as adequate competition, economics or environmental constraints, quality, and availability.

(b) Requiring a written statement of the percentage range of recycled content from the bidder providing products containing recycled [material]. The range may be stated in five percent increments.

(2) The director shall develop a directory of businesses that supply products containing significant quantities of recycled materials. This directory may be combined with and made accessible through the data base of recycled content products to be developed under RCW 43.19A.060.

(3) The director shall encourage all parties using the state purchasing office to purchase products containing recycled materials.

(4) The rules, specifications, and bid evaluation shall be consistent with recycled content standards adopted under RCW 43.19A.020. [1991 c 297 § 5; 1988 c 175 § 2; 1987 c 505 § 26; 1982 c 61 § 2.]

Captions not law—1991 c 297: See RCW 43.19A.900.

Effective date—1988 c 175: "This act shall take effect July 1, 1988." [1988 c 175 § 4.]

Recycled product procurement: Chapter 43.19A RCW.

State purchasing and material control director: RCW 43.19.180.

43.19.540 Bonds of state officers and employees—Fixing amount—Additional bonds—Exemptions—Duties of director. In addition to other powers and duties prescribed by this chapter, the director shall:

(1) Fix the amount of bond to be given by each appointive state officer and each employee of the state in all cases where it is not fixed by law;

(2) Require the giving of an additional bond, or a bond in a greater amount than provided by law, in all cases where in his judgment the statutory bond is not sufficient in amount to cover the liabilities of the officer or employee;

(3) Exempt subordinate employees from giving bond when in his judgment their powers and duties are such as not to require a bond. [1975 c 40 § 13.]

43.19.550 Motor vehicle management—Uniform policies—Legislative finding and intent. The legislature finds that:

(1) Uniform management policies, practices, and data systems governing state-owned passenger motor vehicles will increase efficiency of the state's motor vehicle operations, result in cost savings, and contribute to effective use of motor vehicle assets in support of state employees conducting state business;

(2) To ensure compliance with federal and state environmental protection laws, the state must establish an orderly process for the identification, inspection, and, if necessary, repair or replacement of state-owned fuel storage tanks;

(3) Establishment of a state-wide fuel purchase, distribution, and accounting system will result in savings to the state and its agencies on fuel purchases;

(4) Effective safe driving programs for employees who drive the state's motor vehicles will reduce accidents, protect employees from injury and death, and avoid costs associated with liability claims and damage to state property; and

(5) Establishment of reasonable policies for vehicle life-cycle replacement, vehicle marking, and other efficiency and performance practices can result in significant cost savings to the state.

It is therefore the intent of the legislature to improve the service, efficiency, cost-effectiveness, and safety of passenger motor vehicle operations in state government by requiring the department of general administration to establish policies, procedures, and standards that apply to those operations in all state agencies and institutions of higher education. The policies, procedures, and standards shall be consistent with and carry out the objectives of any general policies adopted by the office of financial management pursuant to RCW 43.41.130. [1989 c 57 § 1.]

Effective date—1989 c 57: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state

government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 57 § 11.]

43.19.552 Definitions—Construction. (1) For purposes of RCW 43.19.550 through 43.19.558, (a) the term "state agency" has the meaning given it in RCW 43.19.560; and (b) "passenger motor vehicle" means any sedan, station wagon, van, light truck, or other motor vehicle under ten thousand pounds gross vehicle weight.

(2) Nothing in this chapter may be construed to mean that passenger motor vehicles or related facilities and equipment owned or operated by other agencies are transferred to the department of general administration. [1989 c 57 § 2.]

Effective date—1989 c 57: See note following RCW 43.19.550.

43.19.554 State-wide management of state-owned vehicles—Director's powers and duties. (1) To carry out the purposes of RCW 43.19.550 through 43.19.558 and 46.08.065, the director of general administration has the following powers and duties:

(a) To develop and implement a state-wide information system to collect, analyze, and disseminate data on the acquisition, operation, management, maintenance, repair, disposal, and replacement of all state-owned passenger motor vehicles. State agencies shall provide the department with such data as is necessary to implement and maintain the system. The department shall provide state agencies with information and reports designed to assist them in achieving efficient and cost-effective management of their passenger motor vehicle operations.

(b) To survey state agencies to identify the location, ownership, and condition of all state-owned fuel storage tanks.

(c) In cooperation with the department of ecology and other public agencies, to prepare a plan and funding proposal for the inspection and repair or replacement of state-owned fuel storage tanks, and for the clean-up of fuel storage sites where leakage has occurred. The plan and funding proposal shall be submitted to the governor no later than December 1, 1989.

(d) To develop and implement a state-wide motor vehicle fuel purchase, distribution, and accounting system to be used by all state agencies and their employees. The director may exempt agencies from participation in the system if the director determines that participation interferes with the statutory duties of the agency.

(e) To establish minimum standards and requirements for the content and frequency of safe driving instruction for state employees operating state-owned passenger motor vehicles, which shall include consideration of employee driving records. In carrying out this requirement, the department shall consult with other agencies that have expertise in this area.

(f) To develop a schedule, after consultation with affected state agencies, for state employees to participate in safe driving instruction.

(g) To require all state employees to provide proof of a driver's license recognized as valid under Washington state law prior to operating a state-owned passenger vehicle.

(h) To develop standards for the efficient and economical replacement of all categories of passenger motor vehicles

used by state agencies and provide those standards to state agencies and the office of financial management.

(i) To develop and implement a uniform system and standards to be used for the marking of passenger motor vehicles as state-owned vehicles as provided for in RCW 46.08.065. The system shall be designed to enhance the resale value of passenger motor vehicles, yet ensure that the vehicles are clearly identified as property of the state.

(j) To develop and implement other programs to improve the performance, efficiency, and cost-effectiveness of passenger motor vehicles owned and operated by state agencies.

(k) To consult with state agencies and institutions of higher education in carrying out RCW 43.19.550 through 43.19.558.

(2) The director shall establish an operational unit within the department to carry out subsection (1) of this section. The director shall employ such personnel as are necessary to carry out RCW 43.19.550 through 43.19.558. Not more than three employees within the unit may be exempt from chapter 41.06 RCW.

(3) No later than December 31, 1992, the director shall report to the governor and appropriate standing committees of the legislature on the implementation of programs prescribed by this section, any cost savings and efficiencies realized by their implementation, and recommendations for statutory changes. [1994 sp.s. c 9 § 803; 1990 c 75 § 1; 1989 c 57 § 3.]

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Effective date—1989 c 57: See note following RCW 43.19.550.

43.19.558 Motor vehicle management programs—

Costs. The motor transport account shall be used to pay the costs of carrying out the programs provided for in RCW 43.19.550 through 43.19.558, unless otherwise specified by law. The director of general administration may recover the costs of the programs by billing agencies that own and operate passenger motor vehicles on the basis of a per vehicle charge. The director of general administration, after consultation with affected state agencies, shall establish the rates. All rates shall be approved by the director of financial management. The proceeds generated by these charges shall be used solely to carry out RCW 43.19.550 through 43.19.558. [1994 sp.s. c 9 § 802; 1989 c 57 § 5.]

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Effective date—1989 c 57: See note following RCW 43.19.550.

Motor transport account: RCW 43.19.610.

43.19.560 Motor vehicle transportation service—

Definitions. As used in RCW 43.19.565 through 43.19.635, 43.41.130 and 43.41.140, the following definitions shall apply:

(1) "Passenger motor vehicle" means any sedan, station wagon, bus, or light truck which is designed for carrying ten passengers or less and is used primarily for the transportation of persons;

(2) "State agency" shall include any state office, agency, commission, department, or institution financed in whole or in part from funds appropriated by the legislature. It shall

also include the Washington state school director's association and the state printer, but it shall not include (a) the state supreme court or any agency of the judicial branch or (b) the legislature or any of its statutory, standing, special, or interim committees, other than at the option of the judicial or legislative agency or committee concerned;

(3) "Employee commuting" shall mean travel by a state officer or employee to or from his or her official residence or other domicile to or from his or her official duty station or other place of work;

(4) "Motor vehicle transportation services" shall include but not be limited to the furnishing of motor vehicles for the transportation of persons or property, with or without drivers, and may also include furnishing of maintenance, storage, and other support services to state agencies for the conduct of official state business. [1983 c 187 § 3; 1975 1st ex.s. c 167 § 2.]

Effective date—1983 c 187: See RCW 28A.345.902.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

Power to appoint or employ personnel does not include power to provide state owned or leased vehicle: RCW 43.01.150.

43.19.565 Motor vehicle transportation service—Powers and duties. The department of general administration shall establish a motor vehicle transportation service which is hereby empowered to (1) provide suitable motor vehicle transportation services to any state agency on either a temporary or permanent basis upon requisition from a state agency and upon such demonstration of need as the department may require; (2) provide motor pools for the use of state agencies located in the Olympia and Seattle areas and such additional motor pools at other locations in the state as may be necessary to provide economic, efficient, and effective motor vehicle transportation services to state agencies. Such additional motor pools may be under either the direct control of the department or under the supervision of another state agency by agreement with the department; (3) establish an equitable schedule of rental and mileage charges to agencies for motor vehicle transportation services furnished which shall be designed to provide funds to cover replacement of vehicles and to recover the actual total costs of motor pool operations including but not limited to vehicle operation expense, depreciation expense, overhead, and nonrecoverable collision or other damage to vehicles. Additions to capital such as the purchase of additional vehicles shall be budgeted and purchased from funds appropriated for such purposes under such procedures as may be provided by law. [1975 1st ex.s. c 167 § 3.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.570 Motor vehicle transportation service—Responsibilities—Agreements with other agencies—Alternative fuels. (1) The department shall direct and be responsible for the acquisition, operation, maintenance, storage, repair, and replacement of state motor vehicles under its control. The department shall utilize state facilities available for the maintenance, repair, and storage of such motor vehicles, and may provide directly or by contract for the maintenance, repair, and servicing of all motor vehicles, and other property related thereto and under its control.

(2) The department may arrange, by agreement with agencies, for the utilization by one of the storage, repair, or maintenance facilities of another, with such provision for charges and credits as may be agreed upon. The department may acquire and maintain storage, repair, and maintenance facilities for the motor vehicles under its control from such funds as may be appropriated by the legislature.

(3)(a) The legislature finds that a clean environment is important and that global warming effects may be offset by decreasing the emissions of harmful compounds from motor vehicles. The legislature further finds that the state is in a position to set an example of large scale use of alternative fuels in motor vehicles.

(b) The department shall consider the use of state vehicles to conduct field tests on alternative fuels in areas where air pollution constraints may be eased by these optional fuels. These fuels should include but are not limited to gas-powered and electric-powered vehicles.

(c) For planned purchases of vehicles using alternative fuels, the department and other state agencies shall explore opportunities to purchase these vehicles together with the federal government, agencies of other states, other Washington state agencies, local governments, or private organizations for less cost. [1989 c 113 § 1; 1982 c 163 § 11; 1975 1st ex.s. c 167 § 4.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

Alternative fuels: RCW 43.41.130.

43.19.575 Passenger motor vehicles owned or operated by state agencies—Duty of the office of financial management to establish policies as to acquisition, operation, authorized use, etc. See RCW 43.41.130.

43.19.582 Motor vehicle transportation service—Automotive policy board abolished—Transfer of powers, duties, and functions. The automotive policy board established by this chapter is abolished. All powers, duties, and functions of the board are transferred to the department of general administration. [1982 c 163 § 10.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

43.19.585 Motor vehicle transportation service—Supervisor of motor transport—Powers and duties. The director of general administration shall appoint a supervisor of motor transport, who shall have general charge and supervision of state motor pools and motor vehicle transportation services under departmental administration and control. The appointment of all personnel, except the supervisor, shall be made pursuant to chapter 41.06 RCW, the state civil service law, as now or hereafter amended.

With the approval of the director, the supervisor shall (1) appoint and employ such assistants and personnel as may be necessary, (2) acquire by purchase or otherwise a sufficient number of motor vehicles to fulfill state agency needs for motor vehicle transportation service, (3) provide for necessary storage, upkeep, and repair, and (4) provide for

servicing motor pool vehicles with fuel, lubricants, and other operating requirements. [1975 1st ex.s. c 167 § 7.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.590 Motor vehicle transportation service—Transfer of employees—Retention of employment rights. All employees of any state agency who are employed exclusively or principally in performing the powers, duties, and functions transferred pursuant to RCW 43.19.595 through 43.19.610 to the department of general administration shall, upon such transfer to employment with the department of general administration, continue to be governed by the provisions of chapter 41.06 RCW, the state civil service law, as now or hereafter amended, and shall automatically retain their permanent or probationary status together with all rights, privileges, and immunities attaching thereto. [1975 1st ex.s. c 167 § 8.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.595 Motor vehicle transportation service—Transfer of motor vehicles, property, etc., from motor pool to department. All passenger motor vehicles, property, facilities, equipment, credits, funds, and all other assets and obligations of the automobile pool and pertaining to passenger motor vehicles currently operated by the department of highways and funded by that portion of the highway equipment fund known as "District No. 8 (Motor Pool)" shall be transferred to the department of general administration on July 1, 1975. The director of general administration may accept such property prior thereto if he deems it expedient to accomplish an orderly transition. [1975 1st ex.s. c 167 § 9.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.600 Motor vehicle transportation service—Transfer of passenger motor vehicles to department from other agencies—Studies. (1) On or after July 1, 1975, any passenger motor vehicles currently owned or hereafter acquired by any state agency, except vehicles acquired from federal granted funds and over which the federal government retains jurisdiction and control, may be purchased by or transferred to the department of general administration with the consent of the state agency concerned. The director of general administration may accept vehicles subject to the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 prior to July 1, 1975, if he deems it expedient to accomplish an orderly transition.

(2) The department, in cooperation with the office of financial management, shall study and ascertain current and prospective needs of state agencies for passenger motor vehicles and shall recommend transfer to a state motor pool or other appropriate disposition of any vehicle found not to be required by a state agency.

(3) The department shall direct the transfer of passenger motor vehicles from a state agency to a state motor pool or other disposition as appropriate, based on a study under subsection (2) of this section, or after a public hearing held by the department, if a finding is made based on testimony

and data therein submitted that the economy, efficiency, or effectiveness of state government would be improved by such a transfer or other disposition of passenger motor vehicles. Any dispute over the accuracy of testimony and data submitted as to the benefits in state governmental economy, efficiency, and effectiveness to be gained by such transfer shall be resolved by the governor or the governor's designee. [1982 c 163 § 12; 1979 c 151 § 102; 1975 1st ex.s. c 167 § 10.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.605 Motor vehicle transportation service—Reimbursement for property transferred—Credits—Accounting—Disputes. No cash reimbursement shall be made to agencies for property transferred under RCW 43.19.600 to the extent that such property was originally acquired without cost or was purchased from general fund appropriations. The value of such property shall be entered upon the accounts of the motor transport account as an amount due the agency from which the vehicle was transferred. For such property purchased from dedicated, revolving, or trust funds, the value at the time of transfer shall also be entered upon the accounts of the motor transport account as an amount due the agency and fund from which the vehicle transferred was purchased and maintained. If surplus funds are available in the motor transport account, the agency may be paid all or part of the amount due to the dedicated, revolving, or trust fund concerned. Otherwise, the credit for the amount due shall be applied proportionately over the remaining undepreciated life of such property. The prorated credits shall be applied monthly by the director of general administration against any monthly or other charges for motor vehicle transportation services rendered the agency.

To the extent surplus funds are available in the motor transport account, the director of general administration may direct a cash reimbursement to a dedicated, revolving, or trust fund where an amount due such a fund will not be charged off to services rendered by the department of general administration within a reasonable time.

Any disagreement between the supervisor of motor transport and an agency as to the amount of reimbursement to which it may be entitled shall be resolved by the director of general administration. [1989 c 57 § 6; 1975 1st ex.s. c 167 § 11.]

Effective date—1989 c 57: See note following RCW 43.19.550.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.610 Motor vehicle transportation service—Motor transport account—Sources—Disbursements. There is hereby established in the state treasury an account to be known as the motor transport account into which shall be paid all moneys, funds, proceeds, and receipts as provided in RCW 43.19.615 and as may otherwise be provided by law. Disbursements therefrom shall be made in accordance with the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 as authorized by the director or a duly authorized representative and as may be provided by

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law. [1991 sp.s. c 13 § 35; 1986 c 312 § 902. Prior: 1985 c 405 § 507; 1985 c 57 § 28; 1975 1st ex.s. c 167 § 12.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—1986 c 312: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 312 § 905.]

Severability—1985 c 405: See note following RCW 9.46.100.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

Use of account proceeds: RCW 43.19.558.

43.19.615 Motor vehicle transportation service—Deposits—Disbursements. The director of general administration shall deposit in the motor transport account all receipts, including the initial transfer of automobile pool capital from the highway equipment fund and any other funds transferred, rentals or other fees and charges for transportation services furnished, proceeds from the sale of surplus or replaced property under the control of the supervisor of motor transport and other income, and from which shall be paid operating costs, including salaries and wages, administrative expense, overhead, the cost of replacement vehicles, additional passenger vehicles authorized pursuant to RCW 43.19.565, and any other expenses. If it is necessary at any time for the department to request any appropriation from the general fund or various dedicated, revolving, or trust funds to purchase additional vehicles, any appropriation therefor may provide that such advance shall be repaid together with reasonable interest from surpluses of the motor transport account. [1975 1st ex.s. c 167 § 13.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.620 Motor vehicle transportation service—Rules and regulations. The director of general administration, through the supervisor of motor transport, shall adopt, promulgate, and enforce such regulations as may be deemed necessary to accomplish the purpose of RCW 43.19.560 through 43.19.630, 43.41.130, and 43.41.140. Such regulations, in addition to other matters, shall provide authority for any agency director or his delegate to approve the use on official state business of personally owned or commercially owned rental passenger motor vehicles. Before such an authorization is made, it must first be reasonably determined that state owned passenger vehicles or other suitable transportation is not available at the time or location required or that the use of such other transportation would not be conducive to the economical, efficient, and effective conduct of business.

Such regulations shall be consistent with and shall carry out the objectives of the general policies and guidelines adopted by the office of financial management pursuant to RCW 43.41.130. [1989 c 57 § 7; 1979 c 151 § 103; 1975 1st ex.s. c 167 § 14.]

Effective date—1989 c 57: See note following RCW 43.19.550.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.625 Employee commuting in state owned or leased vehicle—Policies and regulations. See RCW 43.41.140.

43.19.630 Motor vehicle transportation service—Use of personal motor vehicle. RCW 43.19.560 through 43.19.620, 43.41.130, and 43.41.140 shall not be construed to prohibit a state officer or employee from using his personal motor vehicle on state business and being reimbursed therefor, where permitted under state travel policies, rules, and regulations promulgated by the office of financial management, and where such use is in the interest of economic, efficient, and effective management and performance of official state business. [1989 c 57 § 8; 1979 c 151 § 104; 1975 1st ex.s. c 167 § 16.]

Effective date—1989 c 57: See note following RCW 43.19.550.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.635 Motor vehicle transportation service—Unauthorized use of state vehicles—Procedure—Disciplinary action. (1) The governor, acting through the department of general administration and any other appropriate agency or agencies as he may direct, is empowered to utilize all reasonable means for detecting the unauthorized use of state owned motor vehicles, including the execution of agreements with the state patrol for compliance enforcement. Whenever such illegal use is discovered which involves a state employee, the employing agency shall proceed as provided by law to establish the amount, extent, and dollar value of any such use, including an opportunity for notice and hearing for the employee involved. When such illegal use is so established, the agency shall assess its full cost of any mileage illegally used and shall recover such amounts by deductions from salary or allowances due to be paid to the offending official or employee by other means. Recovery of costs by the state under this subsection shall not preclude disciplinary or other action by the appropriate appointing authority or employing agency under subsection (2) of this section.

(2) Any wilful and knowing violation of any provision of RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 shall subject the state official or employee committing such violation to disciplinary action by the appropriate appointing or employing agency. Such disciplinary action may include, but shall not be limited to, suspension without pay, or termination of employment in the case of repeated violations.

(3) Any casual or inadvertent violation of RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 may subject the state official or employee committing such violation to disciplinary action by the appropriate appointing authority or employing agency. Such disciplinary action may include, but need not be limited to, suspension without pay. [1975 1st ex.s. c 167 § 17.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.637 Clean-fuel vehicles—Purchasing requirements. (1) At least thirty percent of all new vehicles

purchased through a state contract shall be clean-fuel vehicles.

(2) The percentage of clean-fuel vehicles purchased through a state contract shall increase at the rate of five percent each year.

(3) In meeting the procurement requirement established in this section, preference shall be given to vehicles designed to operate exclusively on clean fuels. In the event that vehicles designed to operate exclusively on clean fuels are not available or would not meet the operational requirements for which a vehicle is to be procured, conventionally powered vehicles may be converted to clean fuel or dual fuel use to meet the requirements of this section.

(4) Fuel purchased through a state contract shall be a clean fuel when the fuel is purchased for the operation of a clean-fuel vehicle.

(5)(a) Weight classes are established by the following motor vehicle types:

(i) Passenger cars;

(ii) Light duty trucks, trucks with a gross vehicle weight rating by the vehicle manufacturer of less than eight thousand five hundred pounds;

(iii) Heavy duty trucks, trucks with a gross vehicle weight rating by the vehicle manufacturer of eight thousand five hundred pounds or more.

(b) This subsection does not place an obligation upon the state or its political subdivisions to purchase vehicles in any number or weight class other than to meet the percent procurement requirement.

(6) For the purposes of this section, "clean fuels" and "clean-fuel vehicles" shall be those fuels and vehicles meeting the specifications provided for in RCW 70.120.210. [1991 c 199 § 213.]

Finding—1991 c 199: See note following RCW 70.94.011.

Effective dates—Severability—Captions not law—1991 c 199: See RCW 70.94.904 through 70.94.906.

43.19.668 Energy conservation—Legislative finding—Declaration. The legislature finds and declares that the buildings, facilities, equipment, and vehicles owned or leased by state government consume significant amounts of energy and that energy conservation actions to provide for efficient energy use in these buildings, facilities, equipment, and vehicles will reduce the costs of state government. In order for the operations of state government to provide the citizens of this state an example of energy use efficiency, the legislature further finds and declares that state government should undertake an aggressive program designed to reduce energy use in state buildings, facilities, equipment, and vehicles within a reasonable period of time. The use of appropriate tree plantings for energy conservation is encouraged as part of this program. [1993 c 204 § 6; 1980 c 172 § 1.]

Findings—1993 c 204: See note following RCW 35.92.390.

43.19.669 Energy conservation—Purpose. It is the purpose of RCW 43.19.670 through 43.19.685 to require energy audits in state-owned buildings, to require energy audits as a lease condition in all new, renewed, and renegotiated leases of buildings by the state, to undertake such modifications and installations as are necessary to maximize

the efficient use of energy in these buildings, and to establish a policy for the purchase of state vehicles, equipment, and materials which results in efficient energy use by the state. [1980 c 172 § 2.]

43.19.670 Energy conservation—Definitions. As used in RCW 43.19.670 through 43.19.685, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Energy audit" means a determination of the energy consumption characteristics of a facility which consists of the following elements:

(a) An energy consumption survey which identifies the type, amount, and rate of energy consumption of the facility and its major energy systems. This survey shall be made by the agency responsible for the facility.

(b) A walk-through survey which determines appropriate energy conservation maintenance and operating procedures and indicates the need, if any, for the acquisition and installation of energy conservation measures. This survey shall be made by the agency responsible for the facility if it has technically qualified personnel available. The director of general administration shall provide technically qualified personnel to the responsible agency if necessary.

(c) A technical assistance study, which is an intensive engineering analysis of energy conservation measures for the facility, net energy savings, and a cost-effectiveness determination. This element is required only for those facilities designated in the technical assistance study schedule adopted under RCW 43.19.680(3).

(2) "Energy conservation measure" means an installation or modification of an installation in a facility which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including:

(a) Insulation of the facility structure and systems within the facility;

(b) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;

(c) Automatic energy control systems;

(d) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(e) Solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(f) Solar water heating systems;

(g) Furnace or utility plant and distribution system modifications including replacement burners, furnaces, and boilers which substantially increase the energy efficiency of the heating system; devices for modifying flue openings which will increase the energy efficiency of the heating system; electrical or mechanical furnace ignitions systems which replace standing gas pilot lights; and utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources;

(h) Caulking and weatherstripping;

(i) Replacement or modification of lighting fixtures which increase the energy efficiency of the lighting system;

(j) Energy recovery systems; and

(k) Such other measures as the director finds will save a substantial amount of energy.

(3) "Energy conservation maintenance and operating procedure" means modification or modifications in the maintenance and operations of a facility, and any installations within the facility, which are designed to reduce energy consumption in the facility and which require no significant expenditure of funds.

(4) "Facility" means a building, a group of buildings served by a central energy distribution system, or components of a central energy distribution system.

(5) "Implementation plan" means the annual tasks and budget required to complete all acquisitions and installations necessary to satisfy the recommendations of the energy audit. [1982 c 48 § 1; 1980 c 172 § 3.]

43.19.675 Energy audits of state-owned facilities required—Completion dates. The director of general administration, in cooperation with the director of the state energy office, shall conduct, by contract or other arrangement, an energy audit for each state-owned facility. All energy audits shall be coordinated with and complement other governmental energy audit programs. The energy audit for each state-owned facility located on the capitol campus shall be completed no later than July 1, 1981, and the results and findings of each energy audit shall be compiled and transmitted to the governor and the legislature no later than October 1, 1981. For every other state-owned facility, the energy consumption surveys shall be completed no later than October 1, 1982, and the walk-through surveys shall be completed no later than July 1, 1983. [1982 c 48 § 2; 1980 c 172 § 4.]

Energy audits of school district buildings: RCW 28A.320.330.

43.19.680 Implementation of energy conservation and maintenance procedures after walk-through survey—Transmission of results of energy consumption and walk-through surveys—Schedule for technical assistance studies—Schedule for completion of energy conservation measures—Reports—Private investment in energy conservation measures. (1) Upon completion of each walk-through survey required by RCW 43.19.675, the director of general administration or the agency responsible for the facility if other than the department of general administration shall implement energy conservation maintenance and operation procedures that may be identified for any state-owned facility. These procedures shall be implemented as soon as possible but not later than twelve months after the walk-through survey.

(2) By December 31, 1981, for the capitol campus the director of general administration shall prepare and transmit to the governor and the legislature an implementation plan.

(3) By December 31, 1983, for all other state-owned facilities, the director of general administration shall prepare and transmit to the governor and the legislature the results of the energy consumption and walk-through surveys and a schedule for the conduct of technical assistance studies. This submission shall contain the energy conservation measures planned for installation during the ensuing biennium. Priority considerations for scheduling technical assistance studies shall include but not be limited to a facility's

energy efficiency, responsible agency participation, comparative cost and type of fuels, possibility of outside funding, logistical considerations such as possible need to vacate the facility for installation of energy conservation measures, coordination with other planned facility modifications, and the total cost of a facility modification, including other work which would have to be done as a result of installing energy conservation measures. Energy conservation measure acquisitions and installations shall be scheduled to be twenty-five percent complete by June 30, 1985, or at the end of the capital budget biennium which includes that date, whichever is later, fifty-five percent complete by June 30, 1989, or at the end of the capital budget biennium which includes that date, whichever is later, eighty-five percent complete by June 30, 1993, or at the end of the capital budget biennium which includes that date, whichever is later, and fully complete by June 30, 1995, or at the end of the capital budget biennium which includes that date, whichever is later. Each state agency shall implement energy conservation measures with a payback period of twenty-four months or less that have a positive cash flow in the same biennium.

For each biennium until all measures are installed, the director of general administration shall report to the governor and legislature installation progress, measures planned for installation during the ensuing biennium, and changes, if any, to the technical assistance study schedule. This report shall be submitted by December 31, 1984, or at the end of the following year whichever immediately precedes the capital budget adoption, and every two years thereafter until all measures are installed.

(4) The director of general administration shall adopt rules to facilitate private investment in energy conservation measures for state-owned buildings consistent with state law. [1996 c 186 § 506; 1986 c 325 § 2; 1983 c 313 § 1; 1982 c 48 § 3; 1980 c 172 § 5.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Findings—1986 c 325: See note following RCW 43.41.170.

Budgeting process—Guidelines to ensure agencies implementing energy conservation retain cost savings: RCW 43.41.170.

43.19.682 Energy conservation to be included in landscape objectives. The director of the department of general administration shall seek to further energy conservation objectives among other landscape objectives in planting and maintaining trees upon grounds administered by the department. [1993 c 204 § 9.]

Findings—1993 c 204: See note following RCW 35.92.390.

43.19.685 Lease covenants, conditions, and terms to be developed—Applicability. The director of general administration shall develop lease covenants, conditions, and terms which:

- (1) Obligate the lessor to conduct or have conducted a walk-through survey of the leased premises;
- (2) Obligate the lessor to implement identified energy conservation maintenance and operating procedures upon completion of the walk-through survey; and
- (3) Obligate the lessor to undertake technical assistance studies and subsequent acquisition and installation of energy conservation measures if the director of general administra-

tion, in accordance with rules adopted by the department, determines that these studies and measures will both conserve energy and can be accomplished with a state funding contribution limited to the savings which would result in utility expenses during the term of the lease.

These lease covenants, conditions, and terms shall be incorporated into all specified new, renewed, and renegotiated leases executed on or after January 1, 1983. This section applies to all leases under which state occupancy is at least half of the facility space and includes an area greater than three thousand square feet. [1982 c 48 § 4; 1980 c 172 § 6.]

43.19.700 In-state preference clauses—Finding—Intent. The legislature finds that in-state preference clauses used by other states in procuring goods and services have a discriminatory effect against Washington vendors with resulting harm to this state's revenues and the welfare of this state's citizens. *This act is intended to promote fairness in state government procurement by requiring that, when appropriate, Washington exercise reciprocity with those states having in-state preferences, and it shall be liberally construed to that effect. [1983 c 183 § 1.]

***Reviser's note:** "This act" consists of the enactment of RCW 43.19.700, 43.19.702, and 43.19.704 and the 1983 c 183 amendment to RCW 43.19.1911.

43.19.702 List of statutes and regulations of each state on state purchasing which grant preference to in-state vendors. The director of general administration shall compile a list of the statutes and regulations, relating to state purchasing, of each state, which statutes and regulations the director believes grant a preference to vendors located within the state or goods manufactured within the state. At least once every twelve months the director shall update the list. [1983 c 183 § 2.]

43.19.704 Rules for reciprocity in bidding. The director of general administration shall adopt and apply rules designed to provide for some reciprocity in bidding between Washington and those states having statutes or regulations on the list under RCW 43.19.702. The director of general administration shall have broad discretionary power in developing these rules and the rules shall provide for reciprocity only to the extent and in those instances where the director considers it appropriate. For the purpose of determining the lowest responsible bidder pursuant to RCW 43.19.1911, such rules shall (1) require the director to impose a reciprocity increase on bids when appropriate under the rules and (2) establish methods for determining the amount of the increase. In no instance shall such increase, if any, be paid to a vendor whose bid is accepted. [1983 c 183 § 3.]

43.19.710 Consolidated mail service—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 43.19.715.

(1) "Consolidated mail service" means incoming, outgoing, and internal mail processing.

(2) "Department" means the department of general administration.

(3) "Director" means the director of the department of general administration.

(4) "Agency" means:

(a) The office of the governor; and

(b) Any office, department, board, commission, or other separate unit or division, however designated, of the state government, together with all personnel thereof: Upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature; and that has as its chief executive officer a person or combination of persons such as a commission, board, or council, by law empowered to operate it, responsible either to: (i) No other public officer or (ii) the governor.

(5) "Incoming mail" means mail, packages, or similar items received by an agency, through the United States postal service, private carrier services, or other courier services.

(6) "Outgoing mail" means mail, packages, or similar items processed for agencies to be sent through the United States postal service, private carrier services, or other courier services.

(7) "Internal mail" means interagency mail, packages, or similar items that are delivered or to be delivered to a state agency, the legislature, the supreme court, or the court of appeals, and their officers and employees. [1993 c 219 § 2.]

Intent—1993 c 219: "It is the intent of the legislature to consolidate mail functions for state government in a manner that will provide timely, effective, efficient, and less-costly mail service for state government." [1993 c 219 § 1.]

Effective date—1993 c 219: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 219 § 6.]

43.19.715 Consolidated mail service—Area served.

The director shall establish a consolidated mail service to handle all incoming, outgoing, and internal mail in the 98504 zip code area or successor zip code areas for agencies in the Olympia, Tumwater, and Lacey area. The director may include additional geographic areas within the consolidated mail service, based upon his or her determination. The department shall also provide mail services to legislative and judicial agencies in the Olympia, Tumwater, and Lacey area upon request.

The director may bill state agencies and other entities periodically for mail services rendered. [1993 c 219 § 3.]

Intent—Effective date—1993 c 219: See notes following RCW 43.19.710.

43.19.720 Consolidated mail service—Review needs of state agencies.

The department, in cooperation with the office of financial management, shall review current and prospective needs of state agencies for any equipment to process mail throughout state government. If after such consultation, the department should find that the economy, efficiency, or effectiveness of state government would be improved by such a transfer or other disposition, then the property shall be transferred or otherwise disposed.

After making such finding, the department shall direct the transfer of existing state property, facilities, and equipment pertaining to the consolidated mail service or United States postal service. Any dispute concerning the benefits in

state governmental economy, efficiency, and effectiveness shall be resolved by the office of financial management. [1993 c 219 § 5.]

Intent—Effective date—1993 c 219: See notes following RCW 43.19.710.

Chapter 43.19A

RECYCLED PRODUCT PROCUREMENT

Sections

43.19A.005 Purpose.

43.19A.010 Definitions.

43.19A.020 Recycled product purchasing—USEPA product standards.

43.19A.030 Local government duties.

43.19A.040 Local government adoption of preferential purchase policy optional.

43.19A.050 Strategy for state agency procurement.

43.19A.060 Data base of products and vendors.

43.19A.070 Education program—Product substitution list—Model procurement guidelines.

43.19A.080 Bid notification to state recycled content requirements.

43.19A.110 Local road projects—Compost products.

43.19A.900 Captions not law—1991 c 297.

Recycled material products purchase: RCW 43.19.538.

43.19A.005 Purpose. It is the purpose of this chapter to:

(1) Substantially increase the procurement of recycled content products by all local and state governmental agencies and public schools, and provide a model to encourage a comparable commitment by Washington state citizens and businesses in their purchasing practices;

(2) Target government procurement policies and goals toward those recycled products for which there are significant market development needs or that may substantially contribute to solutions to the state's waste management problem;

(3) Provide standards for recycled products for use in procurement programs by all governmental agencies;

(4) Provide the authority for all governmental agencies to adopt preferential purchasing policies for recycled products;

(5) Direct state agencies to develop strategies to increase recycled product purchases, and to provide specific goals for procurement of recycled paper products and organic recovered materials; and

(6) Provide guidance and direction for local governments and other public agencies to develop plans for increasing the procurement of recycled content products. [1991 c 297 § 1.]

43.19A.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Compost products" means mulch, soil amendments, ground cover, or other landscaping material derived from the biological or mechanical conversion of biosolids or cellulose-containing waste materials.

(2) "Department" means the department of general administration.

(3) "Director" means the director of the department of general administration.

(4) "Local government" means a city, town, county, special purpose district, school district, or other municipal corporation.

(5) "Lubricating oil" means petroleum-based oils for reducing friction in engine parts and other mechanical parts.

(6) "Mixed waste paper" means assorted low-value grades of paper that have not been separated into individual grades of paper at the point of collection.

(7) "Municipal sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a publicly owned wastewater treatment plant.

(8) "Biosolids" means municipal sewage sludge or septic tank septage sludge that meets the requirements of chapter 70.95J RCW.

(9) "Paper and paper products" means all items manufactured from paper or paperboard.

(10) "Postconsumer waste" means a material or product that has served its intended use and has been discarded for disposal or recovery by a final consumer.

(11) "Procurement officer" means the person that has the primary responsibility for procurement of materials or products.

(12) "State agency" means all units of state government, including divisions of the governor's office, the legislature, the judiciary, state agencies and departments, correctional institutions, vocational technical institutions, and universities and colleges.

(13) "Recycled content product" or "recycled product" means a product containing recycled materials.

(14) "Recycled materials" means waste materials and by-products that have been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product and consists of materials derived from postconsumer waste, manufacturing waste, industrial scrap, agricultural wastes, and other items, all of which can be used in the manufacture of new or recycled products.

(15) "Re-refined oils" means used lubricating oils from which the physical and chemical contaminants acquired through previous use have been removed through a refining process. Re-refining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals, or other physical treatments other than those used in reclaiming.

(16) "USEPA product standards" means the product standards of the United States environmental protection agency for recycled content published in the code of federal regulations. [1992 c 174 § 12; 1991 c 297 § 2.]

43.19A.020 Recycled product purchasing—USEPA product standards. (1) The USEPA product standards, as now or hereafter amended, are adopted as the minimum standards for the state of Washington. These standards shall be implemented for at least the products listed in (a) and (b) of this subsection by the dates indicated, unless the director finds that a different standard would significantly increase recycled product availability or competition.

(a) By July 1, 1997:

- (i) Paper and paper products;
- (ii) Organic recovered materials; and

(iii) Latex paint products;

(b) By July 1, 1997:

(i) Products for lower value uses containing recycled plastics;

(ii) Retread and remanufactured tires;

(iii) Lubricating oils;

(iv) Automotive batteries;

(v) Building insulation;

(vi) Panelboard; and

(vii) Compost products.

(2) The standards required by this section shall be applied to recycled product purchasing by the department and other state agencies. The standards may be adopted or applied by any other local government in product procurement. The standards shall provide for exceptions under appropriate circumstances to allow purchases of recycled products that do not meet the minimum content requirements of the standards. [1996 c 198 § 1; 1995 c 269 § 1406; 1991 c 297 § 3.]

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

43.19A.030 Local government duties. (1) By January 1, 1993, each local government shall review its existing procurement policies and specifications to determine whether recycled products are intentionally or unintentionally excluded. The policies and specifications shall be revised to include such products unless a recycled content product does not meet an established performance standard of the agency.

(2) By fiscal year 1994, each local government shall adopt a minimum purchasing goal for recycled content as a percentage of the total dollar value of supplies purchased. To assist in achieving this goal each local government shall adopt a strategy by January 1, 1993, and shall submit a description of the strategy to the department. The department shall report to the appropriate standing committees of the legislature by October 1, 1993, on the progress of implementation by local governments, and shall thereafter periodically report on the progress of recycled product purchasing by state and other public agencies. All public agencies shall respond to requests for information from the department for the purpose of its reporting requirements under this section.

(3) Each local government shall designate a procurement officer who shall serve as the primary contact with the department for compliance with the requirements of this chapter.

(4) This section shall apply only to local governments with expenditures for supplies exceeding five hundred thousand dollars for fiscal year 1989. Expenditures for capital goods and for electricity, water, or gas for resale shall not be considered a supply expenditure. [1991 c 297 § 4.]

43.19A.040 Local government adoption of preferential purchase policy optional. (1) Each local government shall consider the adoption of policies, rules, or ordinances to provide for the preferential purchase of recycled content products. Any local government may adopt the preferential purchasing policy of the department of general administration, or portions of such policy, or another policy that provides a preference for recycled content products.

(2) The department of general administration shall prepare one or more model recycled content preferential purchase policies suitable for adoption by local governments. The model policy shall be widely distributed and provided through the technical assistance and workshops under RCW 43.19A.070.

(3) A local government that is not subject to the purchasing authority of the department of general administration, and that adopts the preferential purchase policy or rules of the department, shall not be limited by the percentage price preference included in such policy or rules. [1991 c 297 § 6.]

43.19A.050 Strategy for state agency procurement.

The department shall prepare a strategy to increase purchases of recycled-content products by the department and all state agencies, including higher education institutions. The strategy shall include purchases from public works contracts. The strategy shall address the purchase of plastic products, retread and remanufactured tires, motor vehicle lubricants, latex paint, and lead acid batteries having recycled content. In addition, the strategy shall incorporate actions to achieve the following purchase level goals of recycled content paper and compost products:

(1) Paper products as a percentage of the total dollar amount purchased on an annual basis:

- (a) At least sixty percent by 1996;
- (b) At least seventy percent by 1997;
- (c) At least eighty percent by 1998.

(2) Compost products as a percentage of the total dollar amount on an annual basis:

- (a) At least forty percent by 1996;
- (b) At least sixty percent by 1997;
- (c) At least eighty percent by 1998. [1996 c 198 § 2; 1991 c 297 § 7.]

43.19A.060 Data base of products and vendors.

(1) The department shall develop a data base of available products with recycled-content products, and vendors supplying such products. The data base shall incorporate information regarding product consistency with the content standards adopted under RCW 43.19A.020. The data base shall incorporate information developed through state and local government procurement of recycled-content products.

(2) By December 1, 1992, the department shall report to the appropriate standing committees of the legislature on the cost of making the data base accessible to all state and local governments and to the private sector.

(3) The department shall compile information on purchases made by the department or pursuant to the department's purchasing authority, and information provided by local governments, regarding:

(a) The percentage of recycled content and, if known, the amount of postconsumer waste in the products purchased;

(b) Price;

(c) Agency experience with the performance of recycled products and the supplier under the terms of the purchase; and

(d) Any other information deemed appropriate by the department. [1991 c 297 § 8.]

43.19A.070 Education program—Product substitution list—Model procurement guidelines. (1) The department shall implement an education program to encourage maximum procurement of recycled products by state and local government entities. The program shall include at least the following:

(a) Technical assistance to all state and local governments and their designated procurement officers on the requirements of this chapter, including preparation of model purchase contracts, the preparation of procurement plans, and the availability of recycled products;

(b) Two or more workshops annually in which all state and local government entities are invited;

(c) Information on intergovernmental agreements to facilitate procurement of recycled products.

(2) The director shall, in consultation with the department of ecology, make available to the public, local jurisdictions, and the private sector, a comprehensive list of substitutes for extremely hazardous, hazardous, toxic, and nonrecyclable products, and disposable products intended for a single use. The department and all state agencies exercising the purchasing authorities of the department shall include the substitute products on bid notifications, except where the department allows an exception based upon product availability, price, suitability for intended use, or similar reasons.

(3) The department shall prepare model procurement guidelines for use by local governments. [1991 c 297 § 9.]

43.19A.080 Bid notification to state recycled content requirements. A notification regarding a state or local government's intent to procure products with recycled content must be prominently displayed in the procurement solicitation or invitation to bid including:

(1) A description of the postconsumer waste content or recycled content requirements; and

(2) A description of the agency's recycled content preference program. [1991 c 297 § 11.]

43.19A.110 Local road projects—Compost products. (1) Each county and city required to prepare a strategy under RCW 43.19A.030 shall adopt specifications for compost products to be used in road projects. The specifications developed by the department of transportation under RCW 47.28.220 may be adopted by the city or county in lieu of developing specifications.

(2) After July 1, 1992, any contract awarded in whole or in part for applying soils, soil covers, or soil amendments to road rights of way shall specify that compost materials be purchased in accordance with the following schedule:

(a) For the period July 1, 1992, through June 30, 1994, at least twenty-five percent of the total dollar amount of purchases by the city or county;

(b) On and after July 1, 1994, at least fifty percent of the annual total dollar amount of purchases by the city or county.

(3) The city or county may depart from the schedule in subsection (2) of this section where it determines that no suitable product is available at a reasonable price. [1991 c 297 § 17.]

43.19A.900 Captions not law—1991 c 297. Captions as used in this act constitute no part of the law. [1991 c 297 § 21.]

Chapter 43.20

STATE BOARD OF HEALTH

Sections

- 43.20.025 Definitions.
- 43.20.030 State board of health—Members—Chairman—Staff support—Executive director, confidential secretary—Compensation and travel expenses of members.
- 43.20.035 State board of health—Cooperation with environmental agencies.
- 43.20.050 Powers and duties of state board of health—State public health report—Delegation of authority—Enforcement of rules.
- 43.20.100 Annual report.
- 43.20.110 Federal act on maternal and infancy hygiene accepted.
- 43.20.140 Services to crippled children—Rules and regulations.
- 43.20.175 Violations—Injunctions and legal proceedings authorized.
- 43.20.185 Enforcement of health laws and state or local rules and regulations upon request of local health officer.
- 43.20.195 Reports of violations by secretary—Duty of attorney general, prosecuting attorney or city attorney to institute proceedings—Notice to alleged violator.
- 43.20.200 Grant-in-aid payments for local health departments.
- 43.20.215 Right of person to rely on prayer to alleviate ailments not abridged.
- 43.20.220 Cooperation with federal government—Construction of Title 70 RCW.
- 43.20.230 Water resource planning—Procedures, criteria, technical assistance.
- 43.20.235 Water conservation—Water delivery rate structures—Report.
- 43.20.240 Public water systems—Complaint process.

Cold storage food workers, health certificates: RCW 19.32.110.

Contagious diseases

abatement: RCW 70.05.070.

report of local officers and physicians: RCW 70.05.110.

Control of pet animals infected with diseases communicable to humans, state board of health duties: Chapter 16.70 RCW.

Death certificates: RCW 70.58.150 through 70.58.190.

Drinking water quality consumer complaints: RCW 80.04.110.

Food and beverage service workers' permits, prescribed by: RCW 69.06.010.

Health, department of: Chapter 43.70 RCW.

Hospitals

disclosure of information: RCW 70.41.150.

enforcement of board rules: RCW 70.41.040.

inspection: RCW 70.41.120.

Immunization program, state board of health participation: RCW 28A.210.060 through 28A.210.170.

Physicians, regulation of professional services: RCW 70.41.180.

Screening program for scoliosis, state board of health participation: RCW 28A.210.180 through 28A.210.250.

Sexually transmitted diseases: Chapter 70.24 RCW.

Social and health services, department created: RCW 43.17.010, 43.20A.030.

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

(1) "Consumer representative" means any person who is not an elected official, who has no fiduciary obligation to a health facility or other health agency, and who has no material financial interest in the rendering of health services.

(2) "'Council" means the health care access and cost control council.

(3) "Department" means the department of health.

(4) "Secretary" means the secretary of health, or the secretary's designee.

(5) "Local health board" means a health board created pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(6) "Local health officer" means the legally qualified physician appointed as a health officer pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(7) "State board" means the state board of health created under chapter 43.20 RCW. [1989 1st ex.s. c 9 § 208; 1984 c 243 § 1.]

***Reviser's note:** RCW 70.170.030, which created the health care access and cost control council, was repealed by 1995 c 269 § 2204, effective July 1, 1995.

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

43.20.030 State board of health—Members—Chairman—Staff support—Executive director, confidential secretary—Compensation and travel expenses of members. The state board of health shall be composed of ten members. These shall be the secretary or the secretary's designee and nine other persons to be appointed by the governor, including four persons experienced in matters of health and sanitation, an elected city official who is a member of a local health board, an elected county official who is a member of a local health board, a local health officer, and two persons representing the consumers of health care. Before appointing the city official, the governor shall consider any recommendations submitted by the association of Washington cities. Before appointing the county official, the governor shall consider any recommendations submitted by the Washington state association of counties. Before appointing the local health officer, the governor shall consider any recommendations submitted by the Washington state association of local public health officials. Before appointing one of the two consumer representatives, the governor shall consider any recommendations submitted by the state council on aging. The chairman shall be selected by the governor from among the nine appointed members. The department of social and health services shall provide necessary technical staff support to the board. The board may employ an executive director and a confidential secretary, each of whom shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 75; 1984 c 243 § 2; (1993 c 492 § 255 repealed by 1995 c 43 § 16); 1970 ex.s. c 18 § 11; 1965 c 8 § 43.20.030. Prior: 1921 c 7 § 56, part; RRS § 10814, part.]

Reviser's note: This section was amended by 1984 c 287 § 75 and by 1984 c 243 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

43.20.035 State board of health—Cooperation with environmental agencies. See RCW 43.70.310.

43.20.050 Powers and duties of state board of health—State public health report—Delegation of authority—Enforcement of rules. (1) The state board of health shall provide a forum for the development of public health policy in Washington state. It is authorized to recommend to the secretary means for obtaining appropriate citizen and professional involvement in all public health policy formulation and other matters related to the powers and duties of the department. It is further empowered to hold hearings and explore ways to improve the health status of the citizenry.

(a) At least every five years, the state board shall convene regional forums to gather citizen input on public health issues.

(b) Every two years, in coordination with the development of the state biennial budget, the state board shall prepare the state public health report that outlines the health priorities of the ensuing biennium. The report shall:

(i) Consider the citizen input gathered at the forums;

(ii) Be developed with the assistance of local health departments;

(iii) Be based on the best available information collected and reviewed according to RCW 43.70.050 and recommendations from the *council;

(iv) Be developed with the input of state health care agencies. At least the following directors of state agencies shall provide timely recommendations to the state board on suggested health priorities for the ensuing biennium: The secretary of social and health services, the health care authority administrator, the insurance commissioner, the superintendent of public instruction, the director of labor and industries, the director of ecology, and the director of agriculture;

(v) Be used by state health care agency administrators in preparing proposed agency budgets and executive request legislation;

(vi) Be submitted by the state board to the governor by January 1 of each even-numbered year for adoption by the governor. The governor, no later than March 1 of that year, shall approve, modify, or disapprove the state public health report.

(c) In fulfilling its responsibilities under this subsection, the state board may create ad hoc committees or other such committees of limited duration as necessary.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules necessary to assure safe and reliable public drinking water and to protect the public health. Such rules shall establish requirements regarding:

(i) The design and construction of public water system facilities, including proper sizing of pipes and storage for the number and type of customers;

(ii) Drinking water quality standards, monitoring requirements, and laboratory certification requirements;

(iii) Public water system management and reporting requirements;

(iv) Public water system planning and emergency response requirements;

(v) Public water system operation and maintenance requirements;

(vi) Water quality, reliability, and management of existing but inadequate public water systems; and

(vii) Quality standards for the source or supply, or both source and supply, of water for bottled water plants.

(b) Adopt rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, solid and liquid, including but not limited to sewage, garbage, refuse, and other environmental contaminants; adopt standards and procedures governing the design, construction, and operation of sewage, garbage, refuse and other solid waste collection, treatment, and disposal facilities;

(c) Adopt rules controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, cleanliness and space in all types of public facilities including but not limited to food service establishments, schools, institutions, recreational facilities and transient accommodations and in places of work;

(d) Adopt rules for the imposition and use of isolation and quarantine;

(e) Adopt rules for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as admit of and may best be controlled by universal rule; and

(f) Adopt rules for accessing existing data bases for the purposes of performing health related research.

(3) The state board may delegate any of its rule-adopting authority to the secretary and rescind such delegated authority.

(4) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.

(5) The state board may advise the secretary on health policy issues pertaining to the department of health and the state. [1993 c 492 § 489; 1992 c 34 § 4. Prior: 1989 1st ex.s. c 9 § 210; 1989 c 207 § 1; 1985 c 213 § 1; 1979 c 141 § 49; 1967 ex.s. c 102 § 9; 1965 c 8 § 43.20.050; prior: (i) 1901 c 116 § 1; 1891 c 98 § 2; RRS § 6001. (ii) 1921 c 7 § 58; RRS § 10816.]

***Reviser's note:** RCW 70.170.030, which created the health care access and cost control council, was repealed by 1995 c 269 § 2204, effective July 1, 1995.

Findings—1993 c 492: "The legislature finds that our health and financial security are jeopardized by our ever increasing demand for health care and by current health insurance and health system practices. Current health system practices encourage public demand for unneeded, ineffective, and sometimes dangerous health treatments. These practices often result in unaffordable cost increases that far exceed ordinary inflation for essential care. Current total health care expenditure rates should be sufficient to provide access to essential health care interventions to all within a reformed, efficient system.

The legislature finds that too many of our state's residents are without health insurance, that each year many individuals and families are forced

into poverty because of serious illness, and that many must leave gainful employment to be eligible for publicly funded medical services. Additionally, thousands of citizens are at risk of losing adequate health insurance, have had insurance canceled recently, or cannot afford to renew existing coverage.

The legislature finds that businesses find it difficult to pay for health insurance and remain competitive in a global economy, and that individuals, the poor, and small businesses bear an inequitable health insurance burden.

The legislature finds that persons of color have significantly higher rates of mortality and poor health outcomes, and substantially lower numbers and percentages of persons covered by health insurance than the general population. It is intended that chapter 492, Laws of 1993 make provisions to address the special health care needs of these racial and ethnic populations in order to improve their health status.

The legislature finds that uncontrolled demand and expenditures for health care are eroding the ability of families, businesses, communities, and governments to invest in other enterprises that promote health, maintain independence, and ensure continued economic welfare. Housing, nutrition, education, and the environment are all diminished as we invest ever increasing shares of wealth in health care treatments.

The legislature finds that while immediate steps must be taken, a long-term plan of reform is also needed." [1993 c 492 § 101.]

Intent—1993 c 492: "(1) The legislature intends that state government policy stabilize health services costs, assure access to essential services for all residents, actively address the health care needs of persons of color, improve the public's health, and reduce unwarranted health services costs to preserve the viability of nonhealth care businesses.

(2) The legislature intends that:

(a) Total health services costs be stabilized and kept within rates of increase similar to the rates of personal income growth within a publicly regulated, private marketplace that preserves personal choice;

(b) State residents be enrolled in the certified health plan of their choice that meets state standards regarding affordability, accessibility, cost-effectiveness, and clinical efficaciousness;

(c) State residents be able to choose health services from the full range of health care providers, as defined in RCW 43.72.010(12), in a manner consistent with good health services management, quality assurance, and cost effectiveness;

(d) Individuals and businesses have the option to purchase any health services they may choose in addition to those included in the uniform benefits package or supplemental benefits;

(e) All state residents, businesses, employees, and government participate in payment for health services, with total costs to individuals on a sliding scale based on income to encourage efficient and appropriate utilization of services;

(f) These goals be accomplished within a reformed system using private service providers and facilities in a way that allows consumers to choose among competing plans operating within budget limits and other regulations that promote the public good; and

(g) A policy of coordinating the delivery, purchase, and provision of health services among the federal, state, local, and tribal governments be encouraged and accomplished by chapter 492, Laws of 1993.

(3) Accordingly, the legislature intends that chapter 492, Laws of 1993 provide both early implementation measures and a process for overall reform of the health services system." [1993 c 492 § 102.]

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Severability—1992 c 34: See note following RCW 69.07.170.

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

Savings—1985 c 213: "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections." [1985 c 213 § 31.]

Effective date—1985 c 213: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985." [1985 c 213 § 33.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

Rules and regulations—Visual and auditory screening of pupils: RCW 28A.210.020.

43.20.100 Annual report. The state board of health shall make an annual report to the governor including therein suggestions for such legislative action as it deems necessary. [1977 c 75 § 44; 1965 c 8 § 43.20.100. Prior: 1891 c 98 § 11; RRS § 6007.]

43.20.110 Federal act on maternal and infancy hygiene accepted. The provisions of the act of congress entitled "An Act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes," approved November 23, 1921, are hereby accepted by the state of Washington. [1965 c 8 § 43.20.110. Prior: 1923 c 127 § 1; RRS § 10814-1.]

43.20.140 Services to crippled children—Rules and regulations. The director of the state board of health shall be empowered to promulgate such rules and regulations as shall be necessary to effectuate and carry out the purposes of RCW 43.20A.635. [1979 c 141 § 58; 1965 c 8 § 43.20.140. Prior: 1941 c 129 § 2; Rem. Supp. 1941 § 9992-107b. Formerly RCW 74.12.220.]

43.20.175 Violations—Injunctions and legal proceedings authorized. See RCW 43.70.190.

43.20.185 Enforcement of health laws and state or local rules and regulations upon request of local health officer. See RCW 43.70.200.

43.20.195 Reports of violations by secretary—Duty of attorney general, prosecuting attorney or city attorney to institute proceedings—Notice to alleged violator. See RCW 43.20A.660.

43.20.200 Grant-in-aid payments for local health departments. The state board of health is hereby authorized to provide grant-in-aid payments with state funds to assist in the cost of general operation of local health departments in accordance with standards established by the board. [1967 ex.s. c 102 § 11.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.20.215 Right of person to rely on prayer to alleviate ailments not abridged. See RCW 43.70.210.

43.20.220 Cooperation with federal government—Construction of Title 70 RCW. See RCW 70.01.010.

43.20.230 Water resource planning—Procedures, criteria, technical assistance. Consistent with the water resource planning process of the department of ecology, the department of health shall:

(1) Develop procedures and guidelines relating to water use efficiency, as defined in *section 4(3), chapter 348, Laws of 1989, to be included in the development and approval of cost-efficient water system plans required under RCW 43.20.050;

(2) Develop criteria, with input from technical experts, with the objective of encouraging the cost-effective reuse of

greywater and other water recycling practices, consistent with protection of public health and water quality;

(3) Provide advice and technical assistance upon request in the development of water use efficiency plans; and

(4) Provide advice and technical assistance on request for development of model conservation rate structures for public water systems. Subsections (1), (2), and (3) of this section are subject to the availability of funding. [1993 sp.s. c 4 § 9; 1989 c 348 § 12.]

***Reviser's note:** 1989 c 348 § 4 was vetoed.

Findings—Grazing lands—1993 sp.s. c 4: See RCW 79.01.2951.

Severability—1989 c 348: See note following RCW 90.54.020.

Rights not impaired—1989 c 348: See RCW 90.54.920.

43.20.235 Water conservation—Water delivery rate structures—Report. Water purveyors required to develop a water system plan pursuant to RCW 43.20.230 shall evaluate the feasibility of adopting and implementing water delivery rate structures that encourage water conservation. This information shall be included in water system plans submitted to the department of health for approval after July 1, 1993. The department shall evaluate the following:

(1) Rate structures currently used by public water systems in Washington; and

(2) Economic and institutional constraints to implementing conservation rate structures.

The department shall provide its findings to the appropriate committees of the legislature no later than December 31, 1995. [1993 sp.s. c 4 § 10.]

Findings—Grazing lands—1993 sp.s. c 4: See RCW 79.01.2951.

43.20.240 Public water systems—Complaint process. (1) The department shall have primary responsibility among state agencies to receive complaints from persons aggrieved by the failure of a public water system. If the remedy to the complaint is not within the jurisdiction of the department, the department shall refer the complaint to the state or local agency that has the appropriate jurisdiction. The department shall take such steps as are necessary to inform other state agencies of their primary responsibility for such complaints and the implementing procedures.

(2) Each county shall designate a contact person to the department for the purpose of receiving and following up on complaint referrals that are within county jurisdiction. In the absence of any such designation, the county health officer shall be responsible for performing this function.

(3) The department and each county shall establish procedures for providing a reasonable response to complaints received from persons aggrieved by the failure of a public water system.

(4) The department and each county shall use all reasonable efforts to assist customers of public water systems in obtaining a dependable supply of water at all times. The availability of resources and the public health significance of the complaint shall be considered when determining what constitutes a reasonable effort.

(5) The department shall, in consultation with local governments, water utilities, water districts, public utility districts, and other interested parties, develop a booklet or other single document that will provide to members of the public the following information:

(a) A summary of state law regarding the obligations of public water systems in providing drinking water supplies to their customers;

(b) A summary of the activities, including planning, rate setting, and compliance, that are to be performed by both local and state agencies;

(c) The rights of customers of public water systems, including identification of agencies or offices to which they may address the most common complaints regarding the failures or inadequacies of public water systems.

This booklet or document shall be available to members of the public no later than January 1, 1991. [1990 c 132 § 3.]

Legislative findings—1990 c 132: "The legislature finds the best interests of the citizens of the state are served if:

(1) Customers served by public water systems are assured of an adequate quantity and quality of water supply at reasonable rates;

(2) There is improved coordination between state agencies engaged in water system planning and public health regulation and local governments responsible for land use planning and public health and safety; and

(3) Existing procedures and processes for water system planning are strengthened and fully implemented by state agencies, local government, and public water systems." [1990 c 132 § 1.]

Severability—1990 c 132: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 132 § 7.]

Chapter 43.20A

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

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- Advisory committee on vendor rates—Created—Members—Chairman: RCW 74.32.100.*
- Aid to families with dependent children: Chapter 74.12 RCW.*
- Air pollution limitation on other governmental units or persons: RCW 70.94.370. personnel, employment of: RCW 70.94.350.*
- Alcoholism private establishments and institutions: Chapter 71.12 RCW. treatment program, generally: Chapters 70.96, 70.96A, 74.50 RCW.*
- Birth certificates: RCW 70.58.080.*
- Boarding home licensing: Chapter 18.20 RCW.*
- Certificates for out-of-state marriage license requirements: RCW 70.58.380.*
- Child welfare agencies: RCW 74.15.060.*
- Children, expectant mothers, retarded adults, health protection as to agencies providing for, duties of secretary of health: RCW 74.15.060.*
- City sewerage systems, investigation: RCW 35.88.090.*
- Commission merchants, damaged or unfit products, certificate as to, issued by department: RCW 20.01.450.*
- Control of pet animals infected with diseases communicable to humans, secretary's duties: Chapter 16.70 RCW.*
- Cooperation with other agencies: RCW 70.58.340.*
- Council for the prevention of child abuse and neglect, secretary or designee as member: RCW 43.121.020.*
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- Criminally insane, rights, responsibilities and duties: Chapter 10.77 RCW.*
- Displaced homemaker act, departmental participation: RCW 28B.04.080.*
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- Hospital and medical facilities survey and construction generally: Chapter 70.40 RCW. secretary's duties: RCW 70.40.040. state plan: RCW 70.40.090, 70.40.100.*
- Hospitals for mentally ill, private establishments conferences with management: RCW 71.12.530. examinations generally: RCW 71.12.510, 71.12.520.*
- Juvenile justice act of 1977, department and secretary's duties under: Chapter 13.40 RCW.*
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- Medical assistance: Chapter 74.09 RCW.*
- Mental illness, department's duties relating to: Chapter 71.05 RCW.*
- Monitoring enrollee level in basic health plan and medicaid caseload of children—Funding levels adjustment: RCW 43.41.260.*
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- Nursing homes licensing, duties concerning: Chapter 18.51 RCW.*
- Occupational and environmental research facility advisory committee, membership: RCW 28B.20.456.*
- Offices maintained at state capital: RCW 43.17.050.*
- Powers and duties, generally: RCW 43.17.030.*
- Public assistance: Chapters 74.08 and 74.09 RCW.*
- Purchase of products and services provided by sheltered workshops and group training centers: RCW 43.19.520 through 43.19.530.*
- Residential schools and/or homes for children with disabilities: RCW 28A.155.040.*
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Sanitation advice to local authority: RCW 70.54.040.

Secretary

appointment: RCW 43.17.020.

chief assistants: RCW 43.17.040.

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vacancy: RCW 43.17.020, 43.17.040.

Shellfish sanitation control: Chapter 69.30 RCW.

State occupational forecast—Other agencies consulted prior to: RCW 50.38.030.

State otologist

appointment: RCW 70.50.010.

duties: RCW 70.50.020.

Statistical data, furnishing: RCW 70.58.340.

Victims of crimes, reimbursement by convicted person as condition of work release or parole: RCW 7.68.120.

Vital statistics: Chapter 70.58 RCW.

43.20A.010 Purpose. The department of social and health services is designed to integrate and coordinate all those activities involving provision of care for individuals who, as a result of their economic, social or health condition, require financial assistance, institutional care, rehabilitation or other social and health services. In order to provide for maximum efficiency of operation consistent with meeting the needs of those served or affected, the department will encompass substantially all of the powers, duties and functions vested by law on June 30, 1970, in the department of public assistance, the department of institutions, the veterans' rehabilitation council and the division of vocational rehabilitation of the coordinating council on occupational education. The department will concern itself with changing social needs, and will expedite the development and implementation of programs designed to achieve its goals. In furtherance of this policy, it is the legislative intent to set forth only the broad outline of the structure of the department, leaving specific details of its internal organization and management to those charged with its administration. [1989 1st ex.s. c 9 § 211; 1979 c 141 § 60; 1970 ex.s. c 18 § 1.]

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

Effective date—1970 ex.s. c 18: *"Except as otherwise in this amendatory act provided, this 1970 amendatory act shall take effect on July 1, 1970." [1970 ex.s. c 18 § 69.]

***Reviser's note:** Phrase "Except as otherwise in this amendatory act provided" refers to 1970 ex.s. c 18 § 67, uncodified, which pertained to laws amended in existing education code and as the same were reenacted in the new education code, effective July 1, 1970, not otherwise pertinent hereto.

Severability—1970 ex.s. c 18: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application to other persons or circumstances, is not affected." [1970 ex.s. c 18 § 70.]

43.20A.020 Definitions. As used in this chapter, unless the context indicates otherwise:

(1) "Department" means the department of social and health services.

(2) "Secretary" means the secretary of the department of social and health services.

(3) "Deputy secretary" means the deputy secretary of the department of social and health services.

(4) "Overpayment" means any department payment or department benefit to a recipient or to a vendor in excess of

that to which the recipient or vendor is entitled by law, rule, or contract, including amounts in dispute pending resolution.

(5) "Vendor" means an entity that provides goods or services to or for clientele of the department and that controls operational decisions. [1987 c 283 § 1; 1979 c 141 § 61; 1970 ex.s. c 18 § 2.]

Severability—1987 c 283: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 283 § 17.]

Savings—1987 c 283: "The enactment of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, that is in existence on July 26, 1987." [1987 c 283 § 18.]

43.20A.030 Department created—Powers and duties transferred to. There is hereby created a department of state government to be known as the department of social and health services. All powers, duties and functions vested by law on June 30, 1970, in the department of public assistance, the department of institutions, the veterans' rehabilitation council, and the division of vocational rehabilitation of the coordinating council on occupational education are transferred to the department. Powers, duties and functions to be transferred shall include, but not be limited to, all those powers, duties and functions involving cooperation with other governmental units, such as cities and counties, or with the federal government, in particular those concerned with participation in federal grants-in-aid programs. [1989 1st ex.s. c 9 § 212; 1979 c 141 § 62; 1970 ex.s. c 18 § 3.]

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

Department of social and health services created: RCW 43.17.030.

43.20A.035 Inventory of charitable, educational, penal, and reformatory land. The department shall conduct an inventory of real properties as provided in RCW 79.01.006. [1991 c 204 § 2.]

43.20A.037 Affordable housing—Inventory of suitable housing. (1) The department shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department shall provide a copy of the inventory to the department of community, trade, and economic development by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1995 c 399 § 65; 1993 c 461 § 8.]

Finding—1993 c 461: See note following RCW 43.63A.510.

43.20A.040 Secretary of social and health services—Appointment—Term—Salary—Temporary appointment

if vacancy—As executive head and appointing authority. The executive head and appointing authority of the department shall be the secretary of social and health services. He shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. He shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in his position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he shall present to that body his nomination for the office. [1970 ex.s. c 18 § 4.]

43.20A.050 Secretary of social and health services—Powers and duties generally—Employment of assistants and personnel, limitation. It is the intent of the legislature wherever possible to place the internal affairs of the department under the control of the secretary in order that he may institute therein the flexible, alert and intelligent management of its business that changing contemporary circumstances require. Therefore, whenever his authority is not specifically limited by law, he shall have complete charge and supervisory powers over the department. He is authorized to create such administrative structures as he may deem appropriate, except as otherwise specified by law. The secretary shall have the power to employ such assistants and personnel as may be necessary for the general administration of the department: PROVIDED, That, except as elsewhere specified, such employment is in accordance with the rules of the state civil service law, chapter 41.06 RCW. [1979 c 141 § 63; 1970 ex.s. c 18 § 5.]

43.20A.060 Departmental divisions—Plan establishing and organizing. The department of social and health services shall be subdivided into divisions, including a division of vocational rehabilitation. Except as otherwise specified or as federal requirements may differently require, these divisions shall be established and organized in accordance with plans to be prepared by the secretary and approved by the governor. In preparing such plans, the secretary shall endeavor to promote efficient public management, to improve programs, and to take full advantage of the economies, both fiscal and administrative, to be gained from the consolidation of the departments of public assistance, institutions, the veterans' rehabilitation council, and the division of vocational rehabilitation of the coordinating council on occupational education. [1989 1st ex.s. c 9 § 213; 1979 c 141 § 64; 1970 ex.s. c 18 § 6.]

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

43.20A.075 Rule-making authority. For rules adopted after July 23, 1995, the secretary may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. [1995 c 403 § 102.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

43.20A.090 Deputy secretary—Department personnel director—Assistant secretaries—Appointment—Duties—Salaries. The secretary shall appoint a deputy secretary, a department personnel director and such assistant secretaries as shall be needed to administer the department. The deputy secretary shall have charge and general supervision of the department in the absence or disability of the secretary, and in case of a vacancy in the office of secretary, shall continue in charge of the department until a successor is appointed and qualified, or until the governor shall appoint an acting secretary. The secretary shall appoint an assistant secretary to administer the juvenile rehabilitation responsibilities required of the department by chapters 13.04, 13.40, and 13.50 RCW. The officers appointed under this section, and exempt from the provisions of the state civil service law by the terms of RCW 41.06.076, shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. [1994 sp.s. c 7 § 515; 1970 ex.s. c 18 § 7.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.20A.100 Certain personnel exempted from state civil service law—Minimum qualifications for confidential secretaries. See RCW 41.06.076.

43.20A.110 Secretary's delegation of powers and duties. The secretary may delegate any power or duty vested in or transferred to him by law, or executive order, to his deputy secretary or to any other assistant or subordinate; but the secretary shall be responsible for the official acts of the officers and employees of the department. [1970 ex.s. c 18 § 9.]

43.20A.130 Secretary or designee as member of state board of health. See RCW 43.20.030.

43.20A.158 Health protection for certain children, expectant mothers and adult retarded, powers and duties of secretary of health. See RCW 74.15.060.

43.20A.160 Department as state radiation control agency. See RCW 70.98.050.

43.20A.165 Federal Safe Drinking Water Act—Department to participate in and administer in conjunction with other departments. See RCW 43.21A.445.

43.20A.167 Federal Older Americans Act of 1965—Department to participate in and administer. See RCW 74.36.100.

43.20A.168 Community programs and projects for the aging. See RCW 74.36.110 through 74.36.130.

43.20A.205 Denial, suspension, revocation, or modification of license. This section governs the denial of an application for a license or the suspension, revocation, or modification of a license by the department.

(1) The department shall give written notice of the denial of an application for a license to the applicant or his or her agent. The department shall give written notice of revocation, suspension, or modification of a license to the licensee or his or her agent. The notice shall state the reasons for the action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in an other manner that shows proof of receipt.

(2) Except as otherwise provided in this subsection and in subsection (4) of this section, revocation, suspension, or modification is effective twenty-eight days after the licensee or the agent receives the notice.

(a) The department may make the date the action is effective later than twenty-eight days after receipt. If the department does so, it shall state the effective date in the written notice given the licensee or agent.

(b) The department may make the date the action is effective sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice given to the licensee or agent.

(3) A license applicant or licensee who is aggrieved by a department denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the license applicant's or licensee's receiving the adverse notice, and be served in a manner that shows proof of receipt.

(4)(a) If the department gives a licensee twenty-eight or more days notice of revocation, suspension, or modification and the licensee files an appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than twenty-eight days notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause. [1989 c 175 § 95.]

Effective date—1989 c 175: See note following RCW 34.05.010.

43.20A.215 Assessment of civil fine. This section governs the assessment of a civil fine against a person by the department.

(1) The department shall written give [written] notice to the person against whom it assesses a civil fine. The notice shall state the reasons for the adverse action. The notice shall be personally served in the manner of service of a

summons in a civil action or shall be given in an other manner that shows proof of receipt.

(2) Except as otherwise provided in subsection (4) of this section, the civil fine is due and payable twenty-eight days after receipt. The department may make the date the fine is due later than twenty-eight days after receipt. When the department does so, it shall state the effective date in the written notice given the person against whom it assesses the fine.

(3) The person against whom the department assesses a civil fine has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the fine, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the person's receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(4) If the person files a timely and sufficient appeal, the department shall not implement the action until the final order has been served. The presiding or reviewing officer may permit the department to implement part or all of the action while the proceedings are pending if the appellant causes an unreasonable delay in the proceedings or for other good cause. [1989 c 175 § 96.]

Effective date—1989 c 175: See note following RCW 34.05.010.

43.20A.240 Veterans' rehabilitation council under department's jurisdiction—Secretary's duties. See chapter 43.61 RCW.

43.20A.300 Department as state agency for receipt of federal funds for vocational rehabilitation—Exception. Except as provided in RCW 74.18.060, the department of social and health services shall serve as the sole agency of the state for the receipt of federal funds made available by acts of congress for vocational rehabilitation within this state. [1983 c 194 § 28; 1977 ex.s. c 40 § 15; 1970 ex.s. c 18 § 40.]

Severability—Effective dates—1983 c 194: See RCW 74.18.902 and 74.18.903.

Severability—1977 ex.s. c 40: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 40 § 25.]

43.20A.310 Vocational rehabilitation, powers and duties of secretary or designee. In addition to his other powers and duties, the secretary or his designee, shall have the following powers and duties:

(1) To prepare, adopt and certify the state plan for vocational rehabilitation;

(2) With respect to vocational rehabilitation, to adopt necessary rules and regulations and do such other acts not forbidden by law necessary to carry out the duties imposed by state law and the federal acts;

(3) To carry out the aims and purposes of the acts of congress pertaining to vocational rehabilitation. [1979 c 141 § 65; 1970 ex.s. c 18 § 42.]

43.20A.320 Consultation with coordinating council for occupational education. The secretary or his designee shall consult with the coordinating council for occupational education in order to maintain close contact with developing programs of vocational education, particularly as such programs may affect programs undertaken in connection with vocational rehabilitation. [1970 ex.s. c 18 § 43.]

43.20A.350 Committees and councils—Declaration of purpose. The legislature declares that meaningful citizen involvement with and participation in the planning and programs of the department of social and health services are essential in order that the public may better understand the operations of the department, and the department staff may obtain the views and opinions of concerned and affected citizens. As a result of the creation of the department of social and health services and the resulting restructuring of programs and organization of the department's components, and as a further result of the legislative mandate to the department to organize and deliver services in a manner responsive to changing needs and conditions, it is necessary to provide for flexibility in the formation and functioning of the various committees and councils which presently advise the department, to restructure the present committees and councils, and to provide for new advisory committees and councils, so that all such committees and councils will more appropriately relate to the changing programs and services of the department. [1971 ex.s. c 189 § 1.]

43.20A.360 Committees and councils—Appointment—Memberships—Terms—Vacancies—Travel expenses. (1) The secretary is hereby authorized to appoint such advisory committees or councils as may be required by any federal legislation as a condition to the receipt of federal funds by the department. The secretary may appoint state-wide committees or councils in the following subject areas: (a) Health facilities; (b) children and youth services; (c) blind services; (d) medical and health care; (e) drug abuse and alcoholism; (f) social services; (g) economic services; (h) vocational services; (i) rehabilitative services; and on such other subject matters as are or come within the department's responsibilities. The secretary shall appoint committees or councils advisory to the department in each service delivery region to be designated by the secretary. The state-wide and the regional councils shall have representation from both major political parties and shall have substantial consumer representation. Such committees or councils shall be constituted as required by federal law or as the secretary in his or her discretion may determine. The members of the committees or councils shall hold office for three years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive terms.

(2) Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Members of regional advisory committees may, in the discretion of the secretary, be paid the same travel expenses as set forth above. [1989 1st ex.s. c 9 § 214; 1989 c 11 § 14; 1984 c 259 § 1; 1981 c 151 § 6; 1977

c 75 § 45; 1975-'76 2nd ex.s. c 34 § 98; 1971 ex.s. c 189 § 2.]

Reviser's note: This section was amended by 1989 c 11 § 14 and by 1989 1st ex.s. c 9 § 214, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

Severability—1989 c 11: See note following RCW 9A.56.220.

Effective date—1981 c 151: See note following RCW 43.20A.680.

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

43.20A.370 State advisory committee to department—Created—Membership—Terms—Vacancies. There is hereby created a state advisory committee to the department of social and health services which shall serve in an advisory capacity to the secretary of the department of social and health services. The committee shall be composed of not less than nine nor more than twenty members, to be appointed by the governor, who shall appoint a chairman, who shall serve as such at the governor's pleasure. In selecting members of the committee, the governor shall provide for a reasonable age, sex, ethnic, and geographic balance from throughout the state. A broad range of interests, including business owners, professions, labor, local government, and consumers should be considered for membership. The members of the committee shall serve three years. Appointments to fill a vacant unexpired term shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive full terms. An unexpired term is considered a full term when one-half or more of the regular term is served. A member of the state advisory committee with two unexcused absences in a twelve-month period shall be deemed to have vacated the position held on the state advisory committee. [1988 c 49 § 1; 1984 c 259 § 2; 1971 ex.s. c 189 § 13.]

43.20A.375 State advisory committee to department—Powers and duties. The state advisory committee shall have the following powers and duties:

(1) To serve in an advisory capacity to the secretary on all matters pertaining to the department of social and health services.

(2) To acquaint themselves fully with the operations of the department and periodically recommend such changes to the secretary as they deem advisable.

(3) To review and make recommendations as to the continued operation, possible consolidation, or elimination of department advisory committees including those required by federal law or specifically created by statute. The review shall include review of the statement of purpose for each advisory committee and the time frames during which the committee is accountable to achieve its stated purposes. The state advisory committee shall conduct the review and report to the appropriate legislative committees no later than January 1, 1989.

(4) To encourage public awareness and understanding of the department of social and health services and the department's programs and services.

(5) To develop agendas to foster periodic meetings with and communication between representatives of program-specific advisory committees.

(6) To encourage each regional advisory committee established under RCW 43.20A.360 to send a representative to regular state advisory committee meetings to foster communication between the regional advisory committees and: (a) The state advisory committee, and (b) headquarters of the department. [1988 c 49 § 2; 1984 c 259 § 3; 1971 ex.s. c 189 § 14.]

43.20A.380 State advisory committee to department—Travel expenses. Members of the state advisory committee shall be reimbursed for travel expenses in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 99; 1971 ex.s. c 189 § 15.]

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

43.20A.390 Per diem or mileage—Limitation. Notwithstanding any other provision of *this act, no person shall receive as compensation or reimbursement for per diem or mileage authorized in *this act any amount that would exceed the per diem or mileage provided in RCW 43.03.050 and 43.03.060. [1971 ex.s. c 189 § 16.]

***Reviser's note:** "This act" [1971 ex.s. c 189] consists of the 1971 amendments to RCW 18.20.090, 18.45.130, 43.61.030, 43.61.040, 43.61.060, 70.41.020, 70.41.030, 70.98.050, 72.60.270, 72.60.280; the enactment of RCW 43.20A.350 through 43.20A.390; and the repeal of RCW 18.20.080, 18.45.520 through 18.45.540, 43.20A.230, 43.61.010, 43.61.020, 69.30.040, 70.40.050, 70.41.050 through 70.41.070, 70.98.060, 72.01.250, 72.05.180, 72.05.190, 74.32.010 through 74.32.900, 74.36.010 through 74.36.040.

43.20A.400 Purchase of services from public or nonprofit agencies—Utilization of nonappropriated funds. Notwithstanding any other provisions of law, the secretary of the department of social and health services is authorized to utilize nonappropriated funds made available to the department, in order to compliment the social and health services programs of the department by purchase of services from public or nonprofit agencies. The purpose of this authorization is to augment the services presently offered and to achieve pooling of public and nonprofit resources. [1971 ex.s. c 309 § 1.]

43.20A.405 Purchase of services from public or nonprofit agencies—Vendor rates—Establishment. After obtaining the review and advice of the governor's advisory committee on vendor rates, the secretary shall establish rates of payment for services which are to be purchased: PROVIDED, That the secretary shall afford all interested persons reasonable opportunity to submit data, views, or arguments, and shall consider fully all submissions respecting the proposed rates. Prior to the establishment of such rates, the secretary shall give at least twenty days notice of such intended action by mail to such persons or agencies as have made timely request of the secretary for advance notice of establishment of such vendor rates. Such rates shall not exceed the amounts reasonable and necessary to assure

quality services and shall not exceed the costs reasonably assignable to such services pursuant to cost finding and monitoring procedures to be established by the secretary. Information to support such rates of payment shall be maintained in a form accessible to the public. [1971 ex.s. c 309 § 2.]

43.20A.410 Purchase of services from public or nonprofit agencies—Factors to be considered. In determining whether services should be purchased from other public or nonprofit agencies, the secretary shall consider:

(1) Whether the particular service or services is available or might be developed.

(2) The probability that program and workload performance standards will be met, by means of the services purchased.

(3) The availability of reasonably adequate cost finding and performance evaluation criteria.

Nothing in RCW 43.20A.400 through 43.20A.430 is to be construed to authorize reduction in state employment in service component areas presently rendering such services. [1971 ex.s. c 309 § 3.]

43.20A.415 Purchase of services from public or nonprofit agencies—Retention of basic responsibilities by secretary. When, pursuant to RCW 43.20A.400 through 43.20A.430, the secretary elects to purchase a service or services, he shall retain continuing basic responsibility for:

(1) Determining the eligibility of individuals for services;

(2) The selection, quality, effectiveness, and execution of a plan or program of services suited to the need of an individual or of a group of individuals; and

(3) Measuring the cost effectiveness of purchase of services. [1971 ex.s. c 309 § 4.]

43.20A.420 Purchase of services from public or nonprofit agencies—Secretary to provide consultative, technical and development services to suppliers—Review of services. The secretary shall work with the suppliers of purchased services by:

(1) Providing consultation and technical assistance;

(2) Monitoring and periodically reviewing services in order to assure satisfactory performance including adherence to state prescribed workload and quality standards; and

(3) Developing new and more effective and efficient approaches to and methods of delivering services. [1971 ex.s. c 309 § 5.]

43.20A.425 Purchase of services from public or nonprofit agencies—Qualifications of vendors. The secretary shall assure that sources from which services are purchased are: (1) Licensed, or (2) meet applicable accrediting standards, or (3) in the absence of licensing or accrediting standards, meet standards or criteria established by the secretary to assure quality of service: PROVIDED, That this section shall not be deemed to dispense with any licensing or accrediting requirement imposed by any other provision of law, by any county or municipal ordinance, or by rule or regulation of any public agency. [1971 ex.s. c 309 § 6.]

43.20A.430 Purchase of services from public or nonprofit agencies—Retention of sums to pay departmental costs. The secretary shall, if not otherwise prohibited by law, pursuant to agreement between the department and the agency in each contract, retain from such nonappropriated funds sufficient sums to pay for the department's administrative costs, monitoring and evaluating delivery of services, and such other costs as may be necessary to administer the department's responsibilities under RCW 43.20A.400 through 43.20A.430. [1971 ex.s. c 309 § 7.]

43.20A.445 State-operated workshops at institutions—Authorized—Standards. The department may establish and operate workshops for the training, habilitation, and rehabilitation of residents of institutions of the department. Products, goods, wares, articles, or merchandise manufactured or produced by the workshops may be sold to governmental agencies or on the open market at fair value. Prior to establishment of new state-operated workshops at institutions, the department shall consider the availability, appropriateness, and relative cost of contracting with and giving first preference to private nonprofit sheltered workshops, as defined in RCW 82.04.385, to provide workshop activities for residents of the institution.

The secretary shall credit the moneys derived from the sale of items from workshops under this section to a revolving fund under the control of the superintendent of the institution or facility where the items were manufactured. These moneys shall be expended for the purchase of supplies and materials for use in the workshop, to provide pay and training incentives for residents, and for other costs of the operation of the workshop. Payment of residents for work performed on workshop projects shall take into account resident productivity in comparison to the productivity of a nondisabled person earning the minimum wage as well as other factors consistent with goals of rehabilitation and treatment. Institutional work training programs shall be operated in accordance with standards required by the department for private vendors for the same or similar service.

Workshop materials and supplies may be purchased through state purchasing or from private vendors. Each institution or facility shall maintain records to demonstrate that purchases are made at the fair market value or best available price. [1983 1st ex.s. c 41 § 20.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

43.20A.550 Federal programs—Rules and regulations—Internal reorganization to meet federal requirements—Statutes to be construed to meet federal law—Conflicting parts deemed inoperative. In furtherance of the policy of the state to cooperate with the federal government in all of the programs under the jurisdiction of the department, such rules and regulations as may become necessary to entitle the state to participate in federal funds may be adopted, unless the same be expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements which are a necessary condition to state receipt of federal funds. Any section or provision of law dealing with the department

which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. If any law dealing with the department is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, such conflicting part of *this act is declared to be inoperative solely to the extent of the conflict. [1979 c 141 § 66; 1970 ex.s. c 18 § 66.]

***Reviser's note:** "This act" refers to the enactment of RCW 41.06.076, 43.20A.010, 43.20A.020, 43.20A.030, 43.20A.040, 43.20A.050, 43.20A.060, 43.20A.090, 43.20A.110, 43.20A.120, 43.20A.140, 43.20A.180, 43.20A.190, 43.20A.200, 43.20A.210, 43.20A.220, 43.20A.230, 43.20A.300, 43.20A.310, 43.20A.320, 43.20A.500, 43.20A.505, 43.20A.510, 43.20A.515, 43.20A.520, 43.20A.525, 43.20A.550, 43.20A.900, 43.20A.910, and 43.20A.920 and to the 1970 ex.s. c 18 amendments to RCW 28.10.010, 28.10.080, 28.85.160, 28.85.220, 28A.10.010, 28A.10.080, 28B.50.160, 28B.50.220, 43.17.010, 43.17.020, 43.20.030, 43.61.010, 43.61.020, 43.61.030, 43.61.040, 43.61.050, 43.61.070, 70.98.050, 70.98.060, 70.98.070, 72.01.010, 72.01.042, 72.01.043, 72.02.040, 72.05.020, 72.06.010, 74.15.060, 74.32.051, 74.32.053, 74.36.010, 74.36.020, 74.36.030, 74.36.040, and 74.36.100.

43.20A.605 Authority to administer oaths and issue subpoenas—Provisions governing subpoenas. (1) The secretary shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before him together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings are governed by RCW 34.05.588(1).

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by RCW 34.05.588(2). [1989 c 175 § 97; 1983 1st ex.s. c 41 § 21; 1979 c 141 § 47; 1967 ex.s. c 102 § 2. Formerly RCW 43.20.015.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.20A.607 Authority to appoint a single executive officer for multiple institutions—Exception. The secretary may appoint one individual to serve as chief executive officer, administrator, or superintendent for more than one facility or institution of the department where one or both facilities or institutions are required by law to have a chief executive officer, administrator, or superintendent. This section, however, shall not apply to RCW 72.40.020. [1983 1st ex.s. c 41 § 25.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

Chief executive officers—Appointment: RCW 72.01.060.

43.20A.610 Employment of deputies, experts, physicians, etc. The secretary may appoint and employ such deputies, scientific experts, physicians, nurses, sanitary engineers, and other personnel including consultants, and

such clerical and other assistants as may be necessary to carry on the work of the department of social and health services. [1979 c 141 § 48; 1967 ex.s. c 102 § 8; 1965 c 8 § 43.20.040. Prior: 1961 ex.s. c 5 § 1; 1921 c 7 § 57; RRS § 10815. Formerly RCW 43.20.040.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.20A.635 Services to crippled children. It shall be the duty of the secretary of social and health services and he shall have the power to establish and administer a program of services for children who are crippled or who are suffering from physical conditions which lead to crippling, which shall provide for developing, extending, and improving services for locating such children, and for providing for medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and after care; to supervise the administration of those services, included in the program, which are not administered directly by it; to extend and improve any such services, including those in existence on April 1, 1941; to cooperate with medical, health, nursing, and welfare groups and organizations, and with any agency of the state charged with the administration of laws providing for vocational rehabilitation of physically handicapped children; to cooperate with the federal government, through its appropriate agency or instrumentality in developing, extending, and improving such services; and to receive and expend all funds made available to the department by the federal government, the state or its political subdivisions or from other sources, for such purposes. [1979 c 141 § 52; 1965 c 8 § 43.20.130. Prior: 1941 c 129 § 1; Rem. Supp. 1941 § 9992-107a; prior: 1937 c 114 § 7. Formerly RCW 74.12.210; 43.20.130.]

Children's center for research and training in mental retardation, assistant secretaries as members of advisory committee: RCW 28B.20.412.

Handicapped children

*copy of commitment order transmitted to department: RCW 26.40.060.
statistical data: RCW 70.58.340.*

43.20A.637 Services to crippled children—Rules and regulations. See RCW 43.20.140.

43.20A.660 Reports of violations by secretary—Duty of attorney general, prosecuting attorney or city attorney to institute proceedings—Notice to alleged violator. (1) It shall be the duty of each assistant attorney general, prosecuting attorney, or city attorney to whom the secretary reports any violation of chapter 43.20A RCW, or regulations promulgated thereunder, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of chapter 43.20A RCW is reported by the secretary to the prosecuting attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views to the secretary, either orally or in writing, with regard to such contemplated proceeding. [1989 1st ex.s. c 9 § 215; 1979 c 141 § 57; 1967 ex.s. c 102 § 7. Formerly RCW 43.20.190.]

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

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.20A.680 State council on aging established. The state council on aging is hereby established as an advisory council to the governor, the secretary of social and health services, and the office of aging or any other office solely designated as the state unit on aging. The state council on aging may be designated by the governor to serve as the state advisory council to the state unit on aging with respect to federally funded programs as required by federal regulation. The director of the state unit on aging shall provide appropriate staff support. [1981 c 151 § 1.]

Effective date—1981 c 151: "This act shall take effect September 1, 1981." [1981 c 151 § 8.]

43.20A.685 State council on aging—Membership—Terms—Vacancies—Chairperson—Secretary—Compensation of legislative members. (1) The initial members of the council shall be appointed by the governor to staggered terms such that approximately one-third of the members serve terms of one year, one-third serve terms of two years, and one-third serve terms of three years. Thereafter, members of the council shall be appointed by the governor to terms of three years, except in the case of a vacancy, in which event appointment shall be for the remainder of the unexpired term for which the vacancy occurs. No member of the council may serve more than two consecutive three-year terms. One member shall be appointed from each state-designated planning and service area from a list of names transmitted by each area agency on aging advisory council, such list including the names of all persons nominated within the planning and service area together with the area agency on aging advisory council's recommendations. The governor shall appoint one additional member from names submitted by the association of Washington cities and one additional member from names submitted by the Washington state association of counties. In addition, the governor may appoint not more than five at large members, in order to ensure that rural areas (those areas outside of a standard metropolitan statistical area), minority populations, and those individuals with special skills which could assist the state council are represented. The members of the state council on aging shall elect, at the council's initial meeting and at the council's first meeting each year, one member to serve as chairperson of the council and another member to serve as secretary of the council.

(2) The speaker of the house of representatives and the president of the senate shall each appoint two nonvoting members to the council; one from each of the two largest caucuses in each house. The terms of the members so appointed shall be for approximately two years and the terms shall expire before the first day of the legislative session in odd-numbered years. They shall be compensated by their respective houses as provided under RCW 44.04.120, as now or hereafter amended.

(3) With the exception of the members from the Washington state association of counties, the Washington state association of counties, and the nonvoting legislative members, all members of the council shall be at least fifty-five years old. [1981 c 151 § 2.]

Effective date—1981 c 151: See note following RCW 43.20A.680.

43.20A.690 State council on aging—Meetings—Compensation of nonlegislative members. The state council on aging shall meet monthly unless determined otherwise by a majority vote of the members, which vote shall be taken at a regular meeting of the council. Nonlegislative members shall serve without compensation but shall be reimbursed for travel expenses and per diem in the performance of their duties as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1981 c 151 § 3.]

Effective date—1981 c 151: See note following RCW 43.20A.680.

43.20A.695 State council on aging—Powers and duties—Bylaws. (1) The state council on aging has the following powers and duties:

(a) To serve in an advisory capacity to the governor, the secretary of social and health services, and the state unit on aging on all matters pertaining to policies, programs, and services affecting older persons;

(b) To create public awareness of the special needs and potentialities of older persons; and

(c) To provide for self-advocacy by older citizens of the state through sponsorship of training, legislative and other conferences, workshops, and such other methods as may be deemed appropriate.

(2) The council shall establish bylaws to aid in the performance of its powers and duties. [1981 c 151 § 4.]

Effective date—1981 c 151: See note following RCW 43.20A.680.

43.20A.710 State employment in the supervision, provision, care, or treatment of children or individuals with mental illness or developmental disabilities—Investigation of conviction records or pending charges. The secretary shall investigate the conviction records, pending charges or disciplinary board final decisions of: (1) Persons being considered for state employment in positions directly responsible for the supervision, care, or treatment of children or individuals with mental illness or developmental disabilities; and (2) individual providers who are paid by the state for in-home services and hired by individuals with physical disabilities, developmental disabilities, mental illness, or mental impairment. The investigation may include an examination of state and national criminal identification data and the child abuse and neglect register established under chapter 26.44 RCW. The secretary shall provide the results of the state background check on individual providers to the individuals with physical disabilities, developmental disabilities, mental illness, or mental impairment who hired them and to their legal guardians, if any. The secretary shall use the information solely for the purpose of determining the character, suitability, and competence of these applicants except that in the case of individuals with physical disabilities, developmental disabilities, mental illness, or mental impairment who employ individual providers, the determination of character, suitability, and competence of applicants shall be made by the individual with a physical disability, developmental disability, mental illness, or mental impairment. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose. If necessary, persons may be employed on a conditional basis pending completion of the

background investigation. [1993 c 210 § 1; 1989 c 334 § 13; 1986 c 269 § 1.]

Prospective application—1993 c 210: "This act applies prospectively except individuals who currently employ individual providers paid by the state may be given the option to request a state background check during reassessment for services." [1993 c 210 § 2.]

Children or vulnerable adults: RCW 43.43.830 through 43.43.842.

State employment in the supervision, care, or treatment of children or developmentally disabled persons—Rules on background investigation: RCW 41.06.475.

State hospitals: RCW 72.23.035.

43.20A.720 Telecommunications devices and services for the hearing and speech impaired—Definitions. "Hearing impaired" means those persons who are certified to be deaf, deaf-blind, or hard of hearing, and those persons who are certified to have a hearing disability limiting their access to telecommunications.

"Speech impaired" means persons who are certified to be unable to speak or who are certified to have a speech impairment limiting their access to telecommunications.

"Text telephone (TT)," formerly known as a telecommunications device for the deaf (TDD) means a telecommunications device that has a typewriter or computer keyboard and a readable display that couples with the telephone, allowing messages to be typed rather than spoken. The device allows a person to make a telephone call directly to another person possessing similar equipment. The conversation is typed through one machine to the other machine instead of spoken.

"Telecommunications relay service (TRS)" is a service for hearing and speech impaired people who have a TT to call someone who does not have a TT or vice versa. The service consists of several telephones being utilized by TRS communications assistants who receive either TT or voice phone calls. If a TRS communications assistant receives a phone call from a hearing or speech impaired person wishing to call a hearing person, the operator will call the hearing person and act as an intermediary by translating what is displayed on the TT to voice and typing what is voiced into the TT to be read by the hearing or speech impaired caller. This process can also be reversed with a hearing person calling a deaf person through the telecommunications relay service. "TRS program" as used in this chapter includes both the relay function and TTs.

"Qualified trainer" is a person who is knowledgeable about TTs, signal devices, and amplifying accessories; familiar with the technical aspects of equipment designed to meet hearing impaired people's needs; and is fluent in American sign language.

"Qualified contractor" shall have staff bilingual in American sign language and standard English available for quality language/cultural interpretations; quality training of operators; and policies, training, and operational procedures to be determined by the office.

"The department" means the department of social and health services of the state of Washington.

"Office" means the office of deaf services within the state department of social and health services. [1992 c 144 § 2; 1990 c 89 § 2; 1987 c 304 § 2.]

Legislative findings—1992 c 144: "The legislature finds that the state of Washington has shown national leadership in providing telecommunications access for the hearing impaired and speech impaired communities. The legislature further finds that the federal Americans with Disabilities Act

requires states to further enhance telecommunications access for disabled persons and that the state should be positioned to allow this service to be delivered with fairness, flexibility, and efficiency." [1992 c 144 § 1.]

Severability—1992 c 144: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 144 § 6.]

Legislative finding—1990 c 89: "The legislature finds that provision of telecommunications devices and relay capability for hearing impaired persons is an effective and needed service which should be continued. The legislature further finds that the same devices and relay capability can serve and should be extended to serve speech impaired persons." [1990 c 89 § 1.]

Legislative findings—1987 c 304: "The legislature finds that it is more difficult for hearing impaired people to have access to the telecommunications system than hearing persons. It is imperative that hearing impaired people be able to reach government offices and health, human, and emergency services with the same ease as other taxpayers. Regulations to provide telecommunications devices for the deaf with a relay system will help ensure that the hearing impaired community has equal access to the public accommodations and telecommunications system in the state of Washington in accordance with chapter 49.60 RCW." [1987 c 304 § 1.]

Relation to other telecommunications device systems—1987 c 304: "Nothing in RCW 43.20A.725 and 43.20A.730 is inconsistent with any telecommunications device systems created by county legislative authorities under RCW 70.54.180. To the extent possible, the office, utilities and transportation commission, the TDD advisory committee, and any other persons or organizations implementing the provisions of RCW 43.20A.725 and 43.20A.730 will use the telecommunications devices already in place and work with county governments in ensuring that no duplication of services occurs." [1987 c 304 § 5.]

Short title—1987 c 304: "This act shall be known as the "Clyde Randolph Ketchum Act"." [1987 c 304 § 6.]

43.20A.725 Telecommunications devices for the hearing and speech impaired—Program for provision of devices—Generally—TRS excise tax—Report. (1) The department shall maintain a program whereby TTs, signal devices, and amplifying accessories capable of serving the needs of the hearing and speech impaired shall be provided under the standards established in subsection (11) of this section to an individual of school age or older:

(a) Who is certified as hearing impaired by a licensed physician, audiologist, or a qualified state agency, and to any subscriber that is an organization representing the hearing impaired, as determined and specified by the TRS program advisory committee; or

(b) Who is certified as speech impaired by a licensed physician, speech pathologist, or a qualified state agency, and to any subscriber that is an organization representing the speech impaired, as determined and specified by the TRS program advisory committee.

For the purpose of this section, certification implies that individuals cannot use the telephone for expressive or receptive communications due to hearing or speech impairment.

(2) The office shall award contracts on a competitive basis, to qualified persons for which eligibility to contract is determined by the office, for the distribution and maintenance of such TTs, signal devices, and amplifying accessories as shall be determined by the office. When awarding such contracts, the office may consider the quality of equipment and, with the director's approval, may award contracts on a basis other than cost. Such contracts may include a provision for the employment and use of a quali-

fied trainer and the training of recipients in the use of such devices.

(3) The office shall establish and implement a policy for the ultimate responsibility for recovery of TTs, signal devices, and amplifying accessories from recipients who have been provided with the equipment without cost and who are moving from this state or who for other reasons are no longer using them.

(4) Pursuant to recommendations of the TRS program advisory committee, until July 26, 1993, the office shall maintain a program whereby a relay system will be provided state-wide using operator intervention to connect hearing impaired and speech impaired persons and offices or organizations representing the hearing impaired and speech impaired, as determined and specified by the TDD advisory committee pursuant to *RCW 43.20A.730. The relay system shall be the most cost-effective possible and shall operate in a manner consistent with federal requirements for such systems.

(5) Pursuant to the recommendations of the TDD task force report of December 1991, and with the express purpose of maintaining state control and jurisdiction, the office shall seek certification by the federal communications commission of the state-wide relay service.

(6) The office shall award contracts for the operation and maintenance of the state-wide relay service. The initial contract shall be for service commencing on or before July 26, 1993. The contract shall be awarded to an individual company registered as a telecommunications company by the utilities and transportation commission, to a group of registered telecommunications companies, or to any other company or organization determined by the office as qualified to provide relay services, contingent upon that company or organization being approved as a registered telecommunications company prior to final contract approval.

(7) The program shall be funded by a telecommunications relay service (TRS) excise tax applied to each switched access line provided by the local exchange companies. The office shall determine, in consultation with the TRS program advisory committee, the budget needed to fund the program on an annual basis, including both operational costs and a reasonable amount for capital improvements such as equipment upgrade and replacement. The budget proposed by the office, together with documentation and supporting materials, shall be submitted to the office of financial management for review and approval. The approved budget shall be given by the department in an annual budget to the utilities and transportation commission no later than March 1 prior to the beginning of the fiscal year. The utilities and transportation commission shall then determine the amount of TRS excise tax to be placed on each access line and shall inform each local exchange company of this amount no later than May 15. The utilities and transportation commission shall determine the amount of TRS excise tax by dividing the total of the program budget, as submitted by the office, by the total number of access lines, and shall not exercise any further oversight of the program under this subsection. The TRS excise tax shall not exceed nineteen cents per month per access line. Each local exchange company shall impose the amount of excise tax determined by the commission as of July 1, and shall remit the amount collected directly to the department on a monthly basis. The TRS excise tax shall be

separately identified on each ratepayer's bill with the following statement: "Funds federal ADA requirement." All proceeds from the TRS excise tax shall be put into a fund to be administered by the office through the department.

(8) The office shall administer and control the award of money to all parties incurring costs in implementing and maintaining telecommunications services, programs, equipment, and technical support services in accordance with the provisions of RCW 43.20A.725.

(9) The department shall provide the legislature with a biennial report on the operation of the program. The first report shall be provided no later than December 1, 1990, and successive reports every two years thereafter. Reports shall be prepared in consultation with the TRS program advisory committee and the utilities and transportation commission. The reports shall, at a minimum, briefly outline the accomplishments of the program, the number of persons served, revenues and expenditures, the prioritizing of services to those eligible based on such factors as degree of physical handicap or the allocation of the program's revenue between provision of devices to individuals and operation of the statewide relay service, other major policy or operational issues, and proposals for improvements or changes for the program. The first report shall contain a study which includes examination of like programs in other states, alternative methods of financing the program, alternative methods of using the telecommunications system, advantages and disadvantages of operating the TRS program from within the department, by telecommunications companies, and by a private, nonprofit corporation, and means to limit demand for system usage.

(10) The program shall be consistent with the requirements of federal law for the operation of both interstate and intrastate telecommunications services for the deaf or hearing impaired or speech impaired. The department and the utilities and transportation commission shall be responsible for ensuring compliance with federal requirements and shall provide timely notice to the legislature of any legislation that may be required to accomplish compliance.

(11)(a) The department shall provide TTs, signal devices, and amplifying accessories to a person eligible under subsection (1) of this section at no charge in addition to the basic exchange rate if:

(i) The person is eligible for participation in the Washington telephone assistance program under RCW 80.36.470;

(ii) The person's annual family income is equal to or less than one hundred sixty-five percent of the federal poverty level; or

(iii) The person is a child eighteen years of age or younger with a family income less than or equal to two hundred percent of the federal poverty level.

(b) A person eligible under subsection (1) of this section with a family income greater than one hundred sixty-five percent and less than or equal to two hundred percent of the federal poverty level shall be assessed a charge for the cost of TTs, signal devices, and amplifying accessories based on a sliding scale of charges established by rule adopted by the department.

(c) The department shall charge a person eligible under subsection (1) of this section whose income exceeds two hundred percent of the federal poverty level the cost to the department of purchasing the equipment provided to that person.

(d) The department may waive part or all of the charges assessed under this subsection if the department finds that (i) the eligible person requires telebraille equipment or other equipment of similar cost and (ii) the charges normally assessed for the equipment under this subsection would create an exceptional or undue hardship on the eligible person.

(e) For the purposes of this subsection, certification of family income by the eligible person or the person's guardian or head of household is sufficient to determine eligibility. [1993 c 425 § 1; 1992 c 144 § 3; 1990 c 89 § 3; 1987 c 304 § 3.]

***Reviser's note:** RCW 43.20A.730 was repealed by 1995 c 269 § 1601, effective July 1, 1995.

Effective date—1993 c 425: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 15, 1993]." [1993 c 425 § 2.]

Legislative findings—Severability—1992 c 144: See notes following RCW 43.20A.720.

Legislative finding—1990 c 89: See note following RCW 43.20A.720.

43.20A.750 Grants for services in rural natural resources impact areas—Funding—Family support centers—Rural natural resources impact area defined.

(1) The department of social and health services shall help families and workers in rural natural resources impact areas make the transition through economic difficulties and shall provide services to assist workers to gain marketable skills. The department, as a member of the agency rural community assistance task force and, where appropriate, under an interagency agreement with the department of community, trade, and economic development, shall provide grants through the office of the secretary for services to the unemployed in rural natural resources impact areas, including providing direct or referral services, establishing and operating service delivery programs, and coordinating delivery programs and delivery of services. These grants may be awarded for family support centers, reemployment centers, or other local service agencies.

(2) The services provided through the grants may include, but need not be limited to: Credit counseling; social services including marital counseling; psychotherapy or psychological counseling; mortgage foreclosures and utilities problems counseling; drug and alcohol abuse services; medical services; and residential heating and food acquisition.

(3) Funding for these services shall be coordinated through the agency rural community assistance task force which will establish a fund to provide child care assistance, mortgage assistance, and counseling which cannot be met through current programs. No funds shall be used for additional full-time equivalents for administering this section.

(4)(a) Grants for family support centers are intended to provide support to families by responding to needs identified by the families and communities served by the centers. Services provided by family support centers may include parenting education, child development assessments, health and nutrition education, counseling, and information and referral services. Such services may be provided directly by

the center or through referral to other agencies participating in the interagency team.

(b) The department shall consult with the council on child abuse or neglect regarding grants for family support centers.

(5) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets two of the five criteria set forth in subsection (6) of this section; or

(b) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets two of the five criteria set forth in subsection (6) of this section.

(6) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area that is located wholly or partially in an urbanized area or within two miles of an urbanized area is considered urbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter. [1995 c 269 § 1901; 1995 c 226 § 25; 1993 c 280 § 38; 1992 c 21 § 4; 1991 c 315 § 28.]

Reviser's note: This section was amended by 1995 c 226 § 25 and by 1995 c 269 § 1901, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Sunset Act application: See note following RCW 43.31.601.

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

43.20A.770 Administration of statutes applicable to runaway youth, at-risk youth, and families in conflict—Consistency required. The department shall ensure that the administration of chapter 13.32A RCW and applicable portions of chapter 74.13 RCW relating to runaway youth, at-risk youth, and families in conflict is consistent in all

areas of the state and in accordance with statutory requirements. [1991 c 364 § 6.]

Conflict with federal requirements—1991 c 364: See note following RCW 70.96A.020.

43.20A.780 Administration of family services and programs. The secretary shall administer family services and programs to promote the state's policy as provided in RCW 74.14A.025. [1992 c 198 § 9.]

Severability—Effective date—1992 c 198: See RCW 70.190.910 and 70.190.920.

43.20A.800 Vision services for the homeless—Coordination. The secretary of the department of social and health services shall coordinate the efforts of nonprofit agencies working with the homeless, the Washington academy of eye physicians and surgeons, the Washington optometric association, and the opticians association of Washington to deliver vision services to the homeless free of charge. The secretary shall enter into agreements identifying cooperating agencies and the circumstances under which specified services will be delivered. [1993 c 96 § 2.]

Findings—1993 c 96: "The legislature finds that many homeless people in the state of Washington have impaired eyesight that reduces their chances of obtaining employment or training for employment. The legislature finds that it is in the public interest to facilitate ophthalmologists, optometrists, and opticians in providing free vision services to homeless people of the state." [1993 c 96 § 1.]

43.20A.810 Vision services for the homeless—Funding. To the extent consistent with the department's budget, the secretary shall pay for the eyeglasses hardware prescribed and dispensed pursuant to the program set up in RCW 43.20A.800 through 43.20A.840. The secretary shall also attempt to obtain private sector funding for this program. [1993 c 96 § 3.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.820 Vision services for the homeless—Use of used eyeglass frames by providers. Ophthalmologists, optometrists, and dispensing opticians may utilize used eyeglass frames obtained through donations to this program. [1993 c 96 § 4.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.830 Vision services for the homeless—Provider liability. An ophthalmologist, optometrist, or dispensing optician who provides:

(1) Free vision services; or

(2) Eyeglasses, or any part thereof, including used frames, at or below retail cost to homeless people in the state of Washington

and who is not reimbursed for such services or eyeglasses as allowed for in RCW 43.20A.840, is not liable for civil damages for injury to a homeless person resulting from any act or omission in providing such services or eyeglasses, other than an act or omission constituting gross negligence or intentional conduct. [1993 c 96 § 5.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.840 Vision services for the homeless—Third party payers. Nothing in RCW 43.20A.800 through 43.20A.840 shall prevent ophthalmologists, optometrists, or dispensing opticians from collecting for either their goods or services, or both from third-party payers covering the goods or services for homeless persons. [1993 c 96 § 6.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.845 Vision services for the homeless—Program name. The program created in RCW 43.20A.800 through 43.20A.840 shall be known as the eye care for the homeless program in Washington. [1993 c 96 § 7.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.850 Group homes—Availability of evaluations and data. The secretary of social and health services shall make all of the department's evaluation and research materials and data on private nonprofit group homes available to group home contractors. The department may delete any information from the materials that identifies a specific client or contractor, other than the contractor requesting the materials. [1994 sp.s. c 7 § 322.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.20A.860 Requirement to seek federal waivers and state law changes to medical assistance program. The department of social and health services, in consultation with the health care authority, the office of financial management, and other appropriate state agencies, shall seek necessary federal waivers and state law changes to the medical assistance program of the department to achieve greater coordination in financing, purchasing, and delivering health services to low-income residents of Washington state in a cost-effective manner, and to expand access to care for these low-income residents. Such waivers shall include any waiver needed to require that point-of-service cost-sharing, based on recipient household income, be applied to medical assistance recipients. In negotiating the waiver, consideration shall be given to the degree to which benefits in addition to the minimum list of services should be offered to medical assistance recipients. [1995 c 265 § 26.]

Captions not law—Effective dates—Savings—Severability—1995 c 265: See notes following RCW 70.47.015.

43.20A.930 Effective date—Severability—1970 ex.s. c 18. See notes following RCW 43.20A.010.

Chapter 43.20B

REVENUE RECOVERY FOR DEPARTMENT OF SOCIAL AND HEALTH SERVICES

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- 43.20B.745 Recipient receiving industrial insurance compensation—Application.

CONSTRUCTION

- 43.20B.900 Savings—1987 c 75.
- 43.20B.901 Severability—1987 c 75.

GENERAL PROVISIONS

43.20B.010 Definitions. The definitions in this section apply throughout this chapter:

- (1) "Department" means the department of social and health services.
- (2) "Secretary" means the secretary of the department of social and health services.
- (3) "License" means that exercise of regulatory authority by the secretary to grant permission, authority, or liberty to do or to forbear certain activities. The term includes licenses, permits, certifications, registrations, and other similar terms.
- (4) "Vendor" means an entity that provides goods or services to or for clientele of the department and that controls operational decisions.
- (5) "Overpayment" means any payment or benefit to a recipient or to a vendor in excess of that to which is entitled by law, rule, or contract, including amounts in dispute. [1987 c 75 § 42.]

43.20B.020 Fees for services—Department of health and department of social and health services. The department of social and health services and the department of health are authorized to charge fees for services provided unless otherwise prohibited by law. The fees may be sufficient to cover the full cost of the service provided if practical or may be charged on an ability-to-pay basis if practical. This section does not supersede other statutory authority enabling the assessment of fees by the departments. Whenever the department of social and health services is authorized by law to collect total or partial reimbursement for the cost of its providing care of or exercising custody over any person, the department shall collect the reimbursement to the extent practical. [1991 c 3 § 295; 1981 1st ex.s. c 6 § 25. Formerly RCW 43.20A.670.]

Effective date—Severability—1981 1st ex.s. c 6: See notes following RCW 74.04.005.

43.20B.030 Overpayments and debts due the department—Time limit—Write-offs and compromises. Except as otherwise provided by law, there will be no collection of overpayments and other debts due the department after the expiration of six years from the date of notice of such overpayment or other debt unless the department has commenced recovery action in a court of law or unless an administrative remedy authorized by statute is in place. However, any amount due in a case thus extended shall cease to be a debt due the department at the expiration of ten years from the date of the notice of the overpayment or other debt unless a court-ordered remedy would be in effect for a longer period.

The department, at any time, may accept offers of compromise of disputed claims or may grant partial or total write-off of any debt due the department if it is no longer cost-effective to pursue. The department shall adopt rules establishing the considerations to be made in the granting or denial of a partial or total write-off of debts. [1989 c 78 § 4; 1987 c 283 § 6; 1979 c 141 § 308; 1965 ex.s. c 91 § 2. Formerly RCW 74.04.306.]

Severability—Savings—1987 c 283: See notes following RCW 43.20A.020.

43.20B.040 Chapter does not apply where another party liable—Statement of lien—Form. The form of the lien in RCW 43.20B.060 shall be substantially as follows:

STATEMENT OF LIEN

Notice is hereby given that the State of Washington, Department of Social and Health Services, has rendered assistance or provided residential care to, a person who was injured on or about the day of in the county of state of, and the said department hereby asserts a lien, to the extent provided in RCW 43.20B.060, for the amount of such assistance or residential care, upon any sum due and owing (name of injured person) from, alleged to have caused the injury, and/or his or her insurer and from any other person or insurer liable for the injury or obligated to compensate the injured person on account of such injuries by contract or otherwise.

STATE OF WASHINGTON, DEPARTMENT OF SOCIAL AND HEALTH SERVICES
By: (Title)

STATE OF WASHINGTON }
COUNTY OF } ss.

I,, being first duly sworn, on oath state: That I am (title); that I have read the foregoing Statement of Lien, know the contents thereof, and believe the same to be true.

Signed and sworn to or affirmed before me this day of, 19. . . .
by
(name of person making statement).

(Seal or stamp)

.....
Notary Public in and for the State
of Washington

My appointment expires:

[1990 c 100 § 3; 1979 c 141 § 341; 1969 ex.s. c 173 § 9.
Formerly RCW 74.09.182.]

43.20B.050 Liens—Compromise—Settlement or judgment. (1) No settlement made by and between the recipient and tort feisor and/or insurer shall discharge or otherwise compromise the lien created in RCW 43.20B.060 without the express written consent of the secretary. Discretion to compromise such liens rests solely with the secretary or the secretary’s designee.

(2) No settlement or judgment shall be entered purporting to compromise the lien created by RCW 43.20B.060 without the express written consent of the secretary or the secretary’s designee. [1990 c 100 § 4; 1969 ex.s. c 173 § 12. Formerly RCW 74.09.186.]

Application—1990 c 100 §§ 2, 4, 7(1), 8(2): See note following RCW 43.20B.060.

43.20B.060 Reimbursement for medical care or residential care—Lien—Subrogation. (1) To secure reimbursement of any assistance paid under chapter 74.09 RCW or reimbursement for any residential care provided by the department at a hospital for the mentally ill or habilitative care center for the developmentally disabled, as a result of injuries to or illness of a recipient caused by the negligence or wrong of another, the department shall be subrogated to the recipient’s rights against a tort feisor or the tort feisor’s insurer, or both.

(2) The department shall have a lien upon any recovery by or on behalf of the recipient from such tort feisor or the tort feisor’s insurer, or both to the extent of the value of the assistance paid or residential care provided by the department, provided that such lien shall not be effective against recoveries subject to wrongful death when there are surviving dependents of the deceased. The lien shall become effective upon filing with the county auditor in the county where the assistance was authorized or where any action is brought against the tort feisor or insurer. The lien may also be filed in any other county or served upon the recipient in the same manner as a civil summons if, in the department’s discretion, such alternate filing or service is necessary to secure the department’s interest. The additional lien shall be effective upon filing or service.

(3) The lien of the department shall be upon any claim, right of action, settlement proceeds, money, or benefits arising from an insurance program to which the recipient might be entitled (a) against the tort feisor or insurer of the tort feisor, or both, and (b) under any contract of insurance purchased by the recipient or by any other person providing coverage for the illness or injuries for which the assistance or residential care is paid or provided by the department.

(4) If recovery is made by the department under this section and the subrogation is fully or partially satisfied through an action brought by or on behalf of the recipient, the amount paid to the department shall bear its propor-

tionate share of attorneys’ fees and costs. The determination of the proportionate share to be borne by the department shall be based upon:

(a) The fees and costs approved by the court in which the action was initiated; or

(b) The written agreement between the attorney and client which establishes fees and costs when fees and costs are not addressed by the court.

(c) When fees and costs have been approved by a court, after notice to the department, the department shall have the right to be heard on the matter of attorneys’ fees and costs or its proportionate share.

(d) When fees and costs have not been addressed by the court, the department shall receive at the time of settlement a copy of the written agreement between the attorney and client which establishes fees and costs and may request and examine documentation of fees and costs associated with the case. The department may bring an action in superior court to void a settlement if it believes the attorneys’ calculation of its proportionate share of fees and costs is inconsistent with the written agreement between the attorney and client which establishes fees and costs or if the fees and costs associated with the case are exorbitant in relation to cases of a similar nature. [1990 c 100 § 7.]

Application—1990 c 100 §§ 2, 4, 7(1), 8(2): "Sections 2, 4, 7(1), and 8(2) of this act apply to all existing claims against third parties for which settlements have not been reached or judgments entered by June 7, 1990." [1990 c 100 § 13.]

43.20B.070 Torts committed against recipients of state assistance—Duties of attorney representing recipient. An attorney representing a person who, as a result of injuries or illness sustained through the negligence or wrong of another, has received, is receiving, or has applied to receive assistance under chapter 74.09 RCW, or residential care provided by the department at a hospital for the mentally ill or habilitative care center for the developmentally disabled, shall:

(1) Notify the department at the time of filing any claim against a third party, commencing an action at law, negotiating a settlement, or accepting a settlement offer from the tort feisor or the tort feisor’s insurer, or both; and

(2) Give the department thirty days’ notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or recipient to recover damages for such injuries or illness. [1990 c 100 § 8.]

Application—1990 c 100 §§ 2, 4, 7(1), 8(2): See note following RCW 43.20B.060.

43.20B.080 Recovery for paid medical assistance—Rules. (1) The department shall file liens, seek adjustment, or otherwise effect recovery for medical assistance correctly paid on behalf of an individual as required by this chapter and 42 U.S.C. Sec. 1396p.

(2) Liens may be adjusted by foreclosure in accordance with chapter 61.12 RCW.

(3) In the case of an individual who was fifty-five years of age or older when the individual received medical assistance, the department shall seek adjustment or recovery from the individual’s estate, and from nonprobate assets of the individual as defined by RCW 11.02.005 except property passing through a community property agreement, but only

for medical assistance consisting of nursing facility services, home and community-based services, other services that the department determines to be appropriate, and related hospital and prescription drug services. Recovery from the individual's estate, including foreclosure of liens imposed under this section, shall be undertaken as soon as practicable, consistent with the requirements of 42 U.S.C. Sec. 1396p.

(4)(a) The department shall establish procedures consistent with standards established by the federal department of health and human services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery when such recovery would work an undue hardship.

(b) Recovery of medical assistance from a recipient's estate shall not include property made exempt from claims by federal law or treaty, including exemption for tribal artifacts that may be held by individual Native Americans.

(5) The department is authorized to adopt rules to effect recovery under this section. The department may adopt by rule later enactments of the federal laws referenced in this section. [1995 1st sp.s. c 18 § 67; 1994 c 21 § 3.]

Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18: See notes following RCW 74.39A.008.

Conflict with federal requirements—1994 c 21: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [1994 c 21 § 5.]

Effective date—1994 c 21: "This act shall take effect July 1, 1994." [1994 c 21 § 6.]

NONRESIDENTIAL FEES AND COSTS OF SERVICES

43.20B.110 License fees to be charged by secretary—Waiver—Review and comment. (1) The secretary shall charge fees to the licensee for obtaining a license. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) Department of social and health services advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

(4) Fees associated with the licensing or regulation of health professions or health facilities administered by the department of health, shall be in accordance with RCW 43.70.110 and 43.70.250. [1991 c 3 § 296; 1989 1st ex.s. c 9 § 216; 1987 c 75 § 6; 1982 c 201 § 2. Formerly RCW 43.20A.055.]

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

43.20B.120 Funeral assistance—Lien against assets. If the department furnishes funeral assistance for deceased recipients under RCW 74.08.120, the department shall have

a lien against those assets left to a surviving spouse or minor children under those conditions defined in RCW 74.08.120. The lien is valid for six years from the date of filing with the county auditor and has preference over the claims of all unsecured creditors. If the assets remain exempt or if no probate is commenced, the lien automatically terminates without further action six years after filing. [1987 c 75 § 45.]

RESIDENTIAL SERVICES

43.20B.310 Residential care payments by families, when not collected. No payment may be collected by the department for residential care if the collection will reduce the income as defined in RCW 74.04.005 of the head of household and remaining dependents below one hundred percent of the need standard for aid to families with dependent children. [1983 1st ex.s. c 41 § 34. Formerly RCW 74.04.780.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

43.20B.320 Mental illness—Treatment costs—Criminally insane—Liability. Patients hospitalized at state hospitals as criminally insane shall be responsible for payment of hospitalization charges. [1987 c 75 § 12; 1959 c 25 § 71.02.380. Prior: 1951 c 139 § 62. Formerly RCW 71.02.380.]

Criminally insane, reimbursement for costs: RCW 10.77.250.

43.20B.325 Mental illness—Hospitalization charges—How computed. Charges for hospitalization of patients in state hospitals are to be based on the actual cost of operating such hospitals for the previous year, taking into consideration the overhead expense of operating the hospital and expense of maintenance and repair, including in both cases all salaries of supervision and management as well as material and equipment actually used or expended in operation as computed by the department: PROVIDED, That a schedule of differing hospitalization charges may be computed, including a schedule of charges for outpatient services, considering the costs of care, treatment and maintenance in accordance with the classification of mental illness, type and intensity of treatment rendered, which may vary among and within the several state hospitals. Costs of transportation shall be computed by the department. [1967 ex.s. c 127 § 1; 1959 c 25 § 71.02.410. Prior: 1951 c 139 § 52. Formerly RCW 71.02.410.]

43.20B.330 Mental illness—Treatment costs—Liability. Any person admitted or committed to a state hospital for the mentally ill, and their estates and responsible relatives are liable for reimbursement to the state of the costs of hospitalization and/or outpatient services, as computed by the secretary, or his designee, in accordance with RCW 43.20B.325: PROVIDED, That such mentally ill person, and his or her estate, and the husband or wife of such mentally ill person and their estate shall be primarily responsible for reimbursement to the state for the costs of hospitalization and/or outpatient services; and, the parents of such mentally ill person and their estates, until such person has attained the

age of eighteen years, shall be secondarily liable. [1987 c 75 § 13; 1971 ex.s. c 292 § 64; 1967 ex.s. c 127 § 4. Formerly RCW 71.02.411.]

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

43.20B.335 Mental illness—Treatment costs—Determination of ability to pay—Standards—Rules and regulations. The department is authorized to investigate the financial condition of each person liable under the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350, and is further authorized to make determinations of the ability of each such person to pay hospitalization charges and/or charges for outpatient services, in accordance with the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350, and, for such purposes, to set a standard as a basis of judgment of ability to pay, which standard shall be recomputed periodically to reflect changes in the costs of living, and other pertinent factors, and to make provisions for unusual and exceptional circumstances in the application of such standard. Such factors and circumstances shall include judgments owed by the person to any victim of an act that would have resulted in criminal conviction of the patient but for a finding of criminal insanity. A victim shall include a personal representative of an estate who has obtained judgment for wrongful death against the criminally insane patient.

In accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW, the department shall adopt appropriate rules and regulations relating to the standards to be applied in determining ability to pay such charges, the schedule of charges pursuant to RCW 43.20B.325, and such other rules and regulations as are deemed necessary to administer the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350. [1996 c 125 § 2; 1987 c 75 § 14; 1979 c 141 § 126; 1967 ex.s. c 127 § 5. Formerly RCW 71.02.412.]

Findings—Purpose—1996 c 125: "The legislature finds that laws and regulations relating to the rights of the state to collection from criminally insane patients for cost of their hospitalization are in need of clarification. The legislature previously directed the department of social and health services to set standards regarding ability of such patients to pay that would include pertinent factors, as well as unusual and exceptional circumstances. The legislature finds that the regulations established by the department fail to take into account a factor and circumstance that should be paramount: Compensation owed by the patient to victims of his or her criminally insane conduct. The state public policy recognizes the due dignity and respect to be accorded victims of crime and the need for victims to be compensated, as set forth in Article I, section 35 of the state Constitution and in chapter 7.68 RCW. The legislature did not intend, in enacting RCW 43.20B.320, that the department attempt to obtain funds for hospitalization of criminally insane patients that would otherwise have compensated the victims of the patient. The purpose of chapter 125, Laws of 1996 is to clarify legislative intent and existing law." [1996 c 125 § 1.]

43.20B.340 Mental illness—Treatment costs—Notice and finding of responsibility—Period—Adjudicative proceedings. In any case where determination is made that a person, or the estate of such person, is able to pay all, or any portion of the charges for hospitalization, and/or charges for outpatient services, a notice and finding of responsibility shall be served on such person or the court-appointed personal representative of such person. The notice shall set forth the amount the department has determined that such person, or his or her estate, is able to pay not to exceed the

costs of hospitalization, and/or costs of outpatient services, as fixed in accordance with the provisions of RCW 43.20B.325, or as otherwise limited by the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350. The responsibility for the payment to the department shall commence twenty-eight days after service of such notice and finding of responsibility which finding of responsibility shall cover the period from the date of admission of such mentally ill person to a state hospital, and for the costs of hospitalization, and/or the costs of outpatient services, accruing thereafter. The notice and finding of responsibility shall be served upon all persons found financially responsible in the manner prescribed for the service of summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An application for an adjudicative proceeding may be filed with the secretary, or the secretary's designee within twenty-eight days from the date of service of such notice and finding of responsibility. The application must be written and served on the secretary by registered or certified mail, or by personal service. If no application is filed, the notice and finding of responsibility shall become final. If an application is filed, the execution of notice and finding of responsibility shall be stayed pending the final adjudicative order. The hearing shall be conducted in a local department office or other location in Washington convenient to the appellant. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. [1989 c 175 § 98; 1987 c 75 § 15; 1985 c 245 § 3; 1981 c 67 § 33; 1971 c 81 § 133; 1969 ex.s. c 268 § 1; 1967 ex.s. c 127 § 6. Formerly RCW 71.02.413.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Savings—1985 c 245: "Sections 3 and 6 of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, that is already in existence on May 10, 1985." [1985 c 245 § 11.] Sections 3 and 6 of this act consist of the 1985 c 245 amendments to RCW 71.02.413 and 72.33.670.

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

43.20B.345 Mental illness—Treatment costs—Judgment for accrued amounts. Whenever any notice and finding of responsibility, or appeal therefrom, shall have become final, the superior court, wherein such person or persons reside or have property either real or personal, shall, upon application of the secretary enter a judgment in the amount of the accrued monthly charges for the costs of hospitalization, and/or the costs of outpatient services, and such judgment shall have and be given the same effect as if entered pursuant to civil action instituted in said court; except, such judgment shall not be the subject of collection by the department unless and until any outstanding judgment for a victim referenced in RCW 43.20B.335 has been fully satisfied. [1996 c 125 § 3; 1987 c 75 § 16; 1979 c 141 § 127; 1967 ex.s. c 127 § 7. Formerly RCW 71.02.414.]

Findings—Purpose—1996 c 125: See note following RCW 43.20B.335.

43.20B.347 Mental illness—Treatment costs—Lien against real and personal property. Whenever a notice and finding of responsibility, or appeal therefrom, has become final, the department may file a lien against the real

and personal property of all persons found financially responsible under RCW 43.20B.330 with the county auditor of the county where the persons reside or own property. [1993 c 272 § 1.]

Savings—1993 c 272: "This act does not have the effect of terminating or in any way modifying any liability, civil or criminal, that is already in existence on the effective date of this act." [1993 c 272 § 6.]

Severability—1993 c 272: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 272 § 7.]

43.20B.350 Mental illness—Treatment costs—Modification or vacation of findings of responsibility.

The secretary, or the secretary's designee, upon application of the person responsible for payment of reimbursement to the state of the costs of hospitalization, and/or the costs of outpatient services, or the legal representative of such person, and, after investigation, or after investigation without application, the secretary, or the secretary's designee, if satisfied of the financial ability or inability of such person to reimburse the state in accordance with the original finding of responsibility, may, modify or vacate such original finding of responsibility and enter a new finding of responsibility. The determination to modify or vacate findings of responsibility shall be served and be appealable in the same manner and in accordance with the same procedures for appeals of original findings of responsibility. [1987 c 75 § 17; 1967 ex.s. c 127 § 8. Formerly RCW 71.02.415.]

43.20B.355 Mental illness—Hospitalization charges—Due date—Collection. Hospitalization charges are payable on the tenth day of each calendar month, for services rendered during the preceding month, and the department may make all necessary rules and regulations relative to the billing and collection of such charges. [1967 ex.s. c 127 § 2; 1959 c 25 § 71.02.320. Prior: 1951 c 139 § 56. Formerly RCW 71.02.320.]

43.20B.360 Mental illness—Hospitalization charges—Collection—Statutes of limitation. No statutes of limitations shall run against the state of Washington for hospitalization charges: PROVIDED, HOWEVER, That periods of limitations for the filing of creditors' claims against probate and guardianship estates shall apply against such claims. [1959 c 25 § 71.02.360. Prior: 1951 c 139 § 61. Formerly RCW 71.02.360.]

*Period of limitation for claims against guardianship estate: RCW 11.92.035.
probate estate: RCW 11.40.010.*

43.20B.370 Mental illness—Hospitalization charges—Collection—Prosecuting attorneys to assist. The prosecuting attorneys of the various counties shall assist the department in the collection of hospitalization charges. [1959 c 25 § 71.02.370. Prior: 1951 c 139 § 64. Formerly RCW 71.02.370.]

43.20B.410 Residential habilitation centers—Liability for costs of services—Declaration of purpose. The purpose of RCW 43.20B.410 through 43.20B.455 is to place financial responsibility for cost of care, support and

treatment upon those residents of residential habilitation centers operated under chapter 71A.20 RCW who possess assets over and above the minimal amount required to be retained for personal use; to provide procedures for establishing such liability and the monthly rate thereof, and the process for appeal therefrom to the secretary of social and health services and the courts by any person deemed aggrieved thereby. [1988 c 176 § 902; 1987 c 75 § 23; 1979 c 141 § 237; 1967 c 141 § 1. Formerly RCW 72.33.650.]

Severability—1988 c 176: See RCW 71A.10.900.

Effective date—1967 c 141: "This 1967 amendatory act shall become effective July 1, 1967." [1967 c 141 § 13.]

43.20B.415 State residential schools—Liability for costs of services—Limitation. The estates of all mentally or physically deficient persons who have been admitted to the state residential schools listed in *RCW 72.33.030 either by application of their parents or guardian or by commitment of court, or who may hereafter be admitted or committed to such institutions, shall be liable for their per capita costs of care, support and treatment: PROVIDED, That the estate funds may not be reduced as a result of such liability below an amount as set forth in *RCW 72.33.180. [1971 ex.s. c 118 § 2; 1967 c 141 § 2. Formerly RCW 72.33.655.]

***Reviser's note:** RCW 72.33.030 and 72.33.180 were repealed by 1988 c 176 § 1007. See Title 71A RCW. The term "residential schools" was changed to "residential habilitation centers" by 1988 c 176.

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.420 Residential habilitation centers—Determination of costs of services—Establishment of rates—Collection. The charges for services as provided in RCW 43.20B.425 shall be based on the rates established for the purpose of receiving federal reimbursement for the same services. For those services for which there is no applicable federal reimbursement-related rate, charges shall be based on the average per capita costs, adjusted for inflation, of operating each of the residential habilitation centers for the previous reporting year taking into consideration all expenses of institutional operation, maintenance and repair, salaries and wages, equipment and supplies: PROVIDED, That all expenses directly related to the cost of education for persons under the age of twenty-two years shall be excluded from the computation of the average per capita cost. The department shall establish rates on a per capita basis and promulgate those rates or the methodology used in computing costs and establishing rates as rules of the department in accordance with chapter 34.05 RCW. The department shall be charged with the duty of collection of charges incurred under RCW 43.20B.410 through 43.20B.455, which may be enforced by civil action instituted by the attorney general within or without the state. [1988 c 176 § 903; 1987 c 75 § 24; 1984 c 200 § 1; 1979 c 141 § 238; 1967 c 141 § 3. Formerly RCW 72.33.660.]

Severability—1988 c 176: See RCW 71A.10.900.

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.425 Residential habilitation centers—Costs of services—Investigation and determination of ability to pay—Exemptions. The department shall investigate and determine the assets of the estates of each resident of a

residential habilitation center and the ability of each such estate to pay all, or any portion of, the average monthly charge for care, support and treatment at a residential habilitation center as determined by the procedure set forth in RCW 43.20B.420: PROVIDED, That the sum as set forth in RCW 71A.20.100 shall be retained by the estate of the resident at all times for such personal needs as may arise: PROVIDED FURTHER, That where any person other than a resident or the guardian of the resident's estate deposits funds so that the depositor and a resident become joint tenants with the right of survivorship, such funds shall not be considered part of the resident's estate so long as the resident is not the sole survivor among such joint tenants. [1988 c 176 § 904; 1987 c 75 § 25; 1971 ex.s. c 118 § 3; 1967 c 141 § 4. Formerly RCW 72.33.665.]

Severability—1988 c 176: See RCW 71A.10.900.

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.430 Residential habilitation centers—Costs of services—Notice and finding of responsibility—Service—Adjudicative proceeding. In all cases where a determination is made that the estate of a resident of a residential habilitation center is able to pay all or any portion of the charges, a notice and finding of responsibility shall be served on the guardian of the resident's estate, or if no guardian has been appointed then to the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident. The notice shall set forth the amount the department has determined that such estate is able to pay, not to exceed the charge as fixed in accordance with RCW 43.20B.420, and the responsibility for payment to the department shall commence twenty-eight days after personal service of such notice and finding of responsibility. Service shall be in the manner prescribed for the service of a summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An application for an adjudicative proceeding from the determination of responsibility may be made to the secretary by the guardian of the resident's estate, or if no guardian has been appointed then by the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident of a state school, within such twenty-eight day period. The application must be written and served on the secretary by registered or certified mail, or by personal service. If no application is filed, the notice and finding of responsibility shall become final. If an application is filed, the execution of notice and finding of responsibility shall be stayed pending the final adjudicative order. The hearing shall be conducted in a local department office or other location in Washington convenient to the appellant. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. [1989 c 175 § 99; 1988 c 176 § 905; 1987 c 75 § 26; 1985 c 245 § 6; 1982 c 189 § 7; 1979 c 141 § 239; 1970 ex.s. c 75 § 1; 1967 c 141 § 5. Formerly RCW 72.33.670.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1988 c 176: See RCW 71A.10.900.

Savings—1985 c 245: See note following RCW 43.20B.340.

Effective date—1982 c 189: See note following RCW 34.12.020.

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.435 State residential habilitation centers—Costs of services—Modification or vacation of finding of responsibility. The secretary, upon application of the guardian of the estate of the resident, and after investigation, or upon investigation without application, may, if satisfied of the financial ability or inability of such person to make payments in accordance with the original finding of responsibility, modify or vacate such original finding of responsibility, and enter a new finding of responsibility. The secretary's determination to modify or vacate findings of responsibility shall be served and be appealable in the same manner and in accordance with the same procedure for appeals of original findings of responsibility. [1979 c 141 § 240; 1967 c 141 § 7. Formerly RCW 72.33.680.]

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.440 Residential habilitation centers—Costs of services—Charges payable in advance. The charges for care, support, maintenance and treatment of persons at residential habilitation centers as provided by RCW 43.20B.410 through 43.20B.455 shall be payable in advance on the first day of each and every month to the department. [1988 c 176 § 906; 1987 c 75 § 27; 1979 c 141 § 241; 1967 c 141 § 8. Formerly RCW 72.33.685.]

Severability—1988 c 176: See RCW 71A.10.900.

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.445 Residential habilitation centers—Costs of services—Reimbursement from property subsequently acquired—Placement outside school—Liability after death of resident. The provisions of RCW 43.20B.410 through 43.20B.455 shall not be construed to prohibit or prevent the department of social and health services from obtaining reimbursement from any person liable under RCW 43.20B.410 through 43.20B.455 for payment of the full amount of the accrued per capita cost from any property acquired by gift, devise or bequest subsequent to and regardless of the initial findings of responsibility under RCW 43.20B.430: PROVIDED, That the estate of any resident of a residential habilitation center shall not be liable for such reimbursement subsequent to termination of services for that resident at the residential habilitation center: PROVIDED FURTHER, That upon the death of any person while a resident in a residential habilitation center, the person's estate shall become liable to the same extent as the resident's liability on the date of death. [1988 c 176 § 907; 1987 c 75 § 28; 1979 c 141 § 242; 1967 c 141 § 9. Formerly RCW 72.33.690.]

Severability—1988 c 176: See RCW 71A.10.900.

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.450 State residential habilitation centers—Costs of services—Liabilities created apply to care, support, and treatment after July 1, 1967. The liabilities created by RCW 43.20B.410 through 43.20B.455 shall apply to the care, support and treatment occurring after July 1, 1967. [1987 c 75 § 29; 1967 c 141 § 11. Formerly RCW 72.33.695.]

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.455 Residential habilitation centers—Costs of services—Discretionary allowance in resident's fund. Notwithstanding any other provision of RCW 43.20B.410 through 43.20B.455, the secretary may, if in the secretary's discretion any resident of a residential habilitation center can be terminated from receiving services at the habilitation center more rapidly and assimilated into a community, keep an amount not exceeding five thousand dollars in the resident's fund for such resident and such resident shall not thereafter be liable thereon for per capita costs of care, support and treatment as provided for in RCW 43.20B.415. [1988 c 176 § 908; 1987 c 75 § 30; 1979 c 141 § 243; 1967 c 141 § 12. Formerly RCW 72.33.700.]

Severability—1988 c 176: See RCW 71A.10.900.

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.460 Guardianship fees and additional costs for incapacitated clients paying part of costs—Maximum amount—Rules. The department of social and health services shall establish by rule the maximum amount of guardianship fees and additional compensation for administrative costs that may be allowed by the court as compensation for a guardian or limited guardian of an incapacitated person who is a department of social and health services client residing in a nursing facility or in a residential or home setting and is required by the department of social and health services to contribute a portion of their income towards the cost of residential or supportive services. [1994 c 68 § 2.]

RECOVERY OF OVERPAYMENTS

43.20B.620 Overpayments of assistance—Lien against recipient's property—Recovery methods. Overpayments of public assistance or food stamps under RCW 74.04.300 shall become a lien against the real and personal property of the recipient from the time of filing by the department with the county auditor of the county in which the recipient resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

Debts due the state for overpayments of public assistance or food stamps may be recovered by the state by deduction from the subsequent assistance payments to such persons, lien and foreclosure, or order to withhold and deliver, or may be recovered by civil action. [1987 c 75 § 43.]

43.20B.630 Overpayments of assistance—Procedures—Adjudicative proceeding. (1) Any person who owes a debt to the state for an overpayment of public assistance and/or food stamps shall be notified of that debt by either personal service or certified mail, return receipt requested. Personal service, return of the requested receipt, or refusal by the debtor of such notice is proof of notice to the debtor of the debt owed. Service of the notice shall be in the manner prescribed for the service of a summons in a civil action. The notice shall include a statement of the debt owed; a statement that the property of the debtor will be subject to collection action after the debtor terminates from public assistance and/or food stamps; a statement that the

property will be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and a statement that the net proceeds will be applied to the satisfaction of the overpayment debt. Action to collect the debt by lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver, is lawful after ninety days from the debtor's termination from public assistance and/or food stamps or the receipt of the notice of debt, whichever is later. This does not preclude the department from recovering overpayments by deduction from subsequent assistance payments, not exceeding deductions as authorized under federal law with regard to financial assistance programs: PROVIDED, That subject to federal legal requirement, deductions shall not exceed five percent of the grant payment standard if the overpayment resulted from error on the part of the department or error on the part of the recipient without willful or knowing intent of the recipient in obtaining or retaining the overpayment.

(2) A current or former recipient who is aggrieved by a claim that he or she owes a debt for an overpayment of public assistance or food stamps has the right to an adjudicative proceeding pursuant to RCW 74.08.080. If no application is filed, the debt will be subject to collection action as authorized under this chapter. If a timely application is filed, the execution of collection action on the debt shall be stayed pending the final adjudicative order or termination of the debtor from public assistance and/or food stamps, whichever occurs later. [1989 c 175 § 100; 1982 c 201 § 18; 1981 c 163 § 1. Formerly RCW 74.04.700.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Overpayments and debts due the state: RCW 74.04.300.

43.20B.635 Overpayments of assistance—Orders to withhold property of debtor—Procedures. After service of a notice of debt for an overpayment as provided for in RCW 43.20B.630, stating the debt accrued, the secretary may issue to any person, firm, corporation, association, political subdivision, or department of the state, an order to withhold and deliver property of any kind including, but not restricted to, earnings which are due, owing, or belonging to the debtor, when the secretary has reason to believe that there is in the possession of such person, firm, corporation, association, political subdivision, or department of the state property which is due, owing, or belonging to the debtor. The order to withhold and deliver shall state the amount of the debt, and shall state in summary the terms of this section, RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. 1673, and other state or federal exemption laws applicable generally to debtors. The order to withhold and deliver shall be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person, firm, corporation, association, political subdivision, or department of the state upon whom service has been made shall answer the order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein. The secretary may require further and additional answers to be completed by the person, firm, corporation, association, political subdivision, or department of the state. If any such person, firm, corporation, association, political subdivision,

or department of the state possesses any property which may be subject to the claim of the department of social and health services, such property shall be withheld immediately upon receipt of the order to withhold and deliver and shall, after the twenty-day period, upon demand, be delivered forthwith to the secretary. The secretary shall hold the property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. In the alternative, there may be furnished to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability. Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, association, political subdivision, or department of the state subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary. Delivery to the secretary, subject to the exemptions under RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. 1673, and other state or federal law applicable generally to debtors, of the money or other property held or claimed satisfies the requirement of the order to withhold and deliver. Delivery to the secretary serves as full acquittance, and the state warrants and represents that it shall defend and hold harmless for such actions persons delivering money or property to the secretary pursuant to this chapter. The state also warrants and represents that it shall defend and hold harmless for such actions persons withholding money or property pursuant to this chapter.

The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed by certified mail a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address, or, in the alternative, a copy of the order to withhold and deliver shall be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy of the order shall be mailed or served together with a concise explanation of the right to petition for a hearing on any issue related to the collection. This requirement is not jurisdictional, but, if the copy is not mailed or served as provided in this section, or if any irregularity appears with respect to the mailing or service, the superior court, on its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy. [1990 c 100 § 1; 1987 c 75 § 37; 1981 c 163 § 2. Formerly RCW 74.04.710.]

43.20B.640 Overpayments of assistance—Failure to withhold property of debtor. If any person, firm, corporation, association, political subdivision, or department of the state fails to answer an order to withhold and deliver within the time prescribed in RCW 43.20B.635, or fails or refuses to deliver property pursuant to the order, or after actual notice of filing of a lien as provided for in this chapter, pays over, releases, sells, transfers, or conveys real or personal property subject to such lien to or for the benefit of the

debtor or any other person, or fails or refuses to surrender upon demand property distrained under RCW 43.20B.635, or fails or refuses to honor an assignment of wages presented by the secretary, such person, firm, corporation, association, political subdivision, or department of the state is liable to the department in an amount equal to one hundred percent of the value of the debt which is the basis of the lien, order to withhold and deliver, distraint, or assignment of wages, together with costs, interest, and reasonable attorney fees. [1987 c 75 § 38; 1981 c 163 § 3. Formerly RCW 74.04.720.]

43.20B.645 Overpayments of assistance—Assignment of earnings. Any person, firm, corporation, association, political subdivision, or department employing a person owing a debt for overpayment of public assistance received as defined in RCW 74.04.300, shall honor, according to its terms, a duly executed assignment of earnings presented to the employer by the secretary as a plan to satisfy or retire an overpayment debt. This requirement to honor the assignment of earnings is applicable whether the earnings are to be paid presently or in the future and continues in force and effect until released in writing by the secretary. Payment of moneys pursuant to an assignment of earnings presented to the employer by the secretary serves as full acquittance under any contract of employment, and the state warrants and represents it shall defend and hold harmless such action taken pursuant to the assignment of earnings. The secretary is released from liability for improper receipt of moneys under assignment of earnings upon return of any moneys so received. [1981 c 163 § 4. Formerly RCW 74.04.730.]

43.20B.660 Improper realty transfer—Suit to rescind—Recovery from recipient's estate. If an improper real property transfer is made as defined in RCW 74.08.331 through 74.08.338, the department may request the attorney general to file suit to rescind the transaction except as to subsequent bona fide purchasers for value. If it is established by judicial proceedings that a fraudulent conveyance occurred, the value of any public assistance which has been furnished may be recovered in any proceedings from the recipient or the recipient's estate. [1987 c 75 § 46.]

43.20B.670 Excess property assistance program—Lien—Department as creditor. When the department provides grant assistance to persons who possess excess real property under RCW 74.04.005(10)(f), the department may file a lien against, or otherwise perfect its interest in such real property as a condition of granting such assistance, and the department shall have the status of a secured creditor. [1985 c 245 § 10. Formerly RCW 74.04.007.]

43.20B.680 Vendor overpayments—Lien or other security—Setoff or recoupment—Exception. (1) The department may, at the secretary's discretion, secure the repayment of any outstanding overpayment, plus interest, if any, through the filing of a lien against the vendor's real property, or by requiring the posting of a bond, assignment of deposit, or some other form of security acceptable to the department, or by doing both.

(a) Any lien shall be effective from the date of filing for record with the county auditor of the county in which the property is located and the lien claim shall have preference over the claims of all unsecured creditors.

(b) The department shall review and determine the acceptability of all other forms of security.

(c) Any bond must be issued by a company licensed as a surety in the state of Washington.

(d) This subsection does not apply to nursing homes licensed under chapter 18.51 RCW or portions of hospitals licensed under chapter 70.41 RCW and operating as a nursing home, if those facilities are subject to chapter 74.46 RCW.

(2) The department may recover any overpayment, plus interest, if any, by setoff or recoupment against subsequent payments to the vendor. [1987 c 283 § 10.]

Severability—Savings—1987 c 283: See notes following RCW 43.20A.020.

43.20B.685 Vendor overpayments—Liens—Duration—Enforcement. Liens created under RCW 43.20B.680 shall bind the affected property for a period of ten years after the lien has been recorded or ten years after the resolution of all good faith disputes as to the overpayment, whichever is later. Any civil action by the department to enforce such lien must be timely commenced before the ten-year period expires or the lien shall be released. A civil action to enforce such lien shall not be timely commenced unless the summons and complaint are filed within the ten-year period in a court having jurisdiction and service of the summons and complaint is made upon all parties in the manner prescribed by appropriate civil court rules. [1987 c 283 § 11.]

Severability—Savings—1987 c 283: See notes following RCW 43.20A.020.

43.20B.688 Limitation on actions to enforce vendor overpayment debts. Any action to enforce a vendor overpayment debt shall be commenced within six years from the date of the department's notice to the vendor. [1987 c 283 § 15. Formerly RCW 43.20A.440.]

Severability—Savings—1987 c 283: See notes following RCW 43.20A.020.

Vendor overpayments: RCW 43.20B.680 through 43.20B.695.

43.20B.690 Vendor overpayments—Remedies nonexclusive. The remedies under RCW 43.20B.680 and 43.20B.685 are nonexclusive and nothing contained in this chapter may be construed to impair or affect the right of the department to maintain a civil action or to pursue any other remedies available to it under the laws of this state to recover such debt. [1987 c 283 § 12.]

Severability—Savings—1987 c 283: See notes following RCW 43.20A.020.

43.20B.695 Vendor overpayments—Interest—Exceptions. (1) Except as provided in subsection (4) of this section, vendors shall pay interest on overpayments at the rate of one percent per month or portion thereof. Where partial repayment of an overpayment is made, interest

accrues on the remaining balance. Interest will not accrue when the overpayment occurred due to department error.

(2) If the overpayment is discovered by the vendor prior to discovery and notice by the department, the interest shall begin accruing ninety days after the vendor notifies the department of such overpayment.

(3) If the overpayment is discovered by the department prior to discovery and notice by the vendor, the interest shall begin accruing as follows, whichever occurs first:

(a) Thirty days after the date of notice by the department to the vendor; or

(b) Ninety days after the date of overpayment to the vendor.

(4) This section does not apply to:

(a) Interagency or intergovernmental transactions;

(b) Contracts for public works, goods and services procured for the exclusive use of the department, equipment, or travel; and

(c) Contracts entered into before September 1, 1979, for contracts with medical assistance funding, and August 23, 1983, for all other contracts. [1987 c 283 § 2; 1983 1st ex.s. c 41 § 17. Formerly RCW 43.20A.435.]

Severability—Savings—1987 c 283: See notes following RCW 43.20A.020.

Savings—1983 1st ex.s. c 41 § 17: "The enactment of section 17 of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which is already in existence on August 23, 1983." [1983 1st ex.s. c 41 § 18.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

43.20B.710 Medical assistance—Improper transfer or assignment of resources—Penalty—Presumption, rebuttal—Attorney's fees. If cash or resources are improperly transferred or assigned under *RCW 74.09.538, a person who knowingly or willingly receives the assets for less than fair market value is liable for a civil penalty equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value. The civil penalty shall not exceed the cost of assistance rendered by the department to the applicant or recipient. The person may rebut the presumption that the transfer or assignment was made for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance. The prevailing party in such an action shall be awarded reasonable attorney's fees. [1987 c 75 § 47.]

***Reviser's note:** RCW 74.09.538 was repealed by 1989 c 87 § 11.
Transfer of spousal resources: RCW 74.09.530 through 74.09.595.

43.20B.720 Recipient receiving industrial insurance compensation—Subrogation rights of department—Lien—Withhold and deliver notice. By accepting public assistance from the department of social and health services, the recipient thereof shall be deemed to have subrogated said department to the recipient's right to recover time loss compensation due to such recipient and his or her dependents pursuant to the provisions of Title 51 RCW to the extent of such assistance or compensation, whichever is less, furnished to the recipient and his or her dependents for or during the period for which time loss compensation is payable: PROVIDED, That the amount to be repaid to the department of social and health services shall bear its

proportionate share of attorney's fees and costs, if any, incurred by the injured worker or the worker's dependents. The department of social and health services may assert and enforce a lien and notice to withhold and deliver as hereinafter provided to secure reimbursement of any public assistance paid for or during the period and for the purposes expressed in this section. [1985 c 245 § 7; 1982 c 201 § 17; 1973 1st ex.s. c 102 § 1. Formerly RCW 74.04.530.]

43.20B.725 Recipient receiving industrial insurance compensation—Lien and notice to withhold and deliver. The lien and notice to withhold and deliver in RCW 43.20B.720 shall be signed by the secretary or the secretary's authorized representative and shall identify the recipient of public assistance and time loss compensation, the amount claimed by the department, and the demand to withhold and deliver the sum claimed by the department. [1987 c 75 § 33; 1985 c 245 § 8; 1973 1st ex.s. c 102 § 2. Formerly RCW 74.04.540.]

43.20B.730 Recipient receiving industrial insurance compensation—Effective date of lien and notice—Service. The effective date of the statement of lien and notice to withhold and deliver provided in RCW 43.20B.725, shall be the day that it is received by the director of the department of labor and industries, an employee of the director's office of suitable discretion, or a self-insurer as defined in chapter 51.08 RCW: PROVIDED, That service of such statement of lien and notice to withhold and deliver may be made personally or by regular mail, postage prepaid: PROVIDED, FURTHER, That a copy of the statement of lien and notice to withhold and deliver shall be mailed to the recipient at the recipient's last known address by certified mail, return receipt requested, no later than the next business day after such statement of lien and notice to withhold and deliver has been mailed or delivered to the department of labor and industries or to a self-insurer as defined in chapter 51.08 RCW. [1987 c 75 § 34; 1985 c 245 § 9; 1973 1st ex.s. c 102 § 3. Formerly RCW 74.04.550.]

43.20B.735 Recipient receiving industrial insurance compensation—Duty to withhold and deliver—Amount. The director of the department of labor and industries, following receipt of the statement of lien and notice to withhold and deliver, shall deliver to the secretary of the department of social and health services or his designee any funds up to the amount claimed he may hold, or which may at any time come into his possession, on account of time loss compensation payable to said recipient for or during the period stated, immediately upon a final determination of the recipient's entitlement to the time loss compensation in accordance with the provisions of Title 51 RCW. [1973 1st ex.s. c 102 § 4. Formerly RCW 74.04.560.]

43.20B.740 Recipient receiving industrial insurance compensation—Adjudicative proceeding. Any person feeling aggrieved by the action of the department of social and health services in impounding his or her time loss compensation as provided in RCW 43.20B.720 through 43.20B.745 shall have the right to an adjudicative proceeding.

Any such person who desires a hearing shall, within twenty-eight days after the notice to withhold and deliver has been mailed to or served upon the director of the department of labor and industries and said appellant, file with the secretary an application for an adjudicative proceeding.

The proceeding shall be governed by chapter 34.05 RCW, the Administrative Procedure Act. [1989 c 175 § 101; 1987 c 75 § 35; 1973 1st ex.s. c 102 § 5. Formerly RCW 74.04.570.]

Effective date—1989 c 175: See note following RCW 34.05.010.

43.20B.745 Recipient receiving industrial insurance compensation—Application. RCW 43.20B.720 through 43.20B.745 shall not apply to persons whose eligibility for benefits under Title 51 RCW, is based upon an injury or illness occurring prior to July 1, 1972. [1987 c 75 § 36; 1973 1st ex.s. c 102 § 6. Formerly RCW 74.04.580.]

CONSTRUCTION

43.20B.900 Savings—1987 c 75. The enactment of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which is already in existence on July 26, 1987. [1987 c 75 § 48.]

43.20B.901 Severability—1987 c 75. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 75 § 51.]

Chapter 43.21A

DEPARTMENT OF ECOLOGY

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43.21A.010 Legislative declaration of state policy on environment and utilization of natural resources. The legislature recognizes and declares it to be the policy of this state, that it is a fundamental and inalienable right of the people of the state of Washington to live in a healthful and pleasant environment and to benefit from the proper development and use of its natural resources. The legislature further recognizes that as the population of our state grows, the need to provide for our increasing industrial, agricultural, residential, social, recreational, economic and other needs will place an increasing responsibility on all segments of our society to plan, coordinate, restore and regulate the utilization of our natural resources in a manner that will protect and conserve our clean air, our pure and abundant waters, and the natural beauty of the state. [1970 ex.s. c 62 § 1.]

Savings—Other powers and rights not affected—Permits, standards, not affected—1970 ex.s. c 62: "The provisions of this act shall not impair or supersede the powers or rights of any person, committee, association, public, municipal or private corporations, state or local governmental agency, federal agency, or political subdivision of the state of Washington under any other law except as specifically provided herein. Pollution control permits, water quality standards, air pollution permits, air quality standards, and permits for disposal of solid waste materials of this state are not changed hereby and the laws governing the same are to be protected and preserved." [1970 ex.s. c 62 § 61.]

Effective date—1970 ex.s. c 62: "This 1970 amendatory act shall take effect on July 1, 1970." [1970 ex.s. c 62 § 64.]

Severability—1970 ex.s. c 62: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall not be affected." [1970 ex.s. c 62 § 65.]

43.21A.020 Purpose. In recognition of the responsibility of state government to carry out the policies set forth in RCW 43.21A.010, it is the purpose of this chapter to establish a single state agency with the authority to manage and develop our air and water resources in an orderly, efficient, and effective manner and to carry out a coordinated program of pollution control involving these and related land resources. To this end a department of ecology is created by this chapter to undertake, in an integrated manner, the various water regulation, management, planning and development programs now authorized to be performed by the department of water resources and the water pollution control commission, the air regulation and management program now performed by the state air pollution control

board, the solid waste regulation and management program authorized to be performed by state government as provided by chapter 70.95 RCW, and such other environmental, management protection and development programs as may be authorized by the legislature. [1970 ex.s. c 62 § 2.]

43.21A.030 Definitions. As used in this chapter, unless the context indicates otherwise:

- (1) "Department" means the department of ecology.
- (2) "Director" means the director of the department of ecology.
- (3) "Commission" means the ecological commission. [1970 ex.s. c 62 § 3.]

43.21A.040 Department of ecology—Created. There is created a department of state government to be known as the department of ecology. [1970 ex.s. c 62 § 4.]

43.21A.050 Department of ecology—Director—Appointment—Powers and duties—Salary—Temporary appointment when vacancy. The executive and administrative head of the department shall be the director. The director shall be appointed by the governor with the consent of the senate. He shall have complete charge of and supervisory powers over the department. He shall be paid a salary fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he shall present to that body his nomination for the position. [1970 ex.s. c 62 § 5.]

43.21A.061 Powers and duties—Reclamation. The department of ecology shall exercise all the powers and perform all the duties prescribed by law with respect to the reclamation and development of arid, swamp, overflow, and logged-off lands in the state and such other duties as may be prescribed by law. [1987 c 109 § 26; 1965 c 8 § 43.21.110. Prior: 1921 c 7 § 70; RRS § 10828. Formerly RCW 43.21.110.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21A.064 Powers and duties—Water resources. Subject to RCW 43.21A.068, the director of the department of ecology shall have the following powers and duties:

(1) The supervision of public waters within the state and their appropriation, diversion, and use, and of the various officers connected therewith;

(2) Insofar as may be necessary to assure safety to life or property, he shall inspect the construction of all dams, canals, ditches, irrigation systems, hydraulic power plants, and all other works, systems, and plants pertaining to the use of water, and he may require such necessary changes in the construction or maintenance of said works, to be made from time to time, as will reasonably secure safety to life and property;

(3) He shall regulate and control the diversion of water in accordance with the rights thereto;

(4) He shall determine the discharge of streams and springs and other sources of water supply, and the capacities

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of lakes and of reservoirs whose waters are being or may be utilized for beneficial purposes;

(5) He shall keep such records as may be necessary for the recording of the financial transactions and statistical data thereof, and shall procure all necessary documents, forms, and blanks. He shall keep a seal of the office, and all certificates by him covering any of his acts or the acts of his office, or the records and files of his office, under such seal, shall be taken as evidence thereof in all courts;

(6) He shall render when required by the governor, a full written report of the work of his office with such recommendations for legislation as he may deem advisable for the better control and development of the water resources of the state;

(7) The director and duly authorized deputies may administer oaths;

(8) He shall establish and promulgate rules governing the administration of chapter 90.03 RCW;

(9) He shall perform such other duties as may be prescribed by law. [1995 c 8 § 3; 1977 c 75 § 46; 1965 c 8 § 43.21.130. Prior: 1961 c 19 § 1; prior: (i) 1951 c 57 § 3; 1921 c 7 § 72; RRS § 10830. (ii) 1951 c 57 § 3; 1917 c 117 § 8; RRS § 7358. Formerly RCW 43.21.130.]

Findings—1995 c 8: "The legislature finds and declares:

(1) The federal energy regulatory commission, under the federal power act, licenses hydropower projects in navigable waters and regularly and extensively inspects facilities for safety; and

(2) Nothing in this act alters or affects the department of ecology's authority to: (a) Participate in the federal process of licensing hydropower projects; or (b) ensure that hydropower projects comply with federal statutes such as the coastal zone management act and the clean water act and, subject to RCW 43.21A.068, all applicable state law." [1995 c 8 § 1.]

Review of permit applications to divert and store water, water flow policy: RCW 75.20.050.

Water power development, license fees: RCW 90.16.050, 90.16.060, 90.16.090.

43.21A.067 Water resources—"Basic data fund" created. The director of ecology may create within his department a fund to be known as the "basic data fund."

Into such fund shall be deposited all moneys contributed by persons for stream flow, ground water and water quality data or other hydrographic information furnished by the department in cooperation with the United States geological survey, and the fund shall be expended on a matching basis with the United States geological survey for the purpose of obtaining additional basic information needed for an intelligent inventory of water resources in the state.

Disbursements from the basic data fund shall be on vouchers approved by the department and the district engineer of the United States geological survey. [1987 c 109 § 27; 1967 c 53 § 1; 1965 c 8 § 43.21.140. Prior: 1951 c 57 § 4; 1943 c 30 § 1; Rem. Supp. 1943 § 5505-1. Formerly RCW 43.21.140.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21A.068 Federal power act licensees—Exemption from state requirements. (1) With respect to the safety of any dam, canal, ditch, hydraulic power plant, reservoir, project, or other work, system, or plant that requires a license under the federal power act, no licensee shall be required to:

(a) Submit proposals, plans, specifications, or other documents for approval by the department;

(b) Seek a permit, license, or other form, permission, or authorization from the department;

(c) Submit to inspection by the department; or

(d) Change the design, construction, modification, maintenance, or operation of such facilities at the demand of the department.

(2) For the purposes of this section, "licensee" means an owner or operator, or any employee thereof, of a dam, canal, ditch, hydraulic power plant, reservoir, project, or other work, system, or plant that requires a license under the federal power act. [1995 c 8 § 2.]

Findings—1995 c 8: See note following RCW 43.21A.064.

43.21A.069 Powers and duties—Flood control. The department of ecology shall exercise all the powers and perform all the duties prescribed by law with respect to flood control. [1987 c 109 § 28; 1965 c 8 § 43.21.160. Prior: 1941 c 204 § 2, part; Rem. Supp. 1941 § 9663F-2, part. Formerly RCW 43.21.160.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21A.070 Application of administrative procedure act to the review of decisions by director. The administrative procedure act, chapter 34.05 RCW, shall apply to the review of decisions by the director to the same extent as it applied to decisions issued by the directors of the various departments whose powers, duties and functions are transferred by *this 1970 amendatory act to the department of ecology. The administrative procedure act shall further apply to all other decisions of the director as in chapter 34.05 RCW provided. [1970 ex.s. c 62 § 7.]

***Reviser's note:** For "this 1970 amendatory act" [1970 ex.s. c 62], see Codification Tables, Volume 0.

43.21A.080 Rule-making authority. The director of the department of ecology is authorized to adopt such rules and regulations as are necessary and appropriate to carry out the provisions of this chapter: PROVIDED, That the director may not adopt rules after July 23, 1995, that are based solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt the rule. [1995 c 403 § 103; 1970 ex.s. c 62 § 8.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

43.21A.085 Technical assistance officer and units—Coordination of voluntary compliance with regulatory laws. The department, to the greatest extent possible, within available resources and without jeopardizing the department's ability to carry out its legal responsibilities, may designate one or more of its employees as a technical assistance officer, and may organize the officers into one or more technical assistance units within the department. The duties of a technical assistance officer are to coordinate

voluntary compliance with the regulatory laws administered by the department and to provide technical assistance concerning compliance with the laws. [1992 c 19 § 1.]

43.21A.087 Technical assistance officer and units—Authority to issue orders or assess penalties. (1) An employee designated by the department as a technical assistance officer or as a member of a technical assistance unit may not, during the period of the designation, have authority to issue orders or assess penalties on behalf of the department. Such an employee who provides on-site consultation at an industrial or commercial facility and who observes violations of the law shall inform the owner or operator of the facility of the violations. On-site consultation visits by such an employee may not be regarded as inspections or investigations and no notices or citations may be issued or civil penalties assessed during such a visit. However, violations of the law must be reported to the appropriate officers within the department. If the owner or operator of the facility does not correct the observed violations within a reasonable time, the department may reinspect the facility and take appropriate enforcement action. If a technical assistance officer or member of a technical assistance unit observes a violation of the law that places a person in danger of death or substantial bodily harm, or has caused or is likely to cause physical damage to the property of others in an amount exceeding one thousand dollars, the department may initiate enforcement action immediately upon observing the violation.

(2) The state, the department, and officers or employees of the state shall not be liable for damages to a person to the extent that liability is asserted to arise from the performance by technical assistance officers of their duties, or if liability is asserted to arise from the failure of the department to supply technical assistance. [1992 c 19 § 2.]

43.21A.090 Powers, duties and functions transferred to department to be performed by director—Delegation by director, limitations. All powers, duties and functions transferred to the department by the terms of *this 1970 amendatory act shall be performed by the director: PROVIDED, That the director may delegate, by appropriate rule or regulation, the performance of such of his powers, duties, and functions, other than those relating to the adoption, amendment or rescission of rules and regulations, to employees of the department whenever it appears desirable in fulfilling the policy and purposes of this chapter. [1970 ex.s. c 62 § 9.]

***Reviser's note:** For "this 1970 amendatory act" [1970 ex.s. c 62], see Codification Tables, Volume 0.

43.21A.100 Departmental administrative divisions—Deputy director, duties—Assistant directors, duties—As exempt from state civil service law—Salaries. In order to obtain maximum efficiency and effectiveness within the department, the director may create such administrative divisions within the department as he deems necessary. The director shall appoint a deputy director as well as such assistant directors as shall be needed to administer the several divisions within the department. The deputy director shall have charge and general supervision of the department

in the absence or disability of the director. In the case of a vacancy in the office of director, the deputy director shall administer the department until the governor appoints a successor to the director or an acting director. The officers appointed under this section and exempt from the provisions of the state civil service law as provided in RCW 41.06.073, shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. [1970 ex.s. c 62 § 10.]

43.21A.120 Director to employ personnel—Application of state civil service law. The director shall have the power to employ such personnel as may be necessary for the general administration of this chapter: PROVIDED, That except as specified in RCW 41.06.073, such employment shall be in accordance with the rules of the state civil service law, chapter 41.06 RCW. [1970 ex.s. c 62 § 12.]

43.21A.130 Studies by director—Limitation. In addition to any other powers granted the director, the director may undertake studies dealing with all aspects of environmental problems involving land, water, or air: PROVIDED, That in the absence of specific legislative authority, such studies shall be limited to investigations of particular problems, and shall not be implemented by positive action. [1987 c 505 § 28; 1980 c 87 § 22; 1970 ex.s. c 62 § 13.]

43.21A.140 Director to consult with department, state board of health. The director in carrying out his powers and duties under this chapter shall consult with the department of social and health services and the state board of health, or their successors, insofar as necessary to assure that those agencies concerned with the preservation of life and health may integrate their efforts to the fullest extent possible and endorse policies in common. [1979 c 141 § 67; 1970 ex.s. c 62 § 14.]

43.21A.150 Director to consult with other states, federal government and Canadian provinces—Authority to receive and disburse grants, funds and gifts. The director, whenever it is lawful and feasible to do so, shall consult and cooperate with the federal government, as well as with other states and Canadian provinces, in the study and control of environmental problems. On behalf of the department, the director is authorized to accept, receive, disburse, and administer grants or other funds or gifts from any source, including private individuals or agencies, the federal government, and other public agencies, for the purpose of carrying out the provisions of this chapter. [1970 ex.s. c 62 § 15.]

43.21A.160 Request for certification of records as confidential—Procedure. Whenever any records or other information furnished under the authority of this chapter to the director, the department, or any division of the department, relate to the processes of production unique to the owner or operator thereof, or may affect adversely the competitive position of such owner or operator if released to

the public or to a competitor, the owner or operator of such processes or production may so certify, and request that such information or records be made available only for the confidential use of the director, the department, or the appropriate division of the department. The director shall give consideration to the request, and if such action would not be detrimental to the public interest and is otherwise within accord with the policies and purposes of this chapter, may grant the same. [1970 ex.s. c 62 § 16.]

43.21A.230 Certification of environmental laboratories authorized—Fees—Use of certified laboratories by persons submitting data or results to department. The director of ecology may certify environmental laboratories which conduct tests or prepare data for submittal to the department. Fees for certification may be charged by the department to cover the department's costs. Such certification may consider:

- (1) Evaluating protocols and procedures;
- (2) Determining the accuracy and reliability of test results, including internal quality assurance and quality control procedures and proficiency at analyzing test samples supplied by the department;
- (3) Certifying laboratories based on prior certification by another state or federal agency whose certification requirements are deemed satisfactory by the director; and
- (4) Such other factors as the director considers appropriate.

The director of ecology may require that any person submitting laboratory data or test results to the department use laboratories certified by the department or laboratories which participate in quality assurance programs administered by the federal environmental protection agency.

Persons receiving a federal permit for wastewater discharge who operate a lab solely for their own use and who require certification for only conventional pollutants shall not be charged an annual certification fee in excess of the actual costs of providing the certification or four thousand dollars, whichever is less. Conventional pollutants as used in this subsection means those conventional pollutants regulated under the federal clean water act (33 U.S.C. Sec. 1314).

Fees and lab quality control requirements for persons receiving state or federal wastewater discharge permits shall not be implemented before September 30, 1988. The department shall not duplicate any laboratory quality control requirements imposed by the United States environmental protection agency. [1987 c 481 § 1.]

43.21A.235 Exemption from laboratory certification and fee requirements. Laboratories owned by persons holding wastewater discharge permits and operated solely for their own use which participate in quality assurance programs administered by the federal environmental protection agency shall be exempt from certification and fee requirements for the specific methods and tests which are the subject of such quality assurance programs. [1987 c 481 § 2.]

43.21A.250 Pollution control hearings board of the state as affecting department, director and commission. See chapter 43.21B RCW.

43.21A.350 Master plan of development. The department of ecology shall prepare and perfect from time to time a state master plan for flood control, state public reservations, financed in whole or in part from moneys collected by the state, sites for state public buildings and for the orderly development of the natural and agricultural resources of the state. The plan shall be a guide in making recommendations to the officers, boards, commissions, and departments of the state.

Whenever an improvement is proposed to be established by the state, the state agency having charge of the establishment thereof shall request of the director a report thereon, which shall be furnished within a reasonable time thereafter. In case an improvement is not established in conformity with the report, the state agency having charge of the establishment thereof shall file in its office and with the department a statement setting forth its reasons for rejecting or varying from such report which shall be open to public inspection.

The department shall insofar as possible secure the cooperation of adjacent states, and of counties and municipalities within the state in the coordination of their proposed improvements with such master plan. [1987 c 109 § 29; 1965 c 8 § 43.21.190. Prior: 1957 c 215 § 22; 1933 ex.s. c 54 § 3; RRS § 10930-3. Formerly RCW 43.21.190.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21A.355 Master plan of development—Public hearings. The director may hold public hearings, in connection with any duty prescribed in RCW 43.21A.350 and may compel the attendance of witnesses and the production of evidence. [1988 c 127 § 7; 1965 c 8 § 43.21.200. Prior: 1957 c 215 § 23; 1933 ex.s. c 54 § 4; RRS § 10930-4. Formerly RCW 43.21.200.]

43.21A.405 Marine pollution—Baseline study program—Legislative finding and declaration. The legislature recognizes that there exists a great risk of potential damage from oil pollution of the waters of the state of Washington and further declares that immediate steps must be undertaken to reduce this risk. The legislature also is aware that such danger is expected to increase in future years in proportion to the increase in the size and cargo capacity of ships, barges, and other waterborne carriers, the construction and operational characteristics of these carriers, the density of waterborne traffic, and the need for a greater supply of petroleum products.

A program of systematic baseline studies to be conducted by the department of ecology has been recognized as a vital part of the efforts to reduce the risk of oil pollution of marine waters, and the legislature recognizes that many factors combine to make this effort one of considerable magnitude and difficulty. The marine shoreline of the state is about two thousand seven hundred miles long, a greater length than the combined coastlines of Oregon and California. There are some three million acres of submerged land and more than three hundred islands in these marine waters.

The average depth of Puget Sound is two hundred twenty feet. There is a great diversity of animal life in the waters of the state. These waters have a multitude of uses by both humans and nonhumans, and the interaction between man's activities and natural processes in these waters varies greatly with locale. [1973 2nd ex.s. c 30 § 1.]

Oil and hazardous substances pollution: RCW 90.56.010 through 90.56.280.

43.21A.410 Marine pollution—Baseline study program established—Utilization of related programs—Coordination—Contracts. As part of the state effort to prevent and control oil pollution, a continuing, comprehensive program of systematic baseline studies for the waters of the state shall be established by the department of ecology. Full utilization of related historical data shall be made in planning these studies. Data from these and other scientific investigations made pursuant to RCW 43.21A.405 through 43.21A.420 should, whenever possible, have multiple use, including use as supporting evidence of environmental damage resulting from oil pollution, as indicators of the potential or existing risks and impacts of oil pollution, as aids to developing a methodology for implementing the reduction of risks, and as aids to maintaining water quality standards.

A baseline study program shall take full advantage of the data and information produced by related programs, such as the marine ecosystems analysis (MESA) program of the national oceanic and atmospheric administration, studies and inventories made pursuant to the state shorelines management act of 1971, and others. All phases of the program, including planning, operations, data analysis, interpretation, storage, retrieval, and dissemination phases, shall be coordinated to the greatest possible extent with appropriate governmental, academic, and industrial organizations. Whenever possible, the department shall contract with existing state agencies, boards, commissions, and institutions of higher education for the scientific investigation programs to be conducted. [1973 2nd ex.s. c 30 § 2.]

43.21A.415 Marine pollution—Baseline study program—Scope of data base produced. The data base produced by such studies should include chemical, physical, and biological parameters of the waters, complete information on marine pollution accidents, and an economic evaluation of the marine resources and shoreline properties that may be damaged or impaired by oil pollution. Where oceanographic and water quality instrumentation is used to gather data, such instruments shall be standardized and intercalibrated. [1973 2nd ex.s. c 30 § 3.]

43.21A.420 Marine pollution—Baseline study program—Priority factors. In planning the state baseline studies program, priority shall be given to those waters (1) in which the greatest risk of damage from oil spills exists; (2) which contain marine and fresh water life that is particularly sensitive to toxins contained in crude oil, oil products, and oil wastes; and (3) which are used or may be used for the harvesting, gathering, or production of food or food products. [1973 2nd ex.s. c 30 § 4.]

43.21A.430 Catalytic converters in police, ambulance or emergency aid vehicles—Department's powers restricted in respect thereto. The department of ecology may not adopt, maintain in effect, or enforce any rule requiring the installation or maintenance of a catalytic converter in the exhaust system of any motor vehicle used as a police vehicle, or ambulance, an emergency aid vehicle, or a fire department vehicle, and any catalytic converter in the exhaust system of any such vehicle may be lawfully removed. [1977 ex.s. c 264 § 1.]

43.21A.440 Department authorized to participate in and administer federal Comprehensive Environmental Response, Compensation and Liability Act. The department of ecology is authorized to participate fully in and is empowered to administer all programs of the federal Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.), as it exists on July 24, 1983, contemplated for state participation and administration under that act. [1983 c 270 § 3.]

Severability—1983 c 270: See note following RCW 90.48.260.

43.21A.445 Departments authorized to participate in and administer federal Safe Drinking Water Act—Agreements with other departments. The department of ecology, the department of natural resources, the department of health, and the *oil and gas conservation committee are authorized to participate fully in and are empowered to administer all programs of Part C of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300h et seq.), as it exists on June 19, 1986, contemplated for state participation in administration under the act.

The department of ecology, in the implementation of powers provided herein shall enter into agreements of administration with the departments of health and natural resources and the *oil and gas conservation committee to administer those portions of the state program, approved under the federal act, over which the said departments and committee have primary subject-matter authority under existing state law. The departments of health and natural resources and the *oil and gas conservation committee are empowered to enter into such agreements and perform the administration contained therein. [1989 1st ex.s. c 9 § 218; 1988 c 279 § 1; 1983 c 270 § 4.]

***Reviser's note:** The duties of the oil and gas conservation committee were transferred to the department of natural resources by 1994 sp.s. c 9.

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

Severability—1983 c 270: See note following RCW 90.48.260.

Adoption of rules for on-site sewage disposal systems adjacent to marine waters: RCW 90.48.264.

Drinking water quality consumer complaints: RCW 80.04.110.

43.21A.450 Control of outflow and level of Lake Osoyoos—Lake Osoyoos International Water Control Structure authorized. (1) The legislature recognizes the need for the state of Washington to implement an understanding reached with the Province of British Columbia in relation to a joint venture with British Columbia for controlling the outflow and level of Lake Osoyoos, an international

lake, and in connection therewith to replace an existing lake control structure on the Okanogan river in Washington state which has been classified as deteriorated and unsafe.

(2) For the purpose of implementing subsection (1) of this section, the department of ecology may acquire, design, construct, own, operate, and maintain a project to be known as the Lake Osoyoos International Water Control Structure and may acquire all real property interests necessary thereto by purchase, grant, gift, or eminent domain; provided that the authority of eminent domain as granted to the department under this section is limited to acquiring property necessary for access to the control structure, location of abutments for the control structure, and flowage easements if necessary.

(3) The department may accept and administer grants or gifts from any source for the purpose of carrying out subsection (2) of this section.

(4) The department may exercise its powers under subsection (2) of this section directly or through contracts, except that it may not delegate its authority of eminent domain. The department may also enter into agreements with any public or municipal corporation with respect to operation and maintenance of the project authorized under subsection (2) of this section. [1985 c 27 § 1; 1982 c 76 § 1.]

Intent—1985 c 27; 1982 c 76: "It is the intent of this legislature in enacting RCW 43.21A.450 that total capital costs for the said project be shared equally by Washington state and British Columbia." [1985 c 27 § 2; 1982 c 76 § 2.]

43.21A.460 East Selah reregulating reservoir. (1) The legislature recognizes the need to improve the control and regulation of the waters of the Yakima river system to insure that both necessary diversionary and instream beneficial uses of those waters, which provide the foundation for the economic and environmental well-being of the Yakima valley, are achieved to the maximum extent reasonably attainable. It is further recognized that the most satisfactory means for satisfying this need is to improve the existing water project, known as the Yakima project, presently operated by the United States bureau of reclamation. Therefore, the legislature intends to aid the United States in improving the Yakima project by constructing physical works and providing financial assistance.

(2) For the purpose of implementing subsection (1) of this section, the department of ecology may acquire, design, and construct a project, known as the East Selah reregulating reservoir, and may acquire, by gift, purchase, or condemnation, all real property interests necessary to complete the project. The department may then transfer the completed East Selah reregulating reservoir to the department of the interior of the United States subject to such conditions as the department of ecology requires to ensure that the objectives of this section are achieved.

(3) The department shall not:

(a) Exercise any powers of acquisition or construction provided in subsection (2) of this section, until the department has entered into a binding agreement with the United States department of the interior that the department of the interior will, upon completion by the department of the East Selah reregulating reservoir project, accept title to the project and thereafter operate and maintain the project (i) consistent with the agreement of transfer, and (ii) without any obliga-

tion upon the state for payment of costs for the operation or maintenance of the project; or

(b) Enter into any agreement under subsection (3)(a) of this section until (i) federal legislation is enacted recognizing the amount of the value of the completed East Selah reregulating reservoir as a credit to any matching funds requirement placed upon the state of Washington established in any authorization or appropriation bill enacted after August 23, 1983, relating to any project studied under Public Law 96-162, and (ii) the department is satisfied that the United States has the necessary water rights to operate the project. [1983 1st ex.s. c 18 § 1.]

43.21A.470 Yakima enhancement project—Duties—Request for congressional authorization for pipeline. (1) The director of the department of ecology shall:

(a) Continue to participate with the federal government in its studies of the Yakima enhancement project and of options for future development of the second half of the Columbia Basin project;

(b) Vigorously represent the state's interest in said studies, particularly as they relate to protection of existing water rights and resolution of conflicts in the adjudication of the Yakima river within the framework of state water rights law and propose means of resolving the conflict that minimize adverse effects on the various existing uses;

(c) As a cooperative federal and nonfederal effort, work with members of the congressional delegation to identify and advance, subject to the limitations in subsection (2) of this section, for federal authorization elements of the Yakima enhancement project which: Have general public support and acceptable cost-sharing arrangements, meet study objectives, and otherwise have potential for early implementation; and

(d) In developing acceptable cost-sharing arrangements, request federal recognition of state credit for expenditures of moneys from Washington state utility ratepayers.

(2) In the interest of promoting cooperation between all interested parties and to effectuate the efficient and satisfactory implementation of the Yakima enhancement project, the state requests that Congress authorize the construction of a pipeline between Keechelus Lake and Kachess Lake as one of the elements of early implementation of the Yakima enhancement project for the purpose of supplying the water which is demanded for and caused by the operation of the fish passage facilities at the Easton Dam. The department, in concert with other state agencies, shall work diligently to assure that the pipeline element is included in the federal legislation. [1987 c 517 § 1; 1986 c 316 § 3.]

43.21A.510 State environmental profile. In order to assist the department of community, trade, and economic development in providing information to businesses interested in locating in Washington state, the department shall develop an environmental profile of the state. This profile shall identify the state's natural resources and describe how these assets are valuable to industry. Examples of information to be included are water resources and quality, air quality, and recreational opportunities related to natural resources. [1995 c 399 § 66; 1985 c 466 § 51; 1984 c 94 § 2.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

Findings—1984 c 94: "The legislature finds (1) that a locality's natural environment is an important factor in determining where new businesses will locate, (2) that environmental regulations that preserve the quality of the environment can enhance economic development and the determination by new businesses where to locate and can lead to the creation of jobs and new industries, and (3) that some areas of the state have been and might be handicapped in their economic development efforts because of perceived environmental problems. Thus, the legislature declares that it is the policy of this state to recognize and emphasize the importance of the state's natural environment in its economic development efforts in attracting and maintaining businesses." [1984 c 94 § 1.]

43.21A.515 Assistance to businesses interested in locating in Washington required—Information on environmental laws and regulations to be provided. In order to emphasize the importance of the state's environmental laws and regulations and to facilitate compliance with them, the department of ecology shall provide assistance to businesses interested in locating in Washington state. When the department of community, trade, and economic development receives a query from an interested business through its industrial marketing activities, it shall arrange for the department of ecology to provide information on the state's environmental laws and regulations and methods of compliance. This section shall facilitate compliance with state environmental laws and regulations and shall not weaken their application or effectiveness. [1995 c 399 § 67; 1985 c 466 § 52; 1984 c 94 § 3.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

Findings—1984 c 94: See note following RCW 43.21A.510.

43.21A.520 Environmental excellence awards program for products. (1) The department of ecology shall develop and implement an environmental excellence awards program that recognizes products that are produced, labeled, or packaged in a manner that helps ensure environmental protection. The award shall be in recognition of products that are made from recycled materials, easy to recycle, substitute for more hazardous products, or otherwise help protect the environment. Application for the award shall be voluntary. The awards may be made in a variety of product categories including, but not limited to:

- (a) Paint products;
- (b) Cleaning products;
- (c) Pest control products;
- (d) Automotive, marine, and related maintenance products;
- (e) Hobby and recreation products; and
- (f) Any other product available for retail or wholesale sale.

(2) The state solid waste advisory committee shall establish an environmental excellence product award subcommittee to develop and recommend criteria for awarding environmental excellence awards for products. The subcommittee shall also review award applications and make recommendations to the department. The subcommittee shall consist of equal representation of: (a) Product manufacturing or other business representatives; (b) environmental representatives; (c) labor or consumer representatives; and (d) independent technical experts. Members of the subcommit-

tee need not necessarily be regular members of the state solid waste advisory committee.

(3) Products receiving an environmental excellence award pursuant to this section shall be entitled to display a logo or other symbol developed by the department to signify the award. Awards shall be given each year to as many products as qualify. The award logo may be displayed for a period to be determined by the department. [1989 c 431 § 47; 1987 c 67 § 1.]

Severability—Section captions not law—1989 c 431: See RCW 70.95.901 and 70.95.902.

43.21A.600 Powers and duties—Electric power resources. The department shall make studies and surveys, collect, compile and disseminate information and statistics to facilitate development of the electric power resources of the state by public utility districts, municipalities, electric cooperatives, joint operating agencies and public utility companies. The director may cause studies to be made relating to the construction of steam generating plants using any available fuel and their integration with hydro-electric facilities. He may cause designs for any such plant to be prepared. He shall employ such engineers and other experts and assistants as may be necessary to carry out his power resources functions. [1988 c 127 § 8; 1965 c 8 § 43.21.220. Prior: 1957 c 284 § 2. Formerly RCW 43.21.220.]

Joint operating agencies: Chapter 43.52 RCW.

43.21A.605 Development of electric power resources—Cooperation with governmental units. The director may represent the state and aid and assist the public utilities therein to the end that its resources shall be properly developed in the public interest insofar as they affect electric power and to this end he shall cooperate and may negotiate with Canada, the United States, the states thereof and their agencies to develop and integrate the resources of the region. [1988 c 127 § 9; 1965 c 8 § 43.21.230. Prior: 1957 c 284 § 3. Formerly RCW 43.21.230.]

43.21A.610 Steam electric generating plant—Study—Construction. The director shall continue the study of the state power commission made in 1956 relating to the construction of a steam power electric generating plant, and if the construction of a steam electric generating plant is found to be feasible by the director, the director may construct such plant at a site determined by him to be feasible and operate it as a state owned facility. [1988 c 127 § 10; 1965 c 8 § 43.21.250. Prior: 1957 c 275 § 3. Formerly RCW 43.21.250]

43.21A.612 Steam electric generating plant—Statement of intention—Construction by public utility, operating agency, or the department, procedure—Powers of director of community, trade, and economic development. Before the director shall construct said steam generating facility within the state, or make application for any permit, license or other right necessary thereto, the director shall give notice thereof by publishing once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is located a statement of intention setting forth the general

nature, extent and location of the project. If any public utility in the state or any operating agency desires to construct such facility, such utility or operating agency shall notify the director thereof within ten days after the last date of publication of such notice. If the director determines that it is in the best public interest that the director proceed with such construction rather than the public utility or operating agency, the director shall so notify the director of community, trade, and economic development, who shall set a date for hearing thereon. If after considering the evidence introduced the director of community, trade, and economic development finds that the public utility or operating agency making the request intends to immediately proceed with such construction and is financially capable of carrying out such construction and further finds that the plan of such utility or operating agency is equally well adapted to serve the public interest, the director shall enter an order so finding and such order shall divest the director of authority to proceed further with such construction or acquisition until such time as the other public utility or agency voluntarily causes an assignment of its right or interest in the project to the director or fails to procure any further required governmental permit, license or authority or having procured such, has the same revoked or withdrawn, in accordance with the laws and regulations of such governmental entity, in which event the director shall have the same authority to proceed as though the director had originally entered an order so authorizing the director to proceed. If, after considering the evidence introduced, the director of community, trade, and economic development finds that the public utility or agency making the request does not intend to immediately proceed with such construction or acquisition or is not financially capable of carrying out such construction or acquisition, or finds that the plan of such utility or operating agency is not equally well adapted to serve the public interest, the director shall then enter an order so finding and authorizing the director to proceed with the construction or acquisition of the facility. [1995 c 399 § 68; 1988 c 127 § 11; 1985 c 466 § 49; 1965 c 8 § 43.21.260. Prior: 1957 c 275 § 4. Formerly RCW 43.21.260.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

43.21A.614 Steam electric generating plant—Powers of director in constructing, operating and maintaining. In order to construct, operate and maintain the single steam power electric generating plant provided for in RCW 43.21A.610 the director shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate such steam electric power plant, work and facilities for the generation and/or transmission of electric energy and to take, condemn, purchase, lease and acquire any real or personal, public or private property, franchise and property rights, including but not limited to state, county and school lands and properties, for any of the purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of such work, plant and facilities; providing that the director shall not be

authorized to acquire by condemnation any plant, work and facility owned and operated by any city or district, or by a privately owned public utility.

(3) To apply to the appropriate agencies of the state of Washington, the United States or any state thereof, or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

(4) To establish rates for electric energy sold or transmitted by the director. When any revenue bonds or warrants are outstanding the director shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy furnished or supplied by the director which shall be fair and nondiscriminatory and adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the director is obligated to set aside in any special fund or funds created for such purposes, and for the proper operation and maintenance of the public utility owned by the director and all necessary repairs, replacements and renewals thereof.

(5) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the director may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the director shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the director. [1988 c 127 § 12; 1965 c 8 § 43.21.270. Prior: 1957 c 275 § 5. Formerly RCW 43.21.270.]

43.21A.616 Steam electric generating plant—Eminent domain. For the purpose of carrying out any or all of the powers herein granted the director shall have the power of eminent domain for the acquisition of either real or personal property used or useful in connection with the construction of facilities authorized hereunder. Actions in eminent domain pursuant to RCW 43.21A.610 through 43.21A.642 shall be brought in the name of the state in any court of competent jurisdiction under the procedure set out in chapter 8.04 RCW. The director may institute condemnation proceedings in the superior court of any county in which any of the property sought to be condemned is located or in which the owner thereof does business, and the court in any such action shall have jurisdiction to condemn property wherever located within the state. It shall not be necessary to allege or prove any offer to purchase or inability to agree with the owners thereof for the purchase of any such property in said proceedings. Upon the filing of a petition for condemnation, as provided in this section, the court may issue an order restraining the removal from the jurisdiction of the state of any personal property sought to be acquired by the proceedings during the pendency thereof. The court shall further have the power to issue such orders or process as shall be necessary to place the director into possession of any property condemned. [1988 c 127 § 13; 1965 c 8 § 43.21.280. Prior: 1957 c 275 § 6. Formerly RCW 43.21.280.]

43.21A.618 Steam electric generating plant—State not financially obligated—Separation and expenditure of funds. The director shall have no right or power to impose any debt nor to suffer or create any financial obligation upon the state of Washington or its subdivisions in the execution of RCW 43.21A.610 through 43.21A.642.

No revenues received by the director for the sale of electricity or otherwise, shall be expended except for the payment of lawful obligations of the director and all such revenues and receipts shall be kept and maintained in a separate fund. [1988 c 127 § 14; 1965 c 8 § 43.21.290. Prior: 1957 c 275 § 7. Formerly RCW 43.21.290.]

43.21A.620 Steam electric generating plant—Revenue bonds and warrants. For the purposes provided for in RCW 43.21A.610 through 43.21A.642, the state finance committee shall, upon being notified to do so by the director, issue revenue bonds or warrants payable from the revenues from the steam electric plant provided for in RCW 43.21A.610. When the director deems it advisable that he acquire or construct said steam electric plant or make additions or betterments thereto, he shall so notify the state finance committee and he shall also notify the state finance committee as to the plan proposed, together with the estimated cost thereof. The state finance committee, upon receiving such notice, shall provide for the construction thereof and the issuance of revenue bonds or warrants therefor by a resolution which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof, as nearly as may be, including as part of the cost, funds necessary for working capital for the operation of such utility and the payment of the expenses incurred in the acquisition or construction thereof. Such resolution shall specify that utility revenue bonds are to be issued to defray the cost thereof and the amount of such bonds to be issued. Bonds issued under the provisions of RCW 43.21A.610 through 43.21A.642 shall distinctly state that they are not a general obligation of the state. [1988 c 127 § 15; 1965 c 8 § 43.21.300. Prior: 1957 c 275 § 8. Formerly RCW 43.21.300.]

43.21A.622 Steam electric generating plant—Special funds—Payment of bonds, interest. When the state finance committee issues revenue bonds as provided in RCW 43.21A.620, it shall, as a part of the plan and system, request the state treasurer to establish a special fund or funds to defray the cost of the steam electric utility, or additions or betterments thereto or extensions thereof. The state finance committee may obligate and bind the director to set aside and pay to the state treasurer for deposit into such fund or funds a fixed proportion of the gross revenue of the steam electric utility and all additions or betterments thereto or extensions thereof, or any fixed amount out of, and not exceeding the fixed proportion of such revenue, or a fixed amount without regard to any fixed proportion, or an amount of the revenue equal to a fixed percentage of the aggregate principal amount of revenue bonds at any time issued against the special fund or funds. It may issue and sell utility bonds payable as to both principal and interest only out of such fund or funds.

The revenue bonds shall be payable at such places and times, both as to principal and interest, and bear interest at such rates payable semiannually as the state finance committee shall determine. [1988 c 127 § 16; 1965 c 8 § 43.21.310. Prior: 1957 c 275 § 9. Formerly RCW 43.21.310.]

43.21A.624 Steam electric generating plant—Considerations in issuance of bonds, limitations. In the issuance of any bonds hereunder the state finance committee shall have due regard to the cost of operation and maintenance of the steam electric utility as acquired, constructed or added to, and to any proportion or amount of the revenue previously pledged as a fund for the payment of revenue bonds. It shall not require to be set aside into the fund a greater amount or proportion of the revenue than in its judgment and as agreed to by the director will be available over and above the cost of maintenance and operation and any amount or proportion of the revenue so previously pledged. Revenue bonds and interest thereon issued against such fund shall be a valid claim of the holder thereof only as against the fund and the proportion or amount of the revenue pledged thereto, but shall constitute a prior charge over all other charges or claims whatsoever against the fund and the proportion or amount of the revenues pledged thereto. Each revenue bond shall state on its face that it is payable from a special fund, naming the fund and the resolution creating it. [1988 c 127 § 17; 1965 c 8 § 43.21.320. Prior: 1957 c 275 § 10. Formerly RCW 43.21.320.]

43.21A.626 Steam electric generating plant—Resolution authorizing issuance of bonds, contents, covenants. The resolution of the state finance committee authorizing the issuance of revenue bonds shall specify the title of the bonds as determined by the state finance committee, and may contain covenants by the committee to protect and safeguard the security and the rights of the holders thereof, including covenants as to, among other things:

(1) The purpose or purposes to which the proceeds of the sale of the revenue bonds may be applied and the use and disposition thereof;

(2) The use and disposition of the gross revenue of the steam electric utility and any additions or betterments thereto or extensions thereof, the cost of which is to be defrayed with such proceeds, including the creation and maintenance of funds for working capital to be used in the operation of the steam electric utility and for renewals and replacements thereof;

(3) The amount, if any, of additional revenue bonds payable from such fund which may be issued and the terms and conditions on which such additional revenue bonds or warrants may be issued;

(4) The establishment and maintenance of adequate rates and charges for electric power and energy and other services, facilities, and commodities, sold, furnished or supplied by the steam electric utility;

(5) The operation, maintenance, management, accounting and auditing of the electric utility;

(6) The terms upon which the revenue bonds, or any of them, may be redeemed at the election of the agency;

(7) Limitations upon the right to dispose of the steam electric utility or any part thereof without providing for the payment of the outstanding revenue bonds; and

(8) The appointment of trustees, depositaries, and paying agents to receive, hold, disburse, invest, and reinvest all or any part of the income, revenue, receipts and profits derived by the director from the operation, ownership, and management of its steam electric utility. [1988 c 127 § 18; 1965 c 8 § 43.21.330. Prior: 1957 c 275 § 11. Formerly RCW 43.21.330.]

43.21A.628 Steam electric generating plant—Sale of bonds. All bonds issued under or by authority of RCW 43.21A.610 through 43.21A.642 shall be sold to the highest and best bidder after such advertising for bids as the state finance committee may deem proper. The state finance committee may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as the state finance committee may deem most advantageous to its own interests. [1988 c 127 § 19; 1970 ex.s. c 56 § 61; 1969 ex.s. c 232 § 32; 1965 c 8 § 43.21.340. Prior: 1957 c 275 § 12. Formerly RCW 43.21.340.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

43.21A.630 Steam electric generating plant—Examination, registration of bonds by state auditor—Defects, irregularities. Prior to the issuance and delivery of any revenue bonds, such bonds and a certified copy of the resolution authorizing them shall be delivered to the state auditor together with any additional information that he may require. When the bonds have been examined they shall be registered by the auditor in books to be kept by him for that purpose, and a certificate of registration shall be endorsed upon each bond and signed by the auditor or a deputy appointed by him for the purpose. The bonds shall then be prima facie valid and binding obligations of the state finance committee in accordance with their terms, notwithstanding any defects or irregularities in the authorization and issuance of the bonds, or in the sale, execution or delivery thereof. [1965 c 8 § 43.21.350. Prior: 1957 c 275 § 13. Formerly RCW 43.21.350.]

43.21A.632 Steam electric generating plant—Rates or charges. When revenue bonds are outstanding the director shall establish, maintain, and collect rates or charges for electric power and energy, and other services, facilities and commodities sold and supplied by the director which shall be fair and nondiscriminatory and adequate to provide revenue sufficient to pay the principal of and interest on revenue bonds outstanding, and all payments which the director is obligated to make to the state treasurer for deposit in any special fund or funds created for such purpose, and for the proper operation and maintenance of the utility and all necessary repairs, replacements and renewals thereof. [1988 c 127 § 20; 1965 c 8 § 43.21.360. Prior: 1957 c 275 § 14. Formerly RCW 43.21.360.]

43.21A.634 Steam electric generating plant—Refunding revenue bonds. When the state finance committee has outstanding revenue bonds, the state finance committee, with the concurrence of the director, may by resolution provide for the issuance of refunding revenue bonds with which to refund the outstanding revenue bonds, or any part thereof at maturity, or before maturity if they are by their terms or by other agreement, subject to call for prior redemption, with the right in the state finance committee to combine various series and issues of the outstanding revenue bonds by a single issue of refunding revenue bonds. The refunding bonds shall be payable only out of a special fund created out of the gross revenue of the steam electric utility, and shall only be a valid claim as against such special fund and the amount or proportion of the revenue of the utility pledged to said fund. The rate of interest on refunding revenue bonds shall not exceed the rate of interest on revenue bonds refunded thereby. The state finance committee may exchange the refunding revenue bonds for the revenue bonds which are being refunded, or it may sell them in such manner as it deems for its best interest. Except as specifically provided in this section, the refunding revenue bonds shall be issued in accordance with the provisions contained in RCW 43.21A.610 through 43.21A.642 with respect to revenue bonds. [1988 c 127 § 21; 1965 c 8 § 43.21.370. Prior: 1957 c 275 § 15. Formerly RCW 43.21.370.]

43.21A.636 Steam electric generating plant—Signatures on bonds. All revenue bonds, including refunding revenue bonds, shall be signed by the governor and the state auditor under the seal of the state, one of which signatures shall be made manually and the other signature may be in printed facsimile, and any coupons may have printed or lithographic facsimile of the signatures of such officers. [1965 c 8 § 43.21.380. Prior: 1957 c 275 § 16. Formerly RCW 43.21.380.]

43.21A.638 Steam electric generating plant—Provisions of law, resolution, a contract with bondholder—Enforcement. The provisions of RCW 43.21A.610 through 43.21A.642 and any resolution providing for the issuance of revenue bonds shall constitute a contract with the holder or holders from time to time of the revenue bonds of the state finance committee. Such provisions of RCW 43.21A.610 through 43.21A.642 and of any such resolution shall be enforceable by any such bondholders by appropriate action in any court of competent jurisdiction. [1988 c 127 § 22; 1965 c 8 § 43.21.390. Prior: 1957 c 275 § 17. Formerly RCW 43.21.390.]

43.21A.640 Steam electric generating plant—Bonds are legal security, investment, negotiable. All revenue bonds issued hereunder shall be legal securities, which may be used by a bank or trust company for deposit with the state treasurer, or by a county or city or town treasurer, as security for deposits in lieu of a surety bond under any law relating to deposits of public moneys. They shall constitute legal investments for trustees and other fiduciaries other than corporations doing a trust business in this state, and for savings and loan associations, banks and insurance compa-

nies doing business in this state. All revenue bonds and all coupons appertaining thereto shall be negotiable instruments within the meaning and for all purposes of the negotiable instruments law. [1965 c 8 § 43.21.400. Prior: 1957 c 275 § 18. Formerly RCW 43.21.400.]

43.21A.642 Steam electric generating plant—Director not authorized to acquire other facilities or engage in retail distribution. Nothing in RCW 43.21A.610 through 43.21A.642 shall authorize or empower the director to purchase or acquire any transmission or distribution system or facilities or to engage in the retail distribution of electric energy, or to purchase or acquire any operating hydroelectric generating plant owned by any city or district, or by a privately owned public utility, or which hereafter may be acquired by any city or district by condemnation. [1988 c 127 § 23; 1965 c 8 § 43.21.410. Prior: 1957 c 275 § 19. Formerly RCW 43.21.410.]

43.21A.650 Freshwater aquatic weeds account. The freshwater aquatic weeds account is hereby created in the state treasury. Expenditures from this account may only be used as provided in RCW 43.21A.660. Moneys in the account may be spent only after appropriation. [1991 c 302 § 2.]

Findings—1991 c 302: "The legislature hereby finds that Eurasian water milfoil and other freshwater aquatic weeds can adversely affect fish populations, reduce habitat for desirable plant and wildlife species, and decrease public recreational opportunities. The legislature further finds that the spread of freshwater aquatic weeds is a state-wide problem and requires a coordinated response among state agencies, local governments, and the public. It is therefore the intent of the legislature to establish a funding source to reduce the propagation of Eurasian water milfoil and other freshwater aquatic weeds and to manage the problems created by such freshwater aquatic plants." [1991 c 302 § 1.]

Effective date—1991 c 302: See note following RCW 46.16.670.

43.21A.660 Freshwater aquatic weeds management program. Funds in the freshwater aquatic weeds account may be appropriated to the department of ecology to develop a freshwater aquatic weeds management program to:

(1) Issue grants to cities, counties, and state agencies to prevent, remove, reduce, or manage excessive freshwater aquatic weeds. Such grants shall only be issued for lakes, rivers, or streams with a public boat launching ramp. The department shall give preference to projects having matching funds or in-kind services;

(2) Develop public education programs relating to preventing the propagation and spread of freshwater aquatic weeds;

(3) Provide technical assistance to local governments and citizen groups;

(4) Fund demonstration or pilot projects consistent with the purposes of this section; and

(5) Fund hydrilla eradication activities in waters of the state. [1996 c 190 § 1; 1991 c 302 § 4.]

Findings—1991 c 302: See note following RCW 43.21A.650.

Effective date—1991 c 302: See note following RCW 46.16.670.

43.21A.670 Senior environmental corps—Department powers and duties. (1) The department of ecology shall have the following powers and duties in

carrying out its responsibilities for the senior environmental corps created under RCW 43.63A.247:

- Appoint a representative to the coordinating council;
- Develop project proposals;
- Administer project activities within the agency;
- Develop appropriate procedures for the use of volunteers;
- Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;
- Maintain project records and provide project reports;
- Apply for and accept grants or contributions for corps approved projects; and
- With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers. [1992 c 63 § 9.]

Severability—1992 c 63: See note following RCW 43.63A.240.

43.21A.680 Solid waste plan advisory committee abolished. The director of ecology shall abolish the solid waste plan advisory committee effective July 1, 1994. [1994 sp.s. c 9 § 804.]

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

43.21A.705 Oil spill prevention and response program—Findings. (*Effective until June 30, 1997.*) (1) The legislature declares that Washington's waters have irreplaceable value for the citizens of the state. These waters are vital habitat for numerous and diverse marine life and wildlife and the source of recreation, aesthetic pleasure, and pride for Washington's citizens. These waters are also vital for much of Washington's economic vitality.

The legislature finds that the transportation of oil on these waters creates a great potential hazard to these important natural resources.

(2) The legislature finds that the long-term environmental health of the state's waters depends upon the strength and vitality of its oil spill prevention and response program. It is the intent of this section, *RCW 43.21A.710 through 43.21A.720, 88.46.922, 88.46.925, 90.56.515, and sections 521 through 524, chapter 14, Laws of 1995 2nd sp. sess. to create an integrated oil spill prevention and response program that fosters planning, coordination, and incidence command. To that end, the merger of the office of marine safety with the department of ecology will: Ensure coordination via streamlining the marine safety functions of two agencies into one; provide a focused prevention and response program under a single administration; generate efficient incidence command to meet challenges threatening marine safety and the environment; and increase accountability owed to the public, the executive branch, and the legislature.

(3) It is the intent of the legislature that the merger of the office of marine safety with the department of ecology be accomplished in an organizational manner that maintains a priority focus and position for the oil spill prevention and response program. The merger shall allow for ready identification of the program by the public and ensure no

diminution in the state's commitment to marine safety and environmental protection. [1995 2nd sp.s. c 14 § 514; 1991 c 200 § 401. Formerly RCW 43.21I.005.]

***Reviser's note:** 1995 2nd sp.s. c 14 § 523 recodified RCW 43.21I.005, 43.21I.010, 43.21I.030, and 43.21I.040, all as amended by 1995 2nd sp.s. c 14, as RCW 43.21A.705, 43.21A.710, 43.21A.715, and 43.21A.720, respectively. 1995 2nd sp.s. c 14 § 523, the recodification section, expires June 30, 1997, pursuant to 1995 2nd sp.s. c 14 § 536, at which time the recodified numbers will revert to their original RCW numbers, without amendment.

Expiration date—1995 2nd sp.s. c 14 §§ 511-523, 528-533: See note following RCW 43.105.017.

Effective dates—1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Severability—1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Effective dates—Severability—1991 c 200: See RCW 90.56.901 and 90.56.904.

43.21A.710 Oil spill prevention and response division—Creation—Duties. (*Effective until June 30, 1997.*) (1) There is hereby created within the department of ecology an integrated oil spill prevention and response program. The department shall establish a division for the purpose of housing the integrated oil spill prevention and response program. The division shall establish its focus and independence from the department's other authorized divisions and services. The director may establish administrative facilities in various locations within the state of Washington, if deemed necessary for the efficient operation of the office [division], and if consistent with the principles set forth in subsection (2) of this section.

(2) The department shall organize the oil spill prevention and response division consistent with the goals of providing the state with a focus in marine transportation and serving the people of this state. To the extent practical, the director shall consider the following organizational principles:

(a) Clear lines of authority which avoid functional duplication within and between subelements of the department;

(b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public; and

(c) Maximum span of control without jeopardizing adequate supervision.

(3) The department shall provide leadership and coordination in identifying and resolving threats to the safety of marine transportation and the impact of marine transportation on the environment:

(a) Working with other state agencies and local governments to strengthen the state and local governmental partnership in providing public protection;

(b) Providing expert advice to the executive and legislative branches of state government;

(c) Providing active and fair enforcement of rules;

(d) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing marine safety measures;

(e) Providing information to the public; and

(f) Carrying out such other related actions as may be appropriate to this purpose.

(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the department shall ensure an opportunity for consultation, review, and comment before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the director may create whatever organizational framework the director deems necessary to achieve the goals and objectives of this section so long as it is consistent with *RCW 43.21A.705 through 43.21A.720 and chapter 88.46 RCW. The director shall have complete charge of and supervisory powers over the division, except where the director's authority is specifically limited by law.

(6) The director shall appoint an assistant director to carry out the duties of providing an oil spill prevention and response program consistent with *RCW 43.21A.705 through 43.21A.720 and chapter 88.46 RCW. In addition to exemptions set forth in RCW 41.06.070(3), the director shall be exempt from the provisions of chapter 41.06 RCW. All other employees of the division shall be subject to the provisions of chapter 41.06 RCW. [1995 2nd sp.s. c 14 § 515; 1992 c 73 § 4; 1991 c 200 § 402. Formerly RCW 43.21I.010.]

***Reviser's note:** 1995 2nd sp.s. c 14 § 523 recodified RCW 43.21I.005, 43.21I.010, 43.21I.030, and 43.21I.040, all as amended by 1995 2nd sp.s. c 14, as RCW 43.21A.705, 43.21A.710, 43.21A.715, and 43.21A.720, respectively. 1995 2nd sp.s. c 14 § 523, the recodification section, expires June 30, 1997, pursuant to 1995 2nd sp.s. c 14 § 536, at which time the recodified numbers will revert to their original RCW numbers, without amendment.

Expiration date—1995 2nd sp.s. c 14 §§ 511-523, 528-533: See note following RCW 43.105.017.

Effective dates—1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Severability—1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Effective dates—Severability—1991 c 200: See RCW 90.56.901 and 90.56.904.

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

43.21A.715 Oil spill prevention and response division—Director's powers. (*Effective until June 30, 1997.*) In addition to any other powers granted the director, the director, in the administration of the oil spill prevention and response division, may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of this chapter and chapter 88.46 RCW. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The director shall review each advisory committee within the jurisdiction of the department's oil spill prevention and response division and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed. The criteria specified in RCW 43.131.070 shall be used to determine whether or not each advisory committee shall be continued;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(4) Delegate powers, duties, and functions of the department's oil spill prevention and response division to employees of the department as the director deems necessary to carry out the provisions of *RCW 43.21A.705 through 43.21A.720 and chapter 88.46 RCW;

(5) Enter into contracts on behalf of the department's oil spill prevention and response division to carry out the purposes of *RCW 43.21A.705 through 43.21A.720 and chapter 88.46 RCW;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program for the purposes of *RCW 43.21A.705 through 43.21A.720 and chapter 88.46 RCW; or

(7) Accept gifts, grants, or other funds. [1995 2nd sp.s. c 14 § 516; 1992 c 73 § 11; 1991 c 200 § 405. Formerly RCW 43.21I.030.]

***Reviser's note:** 1995 2nd sp.s. c 14 § 523 recodified RCW 43.21I.005, 43.21I.010, 43.21I.030, and 43.21I.040, all as amended by 1995 2nd sp.s. c 14, as RCW 43.21A.705, 43.21A.710, 43.21A.715, and 43.21A.720, respectively. 1995 2nd sp.s. c 14 § 523, the recodification section, expires June 30, 1997, pursuant to 1995 2nd sp.s. c 14 § 536, at which time the recodified numbers will revert to their original RCW numbers, without amendment.

Expiration date—1995 2nd sp.s. c 14 §§ 511-523, 528-533: See note following RCW 43.105.017.

Effective dates—1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Severability—1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

Effective dates—Severability—1991 c 200: See RCW 90.56.901 and 90.56.904.

43.21A.720 Oil spill prevention and response division—Authority to administer oaths and issue subpoenas. (*Effective until June 30, 1997.*) (1) The director shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before the director together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings shall be governed by chapter 34.05 RCW.

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by chapter 34.05 RCW. [1995 2nd sp.s. c 14 § 517; 1991 c 200 § 407. Formerly RCW 43.21I.040.]

Expiration date—1995 2nd sp.s. c 14 §§ 511-523, 528-533: See note following RCW 43.105.017.

Effective dates—1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Severability—1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Effective dates—Severability—1991 c 200: See RCW 90.56.901 and 90.56.904.

43.21A.900 Chapter to be liberally construed. The rule of strict construction shall have no application to this chapter and it shall be liberally construed in order to carry

out the broad purposes set forth in RCW 43.21A.020. [1970 ex.s. c 62 § 27.]

43.21A.910 Savings—Permits, standards not affected—Severability—Effective date—1970 ex.s. c 62. See notes following RCW 43.21A.010.

Chapter 43.21B

ENVIRONMENTAL HEARINGS OFFICE— POLLUTION CONTROL HEARINGS BOARD

Sections

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- 43.21B.005 Environmental hearings office created—Composition—Chief executive officer—Staff support.
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- 43.21B.320 Stays of orders.
- 43.21B.330 Summary procedures.
- 43.21B.900 Savings—Other powers and duties not affected—Permits, standards not affected—Severability—Effective date—1970 ex.s. c 62.

43.21B.001 Definitions. As used in this chapter, "department" means the department of ecology, and "director" means the director of ecology. [1987 c 109 § 4.]

Purpose—1987 c 109: "The purposes of this act are to:

(1) Simplify and clarify existing statutory and administrative procedures for appealing decisions of the department of ecology and air pollution control authorities in order to (a) expedite those appeals, (b) insure that those appeals are conducted with a minimum of expense to save state and private resources, and (c) allow the appellate authorities to decide cases on their merits rather than on procedural technicalities.

(2) Clarify existing statutes relating to the environment but which refer to numerous agencies no longer in existence.

(3) Eliminate provisions no longer effective or meaningful and abbreviate statutory provisions which are unnecessarily long and confusing." [1987 c 109 § 1.]

Short title—1987 c 109: "This act may be referred to as the "ecology procedures simplification act of 1987." [1987 c 109 § 2.]

Construction—1987 c 109: "Unless otherwise specifically intended, this act shall not be construed to change existing substantive or procedural law; it should only clarify and standardize existing procedures." [1987 c 109 § 3.]

Rules—1987 c 109: "The department of ecology shall amend its rules by June 30, 1988, to effect the purposes of this act." [1987 c 109 § 160.]

Severability—1987 c 109: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 109 § 161.]

Captions—1987 c 109: "As used in this act, bill headings and section captions constitute no part of the law." [1987 c 109 § 162.]

43.21B.005 Environmental hearings office created—Composition—Chief executive officer—Staff support. There is created an environmental hearings office of the state of Washington. The environmental hearings office shall consist of the pollution control hearings board created in RCW 43.21B.010, the forest practices appeals board created in RCW 76.09.210, the shorelines hearings board created in RCW 90.58.170, and the hydraulic appeals board created in RCW 75.20.130. The chairman of the pollution control hearings board shall be the chief executive officer of the environmental hearings office. Membership, powers, functions, and duties of the pollution control hearings board, the forest practices appeals board, the shorelines hearings board, and the hydraulic appeals board shall be as provided by law.

The chief executive officer of the environmental hearings office may appoint an administrative appeals judge who shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, in cases before the boards comprising the office. The administrative appeals judge shall have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. Additional administrative appeals judges may also be appointed by the chief executive officer on the same terms. Administrative appeals judges shall not be subject to chapter 41.06 RCW.

The chief executive officer may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

The chief executive officer may also contract for required services. [1990 c 65 § 1; 1986 c 173 § 3; 1979 ex.s. c 47 § 2.]

Intent—1979 ex.s. c 47: "It is the intent of the legislature to consolidate administratively the pollution control hearings board, the forest practices appeals board, and the shorelines hearings board into one agency of state government with minimum disturbance to these boards. It is not the intent of the legislature in consolidating these boards to change the existing membership of these boards.

All full-time employees of the pollution control hearings board and the full-time employee of the forest practices appeals board shall be full-time employees of the environmental hearings office without loss of rights. Property and obligations of these boards and the shorelines hearings board shall be property and obligations of the environmental hearings office." [1979 ex.s. c 47 § 1.]

43.21B.010 Pollution control hearings board created—Purpose. There is hereby created within the

environmental hearings office a pollution control hearings board of the state of Washington.

The purpose of the pollution control hearings board is to provide for a more expeditious and efficient disposition of appeals with respect to the decisions and orders of the department and director and with respect to all decisions of air pollution control boards or authorities established pursuant to chapter 70.94 RCW. [1979 ex.s. c 47 § 3; 1970 ex.s. c 62 § 31.]

Intent—1979 ex.s. c 47: See note following RCW 43.21B.005.

43.21B.020 Members—Qualifications—Appointment. The hearings board shall consist of three members qualified by experience or training in pertinent matters pertaining to the environment, and at least one member of the hearings board shall have been admitted to practice law in this state and engaged in the legal profession at the time of his appointment. The hearings board shall be appointed by the governor with the advice and consent of the senate, and no more than two of whom at the time of appointment or during their term shall be members of the same political party. [1970 ex.s. c 62 § 32.]

43.21B.030 Members—Terms—Filling vacancies, term. Members of the hearings board shall be appointed for a term of six years and until their successors are appointed and have qualified. In case of a vacancy, it shall be filled by appointment by the governor for the unexpired portion of the term in which said vacancy occurs: PROVIDED, That the terms of the first three members of the hearings board shall be staggered so that one member shall be appointed to serve until July 1, 1972, one member until July 1, 1974, and one member until July 1, 1976. [1970 ex.s. c 62 § 33.]

43.21B.040 Removal of member, procedure—As disqualification for reappointment. Any member of the hearings board may be removed for inefficiency, malfeasance and misfeasance in office, under specific written charges filed by the governor, who shall transmit such written charges to the member accused and to the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time of the hearing which shall be public, and the procedure for the hearing, and the decision of such tribunal shall be final and not subject to review by the supreme court. Removal of any member of the hearings board by the tribunal shall disqualify such member for reappointment. [1970 ex.s. c 62 § 34.]

43.21B.050 Governor to determine basis for operation—Compensation if part time basis, limitation—Reimbursement of travel expenses. The hearings board shall operate on either a part time or a full time basis, as determined by the governor. If it is determined that the hearings board shall operate on a full time basis, each member of the hearings board shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined the hearings board shall operate on a part time basis, each member of the hearings board shall receive compensation on the basis of seventy-five

dollars for each day spent in performance of his duties but such compensation shall not exceed ten thousand dollars in a fiscal year. Each hearings board member shall receive reimbursement for travel expenses incurred in the discharge of his duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 101; 1970 ex.s. c 62 § 35.]

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

43.21B.060 Restrictions upon conduct while member and upon termination of membership. Each member of the hearings board: (1) Shall not be a candidate for nor hold any other public office or trust, and shall not engage in any occupation or business interfering with or inconsistent with his duty as a member of the hearings board, nor shall he serve on or under any committee of any political party; and (2) shall not for a period of one year after the termination of his membership on the hearings board, act in a representative capacity before the hearings board on any matter. [1970 ex.s. c 62 § 36.]

43.21B.080 Chairman, biennial election of. The hearings board shall as soon as practicable after the initial appointment of the members thereof, meet and elect from among its members a chairman, and shall at least biennially thereafter meet and elect such a chairman. [1970 ex.s. c 62 § 38.]

43.21B.090 Principal office—Quorum—Hearings—Board powers and duties. The principal office of the hearings board shall be at the state capitol, but it may sit or hold hearings at any other place in the state. A majority of the hearings board shall constitute a quorum for making orders or decisions, promulgating rules and regulations necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position of the hearings board be vacant. One or more members may hold hearings and take testimony to be reported for action by the hearings board when authorized by rule or order of the hearings board. The hearings board shall perform all the powers and duties specified in this chapter or as otherwise provided by law. [1990 c 65 § 2; 1974 ex.s. c 69 § 1; 1970 ex.s. c 62 § 39.]

43.21B.100 Board to make findings of fact and written decisions on each case considered—Effective upon signing and filing—Public information. The hearings board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decisions shall be effective upon being signed by two or more members of the hearings board and upon being filed at the hearings board's principal office, and shall be open for public inspection at all reasonable times. [1970 ex.s. c 62 § 40.]

43.21B.110 Pollution control hearings board jurisdiction. (1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, the administrator of the *office of marine safety, and the air pollution control

boards or authorities as established pursuant to chapter 70.94 RCW, or local health departments:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, and 90.48.120.

(c) The issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, or the modification of the conditions or the terms of a waste disposal permit.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Any other decision by the department, the administrator of the *office of marine safety, or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Proceedings by the department relating to general adjudications of water rights pursuant to chapter 90.03 or 90.44 RCW.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW. [1993 c 387 § 22. Prior: 1992 c 174 § 13; 1992 c 73 § 1; 1989 c 175 § 102; 1987 c 109 § 10; 1970 ex.s. c 62 § 41.]

***Reviser's note:** The office of marine safety was transferred to the department of ecology and renamed the integrated oil spill prevention and response program by 1995 2nd sp.s. c 14 § 515, effective January 1, 1996, until June 30, 1997.

Effective date—1993 c 387: See RCW 18.104.930.

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

Effective date—1989 c 175: See note following RCW 34.05.010.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Order for compliance with oil spill contingency or prevention plan not subject to review by pollution control hearings board: RCW 90.56.270.

43.21B.130 Administrative procedure act to apply to appeal of board rules and regulations—Scope of board action on decisions and orders of others. The administrative procedure act, chapter 34.05 RCW, shall apply to the appeal of rules and regulations adopted by the board to the

same extent as it applied to the review of rules and regulations adopted by the directors and/or boards or commissions of the various departments whose powers, duties and functions were transferred by section 6, chapter 62, Laws of 1970 ex. sess. to the department. All other decisions and orders of the director and all decisions of air pollution control boards or authorities established pursuant to chapter 70.94 RCW shall be subject to review by the hearings board as provided in this chapter. [1990 c 65 § 3; 1970 ex.s. c 62 § 43.]

43.21B.160 Appeals—Generally. In all appeals, the hearings board shall have all powers relating to administration of oaths, issuance of subpoenas, and taking of depositions as are granted to agencies in chapter 34.05 RCW, the Administrative Procedure Act. The hearings board, and each member thereof, shall be subject to all duties imposed upon, and shall have all powers granted to, an agency by those provisions of chapter 34.05 RCW relating to adjudicative proceedings. In the case of appeals within the jurisdiction of the hearings board, the hearings board, or any member thereof, may obtain such assistance, including the making of field investigations, from the staff of the director as the hearings board, or any member thereof, may deem necessary or appropriate. Any communication, oral or written, from the staff of the director to the hearings board shall be presented only in an open hearing. [1995 c 382 § 2; 1990 c 65 § 5; 1989 c 175 § 103; 1974 ex.s. c 69 § 3; 1970 ex.s. c 62 § 46.]

Effective date—1989 c 175: See note following RCW 34.05.010.

43.21B.170 Proceedings conducted in accordance with published board rules and regulations. All proceedings before the hearings board or any of its members shall be conducted in accordance with such rules of practice and procedure as the hearings board may prescribe. The hearings board shall publish such rules and arrange for the reasonable distribution thereof. [1995 c 382 § 3; 1970 ex.s. c 62 § 47.]

43.21B.180 Judicial review—Director's right of review of decisions pursuant to RCW 43.21B.110. Judicial review of a decision of the hearings board may be obtained only pursuant to RCW 34.05.510 through 34.05.598. The director shall have the same right of review from a decision made pursuant to RCW 43.21B.110 as does any person. [1994 c 253 § 6; 1989 c 175 § 104; 1970 ex.s. c 62 § 48.]

Effective date—1989 c 175: See note following RCW 34.05.010.

43.21B.190 Judicial review—Appeal from board's order. Within thirty days after the final decision and order of the hearings board upon such an appeal has been communicated to the interested parties, such interested party aggrieved by the decision and order of the hearings board may appeal to the superior court. [1995 c 382 § 4; 1994 c 253 § 7; 1988 c 202 § 43; 1970 ex.s. c 62 § 49.]

Severability—1988 c 202: See note following RCW 2.24.050.

43.21B.230 Appeals of agency actions. Any person having received notice of a denial of a petition, a notice of determination, notice of or an order made by the department may appeal, within thirty days from the date of the notice of such denial, order, or determination to the hearings board. The appeal shall be perfected by serving a copy of the notice of appeal upon the department or air pollution authority established pursuant to chapter 70.94 RCW, as the case may be, within the time specified herein and by filing the original thereof with proof of service with the clerk of the hearings board. [1994 c 253 § 8; 1990 c 65 § 6; 1970 ex.s. c 62 § 53.]

43.21B.240 Department—Air authorities—Adjudicative proceedings, may not conduct. The department and air authorities shall not have authority to hold adjudicative proceedings pursuant to the Administrative Procedure Act, chapter 34.05 RCW. Such hearings shall be held by the pollution control hearings board. [1989 c 175 § 105; 1987 c 109 § 9; 1970 ex.s. c 62 § 54.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.250 Challenges to consistency of rules adopted pursuant to RCW 43.21C.110 and 43.21C.120—Procedure—Finality. (1) All challenges in regard to the consistency of the rules adopted pursuant to RCW 43.21C.120 and with the rules and guidelines adopted pursuant to RCW 43.21C.110 shall be initiated by filing a petition for review with the pollution control hearings board in accordance with rules of practice and procedures promulgated by the hearings board.

(2) All challenges to the hearings board provided under this section shall be decided on the basis of conformance of rules, with the applicable rules and guidelines adopted pursuant to RCW 43.21C.110. The board may in its discretion require briefs, testimony, and oral arguments.

(3) The decisions of the hearings board authorized under this section shall be final. [1974 ex.s. c 179 § 9.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

Severability—1974 ex.s. c 179: See RCW 43.21C.910.

43.21B.260 Regulations and amendments of activated air pollution control authorities—Filing with hearings board authorized—Evidence. Activated air pollution control authorities, established under chapter 70.94 RCW, may file certified copies of their regulations and amendments thereto with the pollution control hearings board of the state of Washington, and the hearings board shall take judicial note of the copies so filed and the said regulations and amendments shall be received and admitted, by reference, in all hearings before the board, as prima facie evidence that such regulations and amendments on file are in full force and effect. [1974 ex.s. c 69 § 5.]

43.21B.300 Penalty procedures. (1) Any civil penalty provided in RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330 shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal

service, to the person incurring the penalty from the department, the administrator of the *office of marine safety, or the local air authority, describing the violation with reasonable particularity. Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the department, the administrator, or the authority for the remission or mitigation of the penalty. Upon receipt of the application, the department, the administrator, or authority may remit or mitigate the penalty upon whatever terms the department, the administrator, or the authority in its discretion deems proper. The department or the authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department, the administrator, or authority thirty days after receipt by the person penalized of the notice imposing the penalty or thirty days after receipt of the notice of disposition of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) Thirty days after receipt of the notice imposing the penalty;

(b) Thirty days after receipt of the notice of disposition on application for relief from penalty, if such an application is made; or

(c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department or the administrator within thirty days after it becomes due and payable, the attorney general, upon request of the department or the administrator, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within thirty days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431, the disposition of which shall be governed by that provision, RCW 70.105.080, which shall be credited to the hazardous waste control and elimination account, created by RCW 70.105.180, and RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390. [1993 c 387 § 23; 1992 c 73 § 2; 1987 c 109 § 5.]

*Reviser's note: The office of marine safety was transferred to the department of ecology and renamed the integrated oil spill prevention and

response program by 1995 2nd sp.s. c 14 § 515, effective January 1, 1996, until June 30, 1997.

Effective date—1993 c 387: See RCW 18.104.930.

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.305 Appeals involving penalties of five thousand dollars or less. In an appeal that involves a penalty of five thousand dollars or less, the appeal may be heard by one member of the board, whose decision shall be the final decision of the board. The board shall define by rule alternative procedures to expedite small appeals. These alternatives may include: Mediation, upon agreement of all parties; submission of testimony by affidavit; or other forms that may lead to less formal and faster resolution of appeals. [1994 c.253 § 5.]

43.21B.310 Appeal of orders, permits, and licenses.

(1) Any order issued by the department, the administrator of the *office of marine safety, or authority pursuant to RCW 70.94.211, 70.94.332, 70.105.095, 43.27A.190, 86.16.020, 88.46.070, or 90.48.120(2) or any provision enacted after July 26, 1987, or any permit, certificate, or license issued by the department may be appealed to the pollution control hearings board if the appeal is filed with the board and served on the department or authority within thirty days after receipt of the order. Except as provided under chapter 70.105D RCW, this is the exclusive means of appeal of such an order.

(2) The department, the administrator, or the authority in its discretion may stay the effectiveness of an order during the pendency of such an appeal.

(3) At any time during the pendency of an appeal of such an order to the board, the appellant may apply pursuant to RCW 43.21B.320 to the hearings board for a stay of the order or for the removal thereof.

(4) Any appeal must contain the following in accordance with the rules of the hearings board:

(a) The appellant's name and address;

(b) The date and docket number of the order, permit, or license appealed;

(c) A description of the substance of the order, permit, or license that is the subject of the appeal;

(d) A clear, separate, and concise statement of every error alleged to have been committed;

(e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and

(f) A statement setting forth the relief sought.

(5) Upon failure to comply with any final order of the department or the administrator, the attorney general, on request of the department or the administrator, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary, including injunctive relief, to insure compliance with the order. The air authorities may bring similar actions to enforce their orders.

(6) An appealable decision or order shall be identified as such and shall contain a conspicuous notice to the recipient that it may be appealed only by filing an appeal

with the hearings board and serving it on the department within thirty days of receipt. [1992 c 73 § 3; 1989 c 2 § 14 (Initiative Measure No. 97, approved November 8, 1988); (1987 3rd ex.s. c 2 § 49 repealed by 1989 c 2 § 24, effective March 1, 1989); 1987 c 109 § 6.]

***Reviser's note:** The office of marine safety was transferred to the department of ecology and renamed the integrated oil spill prevention and response program by 1995 2nd sp.s. c 14 § 515, effective January 1, 1996, until June 30, 1997.

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

Short title—Construction—Existing agreements—Effective date—Severability—1989 c 2: See RCW 70.105D.900 and 70.105D.910 through 70.105D.921, respectively.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.320 Stays of orders. (1) A person appealing to the hearings board an order of the department or an authority, not stayed by the issuing agency, may obtain a stay of the effectiveness of that order only as set forth in this section.

(2) An appealing party may request a stay by including such a request in the appeal document, in a subsequent motion, or by such other means as the rules of the hearings board shall prescribe. The request must be accompanied by a statement of grounds for the stay and evidence setting forth the factual basis upon which request is based. The hearings board shall hear the request for a stay as soon as possible. The hearing on the request for stay may be consolidated with the hearing on the merits.

(3) The applicant may make a prima facie case for stay if the applicant demonstrates either a likelihood of success on the merits of the appeal or irreparable harm. Upon such a showing, the hearings board shall grant the stay unless the department or authority demonstrates either (a) a substantial probability of success on the merits or (b) likelihood of success on the merits and an overriding public interest which justifies denial of the stay.

(4) Unless otherwise stipulated by the parties, the hearings board, after granting or denying an application for a stay, shall expedite the hearing and decision on the merits.

(5) Any party or other person aggrieved by the grant or denial of a stay by the hearings board may petition the superior court for Thurston county for review of that decision pursuant to chapter 34.05 RCW pending the appeal on the merits before the board. The superior court shall expedite its review of the decision of the hearings board. [1987 c 109 § 7.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.330 Summary procedures. The hearings board shall develop procedures for summary procedures, consistent with the rules of civil procedure for superior court on summary judgment, to decide cases before it. Such procedures may include provisions for determinations without an oral hearing or hearing by telephonic means. [1987 c 109 § 8.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.900 Savings—Other powers and duties not affected—Permits, standards not affected—Severability—Effective date—1970 ex.s. c 62. See notes following RCW 43.21A.010.

Chapter 43.21C

STATE ENVIRONMENTAL POLICY

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- 43.21C.0381 Application of RCW 43.21C.030(2)(c) to decisions pertaining to air operating permits.
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 - 43.21C.900 Short title.
 - 43.21C.910 Severability—1974 ex.s. c 179.
 - 43.21C.911 Section headings not part of law—1983 c 117.
 - 43.21C.912 Applicability—1983 c 117.
 - 43.21C.913 Severability—1983 c 117.
 - 43.21C.914 Effective dates—1983 c 117.
- Economic policy: Chapter 43.21H RCW.*

43.21C.010 Purposes. The purposes of this chapter are: (1) To declare a state policy which will encourage productive and enjoyable harmony between man and his environment; (2) to promote efforts which will prevent or eliminate damage to the environment and biosphere; (3) and stimulate the health and welfare of man; and (4) to enrich the understanding of the ecological systems and natural resources important to the state and nation. [1971 ex.s. c 109 § 1.]

43.21C.020 Legislative recognitions—Declaration—Responsibility. (1) The legislature, recognizing that man depends on his biological and physical surroundings for food, shelter, and other needs, and for cultural enrichment as well; and recognizing further the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource utilization and exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the state of Washington, in cooperation with federal and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to: (a) Foster and promote the general welfare; (b) to create and maintain conditions under which man and nature can exist in productive harmony; and (c) fulfill the social, economic, and other requirements of present and future generations of Washington citizens.

(2) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the state of Washington and all agencies of the state to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(b) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(d) Preserve important historic, cultural, and natural aspects of our national heritage;

(e) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(f) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(3) The legislature recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment. [1971 ex.s. c 109 § 2.]

43.21C.030 Guidelines for state agencies, local governments—Statements—Reports—Advice—Information. The legislature authorizes and directs that, to the fullest extent possible: (1) The policies, regulations, and laws of the state of Washington shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all branches of government of this state, including state agencies, municipal and public corporations, and counties shall:

(a) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment;

(b) Identify and develop methods and procedures, in consultation with the department of ecology and the ecological commission, which will insure that presently unquantified environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations;

(c) Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the environment, a detailed statement by the responsible official on:

(i) the environmental impact of the proposed action;

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) alternatives to the proposed action;

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

(d) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any public agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, province, state, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the governor, the department of ecology, the ecological commission, and the public, and shall accompany the proposal through the existing agency review processes;

(e) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which

involves unresolved conflicts concerning alternative uses of available resources;

(f) Recognize the world-wide and long-range character of environmental problems and, where consistent with state policy, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(g) Make available to the federal government, other states, provinces of Canada, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(h) Initiate and utilize ecological information in the planning and development of natural resource-oriented projects. [1971 ex.s. c 109 § 3.]

43.21C.031 Significant impacts. (1) An environmental impact statement (the detailed statement required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for legislation and other major actions having a probable significant, adverse environmental impact. The environmental impact statement may be combined with the recommendation or report on the proposal or issued as a separate document. The substantive decisions or recommendations shall be clearly identifiable in the combined document. Actions categorically exempt under RCW 43.21C.110(1)(a) do not require environmental review or the preparation of an environmental impact statement under this chapter. In a county, city, or town planning under RCW 36.70A.040, a planned action, as provided for in subsection (2) of this section, does not require a threshold determination or the preparation of an environmental impact statement under this chapter, but is subject to environmental review and mitigation as provided in this chapter.

An environmental impact statement is required to analyze only those probable adverse environmental impacts which are significant. Beneficial environmental impacts may be discussed. The responsible official shall consult with agencies and the public to identify such impacts and limit the scope of an environmental impact statement. The subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate sections of an environmental impact statement. Discussions of significant short-term and long-term environmental impacts, significant irrevocable commitments of natural resources, significant alternatives including mitigation measures, and significant environmental impacts which cannot be mitigated should be consolidated or included, as applicable, in those sections of an environmental impact statement where the responsible official decides they logically belong.

(2)(a) For purposes of this section, a planned action means one or more types of project action that:

(i) Are designated planned actions by an ordinance or resolution adopted by a county, city, or town planning under RCW 36.70A.040;

(ii) Have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with (A) a comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or (B) a fully contained community, a master planned resort, a master planned development, or a phased project;

(iii) Are subsequent or implementing projects for the proposals listed in (a)(ii) of this subsection;

(iv) Are located within an urban growth area, as defined in RCW 36.70A.030;

(v) Are not essential public facilities, as defined in RCW 36.70A.200; and

(vi) Are consistent with a comprehensive plan adopted under chapter 36.70A RCW.

(b) A county, city, or town shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the county, city, or town and may limit a planned action to a time period identified in the environmental impact statement or the ordinance or resolution adopted under this subsection. [1995 c 347 § 203; 1983 c 117 § 1.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

43.21C.033 Threshold determination to be made within ninety days after application is complete. (1) Except as provided in subsection (2) of this section, the responsible official shall make a threshold determination on a completed application within ninety days after the application and supporting documentation are complete. The applicant may request an additional thirty days for the threshold determination. The governmental entity responsible for making the threshold determination shall by rule, resolution, or ordinance adopt standards, consistent with rules adopted by the department to implement this chapter, for determining when an application and supporting documentation are complete.

(2) This section shall not apply to a city, town, or county that:

(a) By ordinance adopted prior to April 1, 1992, has adopted procedures to integrate permit and land use decisions with the requirements of this chapter; or

(b) Is planning under RCW 36.70A.040 and is subject to the requirements of RCW 36.70B.090. [1995 c 347 § 422; 1992 c 208 § 1.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Effective date—1992 c 208 § 1: "Section 1 of this act shall take effect September 1, 1992." [1992 c 208 § 2.]

43.21C.034 Use of existing documents. Lead agencies are authorized to use in whole or in part existing environmental documents for new project or nonproject actions, if the documents adequately address environmental considerations set forth in RCW 43.21C.030. The prior proposal or action and the new proposal or action need not be identical, but must have similar elements that provide a basis for comparing their environmental consequences such as timing, types of impacts, alternatives, or geography. The lead agency shall independently review the content of the existing documents and determine that the information and analysis to be used is relevant and adequate. If necessary, the lead agency may require additional documentation to ensure that all environmental impacts have been adequately addressed. [1993 c 23 § 1.]

43.21C.035 Certain irrigation projects decisions exempt from RCW 43.21C.030(2)(c). Decisions pertaining to applications for appropriation of fifty cubic feet of water per second or less for irrigation projects promulgated by any person, private firm, private corporation or private association without resort to subsidy by either state or federal government pursuant to RCW 90.03.250 through 90.03.340, as now or hereafter amended, to be used for agricultural irrigation shall not be subject to the requirements of RCW 43.21C.030(2)(c), as now or hereafter amended. [1974 ex.s. c 150 § 1.]

43.21C.036 Hazardous substance remedial actions—Procedural requirements and documents to be integrated. In conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or if conducted by the department of ecology, the department of ecology to the maximum extent practicable shall integrate the procedural requirements and documents of this chapter with the procedures and documents under chapter 70.105D RCW. Such integration shall at a minimum include the public participation procedures of chapter 70.105D RCW and the public notice and review requirements of this chapter. [1994 c 257 § 21.]

Severability—1994 c 257: See note following RCW 36.70A.270.

43.21C.037 Application of RCW 43.21C.030(2)(c) to forest practices. (1) Decisions pertaining to applications for Class I, II, and III forest practices, as defined by rule of the forest practices board under RCW 76.09.050, are not subject to the requirements of RCW 43.21C.030(2)(c) as now or hereafter amended.

(2) When the applicable county, city, or town requires a license in connection with any proposal involving forest practices (a) on lands platted after January 1, 1960, (b) on lands being converted to another use, or (c) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, then the local government, rather than the department of natural resources, is responsible for any detailed statement required under RCW 43.21C.030(2)(c).

(3) Those forest practices determined by rule of the forest practices board to have a potential for a substantial impact on the environment, and thus to be Class IV practices, require an evaluation by the department of natural resources as to whether or not a detailed statement must be prepared pursuant to this chapter. The evaluation shall be made within ten days from the date the department receives the application. A Class IV forest practice application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period. This section shall not be construed to prevent any local or regional governmental entity from determining that a detailed statement must be

prepared for an action regarding a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. [1983 c 117 § 2; 1981 c 290 § 1.]

43.21C.038 Application of RCW 43.21C.030(2)(c) to school closures. Nothing in RCW 43.21C.030(2)(c) shall be construed to require the preparation of an environmental impact statement or the making of a threshold determination for any decision or any action commenced subsequent to September 1, 1982, pertaining to a plan, program, or decision for the closure of a school or schools or for the school closure portion of any broader policy, plan or program by a school district board of directors. [1983 c 109 § 1.]

43.21C.0381 Application of RCW 43.21C.030(2)(c) to decisions pertaining to air operating permits. Decisions pertaining to the issuance, renewal, reopening, or revision of an air operating permit under RCW 70.94.161 are not subject to the requirements of RCW 43.21C.030(2)(c). [1995 c 172 § 1.]

43.21C.0382 Application of RCW 43.21C.030(2)(c) to watershed restoration projects. Decisions pertaining to watershed restoration projects as defined in RCW 89.08.460 are not subject to the requirements of RCW 43.21C.030(2)(c). [1995 c 378 § 12.]

43.21C.0383 Application of RCW 43.21C.030(2)(c) to waste discharge permits. The issuance, reissuance, or modification of a waste discharge permit that contains conditions no less stringent than federal effluent limitations and state rules is not subject to the requirements of RCW 43.21C.030(2)(c). This exemption applies to existing discharges only and does not apply to new source discharges. [1996 c 322 § 1.]

43.21C.0384 Application of RCW 43.21C.030(2)(c) to personal wireless services facilities. (1) Decisions pertaining to applications to site personal wireless service facilities are not subject to the requirements of RCW 43.21C.030(2)(c), if those facilities meet the following requirements:

(a)(i) The facility to be sited is a microcell and is to be attached to an existing structure that is not a residence or school and does not contain a residence or a school; or (ii) the facility includes personal wireless service antennas, other than a microcell, and is to be attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or a school, and the existing structure to which it is to be attached is located in a commercial, industrial, manufacturing, forest, or agricultural zone; or (iii) the siting project involves constructing a personal wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone; and

(b) The project is not in a designated environmentally sensitive area; and

(c) The project does not consist of a series of actions: (i) Some of which are not categorically exempt; or (ii) that

together may have a probable significant adverse environmental impact.

(2) The department of ecology shall adopt rules to create a categorical exemption for microcells and other personal wireless service facilities that meet the conditions set forth in subsection (1) of this section.

(3) For the purposes of this section:

(a) "Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(b) "Personal wireless service facilities" means facilities for the provision of personal wireless services.

(c) "Microcell" means a wireless communication facility consisting of an antenna that is either: (i) Four feet in height and with an area of not more than five hundred eighty square inches; or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length. [1996 c 323 § 2.]

Findings—1996 c 323: See note following RCW 43.70.600.

43.21C.039 Metals mining and milling operations—Environmental impact statements required. Notwithstanding any provision in RCW 43.21C.030 and 43.21C.031 to the contrary, an environmental impact statement shall be prepared for any proposed metals mining and milling operation as required by RCW 78.56.050. [1994 c 232 § 25.]

Severability—1994 c 232: See RCW 78.56.900.

Effective date—1994 c 232 §§ 1-5, 9-17, and 23-31: See RCW 78.56.901.

Disclosures required with SEPA checklist, metals mining and milling operations: RCW 78.56.040.

43.21C.040 Examination of laws, regulations, policies by state agencies and local authorities—Report of deficiencies and corrective measures. All branches of government of this state, including state agencies, municipal and public corporations, and counties shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the governor not later than January 1, 1972, such measures as may be necessary to bring their authority and policies in conformity with the intent, purposes, and procedures set forth in this chapter. [1971 ex.s. c 109 § 4.]

43.21C.050 Specific statutory obligations not affected. Nothing in RCW 43.21C.030 or 43.21C.040 shall in any way affect the specific statutory obligations of any agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other public agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other public agency. [1971 ex.s. c 109 § 5.]

43.21C.060 Chapter supplementary—Conditioning or denial of governmental action. The policies and goals set forth in this chapter are supplementary to those set forth

in existing authorizations of all branches of government of this state, including state agencies, municipal and public corporations, and counties. Any governmental action may be conditioned or denied pursuant to this chapter: PROVIDED, That such conditions or denials shall be based upon policies identified by the appropriate governmental authority and incorporated into regulations, plans, or codes which are formally designated by the agency (or appropriate legislative body, in the case of local government) as possible bases for the exercise of authority pursuant to this chapter. Such designation shall occur at the time specified by RCW 43.21C.120. Such action may be conditioned only to mitigate specific adverse environmental impacts which are identified in the environmental documents prepared under this chapter. These conditions shall be stated in writing by the decisionmaker. Mitigation measures shall be reasonable and capable of being accomplished. In order to deny a proposal under this chapter, an agency must find that: (1) The proposal would result in significant adverse impacts identified in a final or supplemental environmental impact statement prepared under this chapter; and (2) reasonable mitigation measures are insufficient to mitigate the identified impact. Except for permits and variances issued pursuant to chapter 90.58 RCW, when such a governmental action, not requiring a legislative decision, is conditioned or denied by a nonelected official of a local governmental agency, the decision shall be appealable to the legislative authority of the acting local governmental agency unless that legislative authority formally eliminates such appeals. Such appeals shall be in accordance with procedures established for such appeals by the legislative authority of the acting local governmental agency. [1983 c 117 § 3; 1977 ex.s. c 278 § 2; 1971 ex.s. c 109 § 6.]

43.21C.065 Impact fees and fees for system improvements. A person required to pay an impact fee for system improvements pursuant to RCW 82.02.050 through 82.02.090 shall not be required to pay a fee pursuant to RCW 43.21C.060 for those same system improvements. [1992 c 219 § 1.]

43.21C.075 Appeals. (1) Because a major purpose of this chapter is to combine environmental considerations with public decisions, any appeal brought under this chapter shall be linked to a specific governmental action. The State Environmental Policy Act provides a basis for challenging whether governmental action is in compliance with the substantive and procedural provisions of this chapter. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action.

(2) Unless otherwise provided by this section:

(a) Appeals under this chapter shall be of the governmental action together with its accompanying environmental determinations.

(b) Appeals of environmental determinations made (or lacking) under this chapter shall be commenced within the time required to appeal the governmental action which is subject to environmental review.

(3) If an agency has a procedure for appeals of agency environmental determinations made under this chapter, such procedure:

(a) Shall not allow more than one agency appeal proceeding on a procedural determination (the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement). The appeal proceeding on a determination of significance may occur before the agency's final decision on a proposed action. The appeal proceeding on a determination of nonsignificance may occur before the agency's final decision on a proposed action only if the appeal is heard at a proceeding where the hearing body or officer will render a final recommendation or decision on the proposed underlying governmental action. Such appeals shall also be allowed for a determination of significance/nonsignificance which may be issued by the agency after supplemental review;

(b) Shall consolidate an appeal of procedural issues and of substantive determinations made under this chapter (such as a decision to require particular mitigation measures or to deny a proposal) with a hearing or appeal on the underlying governmental action by providing for a single simultaneous hearing before one hearing officer or body to consider the agency decision on a proposal and any environmental determinations made under this chapter, with the exception of the appeal, if any, of a determination of significance as provided in (a) of this subsection or an appeal to the local legislative authority under RCW 43.21C.060 or other applicable state statutes;

(c) Shall provide for the preparation of a record for use in any subsequent appeal proceedings, and shall provide for any subsequent appeal proceedings to be conducted on the record, consistent with other applicable law. An adequate record consists of findings and conclusions, testimony under oath, and taped or written transcript. An electronically recorded transcript will suffice for purposes of review under this subsection; and

(d) Shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.

(4) If a person aggrieved by an agency action has the right to judicial appeal and if an agency has an appeal procedure, such person shall, prior to seeking any judicial review, use such agency procedure if any such procedure is available, unless expressly provided otherwise by state statute.

(5) Some statutes and ordinances contain time periods for challenging governmental actions which are subject to review under this chapter, such as various local land use approvals (the "underlying governmental action"). RCW 43.21C.080 establishes an optional "notice of action" procedure which, if used, imposes a time period for appealing decisions under this chapter. This subsection does not modify any such time periods. In this subsection, the term "appeal" refers to a judicial appeal only.

(a) If there is a time period for appealing the underlying governmental action, appeals under this chapter shall be commenced within such time period. The agency shall give official notice stating the date and place for commencing an appeal.

(b) If there is no time period for appealing the underlying governmental action, and a notice of action under RCW 43.21C.080 is used, appeals shall be commenced within the time period specified by RCW 43.21C.080.

(6)(a) Judicial review under subsection (5) of this section of an appeal decision made by an agency under subsection (3) of this section shall be on the record, consistent with other applicable law.

(b) A taped or written transcript may be used. If a taped transcript is to be reviewed, a record shall identify the location on the taped transcript of testimony and evidence to be reviewed. Parties are encouraged to designate only those portions of the testimony necessary to present the issues raised on review, but if a party alleges that a finding of fact is not supported by evidence, the party should include in the record all evidence relevant to the disputed finding. Any other party may designate additional portions of the taped transcript relating to issues raised on review. A party may provide a written transcript of portions of the testimony at the party's own expense or apply to that court for an order requiring the party seeking review to pay for additional portions of the written transcript.

(c) Judicial review under this chapter shall without exception be of the governmental action together with its accompanying environmental determinations.

(7) Jurisdiction over the review of determinations under this chapter in an appeal before an agency or superior court shall upon consent of the parties be transferred in whole or part to the shorelines hearings board. The shorelines hearings board shall hear the matter and sign the final order expeditiously. The superior court shall certify the final order of the shorelines hearings board and said certified final order may only be appealed to an appellate court. In the case of an appeal under this chapter regarding a project or other matter that is also the subject of an appeal to the shorelines hearings board under chapter 90.58 RCW, the shorelines hearings board shall have sole jurisdiction over both the appeal under this section and the appeal under chapter 90.58 RCW, shall consider them together, and shall issue a final order within one hundred eighty days as provided in RCW 90.58.180.

(8) For purposes of this section and RCW 43.21C.080, the words "action", "decision", and "determination" mean substantive agency action including any accompanying procedural determinations under this chapter (except where the word "action" means "appeal" in RCW 43.21C.080(2)). The word "action" in this section and RCW 43.21C.080 does not mean a procedural determination by itself made under this chapter. The word "determination" includes any environmental document required by this chapter and state or local implementing rules. The word "agency" refers to any state or local unit of government. Except as provided in subsection (5) of this section, the word "appeal" refers to administrative, legislative, or judicial appeals.

(9) The court in its discretion may award reasonable attorney's fees of up to one thousand dollars in the aggregate to the prevailing party, including a governmental agency, on issues arising out of this chapter if the court makes specific findings that the legal position of a party is frivolous and without reasonable basis. [1995 c 347 § 204; 1994 c 253 § 4; 1983 c 117 § 4.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

43.21C.080 Notice of action by governmental agency—How publicized—Time limitation for commencement
[Title 43 RCW—page 136]

ing challenge to action. (1) Notice of any action taken by a governmental agency may be publicized by the acting governmental agency, the applicant for, or the proponent of such action, in substantially the form as set forth in rules adopted under RCW 43.21C.110:

(a) By publishing notice on the same day of each week for two consecutive weeks in a legal newspaper of general circulation in the area where the property which is the subject of the action is located;

(b) By filing notice of such action with the department of ecology at its main office in Olympia prior to the date of the last newspaper publication; and

(c) Except for those actions which are of a nonproject nature, by one of the following methods which shall be accomplished prior to the date of first newspaper publication;

(i) Mailing to the latest recorded real property owners, as shown by the records of the county treasurer, who share a common boundary line with the property upon which the project is proposed through United States mail, first class, postage prepaid.

(ii) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed.

(2)(a) Except as otherwise provided in RCW 43.21C.075(5)(a), any action to set aside, enjoin, review, or otherwise challenge any such governmental action or subsequent governmental action for which notice is given as provided in subsection (1) of this section on grounds of noncompliance with the provisions of this chapter shall be commenced within twenty-one days from the date of last newspaper publication of the notice pursuant to subsection (1) of this section, or be barred.

(b) Any subsequent governmental action on the proposal for which notice has been given as provided in subsection (1) of this section shall not be set aside, enjoined, reviewed, or otherwise challenged on grounds of noncompliance with the provisions of RCW 43.21C.030(2)(a) through (h) unless there has been a substantial change in the proposal between the time of the first governmental action and the subsequent governmental action that is likely to have adverse environmental impacts beyond the range of impacts previously analyzed, or unless the action now being considered was identified in an earlier detailed statement or declaration of nonsignificance as being one which would require further environmental evaluation. [1995 c 347 § 205; 1977 ex.s. c 278 § 1; 1974 ex.s. c 179 § 2; 1973 1st ex.s. c 179 § 2.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Purpose—1974 ex.s. c 179: "The purpose of this 1974 amendatory act is to establish methods and means of providing for full implementation of chapter 43.21C RCW (the state environmental policy act of 1971) in a manner which reduces duplicative and wasteful practices, establishes effective and uniform procedures, encourages public involvement, and promotes certainty with respect to the requirements of the act." [1974 ex.s. c 179 § 1.]

Effective date—1973 1st ex.s. c 179: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions and shall take effect on July 1, 1973: PROVIDED, HOWEVER, That prior thereto, the department of ecology may take such actions, including the issuing of notices and the conduct of public hearing, as are necessary to insure the implementation of section 1 of this act." [1973 1st ex.s. c 179 § 4.]

43.21C.087 List of filings required by RCW 43.21C.080. The department of ecology shall prepare a list

of all filings required by RCW 43.21C.080 each week and shall make such list available to any interested party. The list of filings shall include a brief description of the governmental action and the project involved in such action, along with the location of where information on the project or action may be obtained. Failure of the department to include any project or action shall not affect the running of the statute of limitations provided in RCW 43.21C.080. [1974 ex.s. c 179 § 14.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.090 Decision of governmental agency to be accorded substantial weight. In any action involving an attack on a determination by a governmental agency relative to the requirement or the absence of the requirement, or the adequacy of a "detailed statement", the decision of the governmental agency shall be accorded substantial weight. [1973 1st ex.s. c 179 § 3.]

Effective date—1973 1st ex.s. c 179: See note following RCW 43.21C.080.

43.21C.095 State environmental policy act rules to be accorded substantial deference. The rules promulgated under RCW 43.21C.110 shall be accorded substantial deference in the interpretation of this chapter. [1983 c 117 § 5.]

43.21C.110 Content of state environmental policy act rules. It shall be the duty and function of the department of ecology:

(1) To adopt and amend thereafter rules of interpretation and implementation of this chapter, subject to the requirements of chapter 34.05 RCW, for the purpose of providing uniform rules and guidelines to all branches of government including state agencies, political subdivisions, public and municipal corporations, and counties. The proposed rules shall be subject to full public hearings requirements associated with rule promulgation. Suggestions for modifications of the proposed rules shall be considered on their merits, and the department shall have the authority and responsibility for full and appropriate independent promulgation and adoption of rules, assuring consistency with this chapter as amended and with the preservation of protections afforded by this chapter. The rule making powers authorized in this section shall include, but shall not be limited to, the following phases of interpretation and implementation of this chapter:

(a) Categories of governmental actions which are not to be considered as potential major actions significantly affecting the quality of the environment, including categories pertaining to applications for water right permits pursuant to chapters 90.03 and 90.44 RCW. The types of actions included as categorical exemptions in the rules shall be limited to those types which are not major actions significantly affecting the quality of the environment. The rules shall provide for certain circumstances where actions which potentially are categorically exempt require environmental review. An action that is categorically exempt under the rules adopted by the department may not be conditioned or denied under this chapter.

(b) Rules for criteria and procedures applicable to the determination of when an act of a branch of government is

a major action significantly affecting the quality of the environment for which a detailed statement is required to be prepared pursuant to RCW 43.21C.030.

(c) Rules and procedures applicable to the preparation of detailed statements and other environmental documents, including but not limited to rules for timing of environmental review, obtaining comments, data and other information, and providing for and determining areas of public participation which shall include the scope and review of draft environmental impact statements.

(d) Scope of coverage and contents of detailed statements assuring that such statements are simple, uniform, and as short as practicable; statements are required to analyze only reasonable alternatives and probable adverse environmental impacts which are significant, and may analyze beneficial impacts.

(e) Rules and procedures for public notification of actions taken and documents prepared.

(f) Definition of terms relevant to the implementation of this chapter including the establishment of a list of elements of the environment. Analysis of environmental considerations under RCW 43.21C.030(2) may be required only for those subjects listed as elements of the environment (or portions thereof). The list of elements of the environment shall consist of the "natural" and "built" environment. The elements of the built environment shall consist of public services and utilities (such as water, sewer, schools, fire and police protection), transportation, environmental health (such as explosive materials and toxic waste), and land and shoreline use (including housing, and a description of the relationships with land use and shoreline plans and designations, including population).

(g) Rules for determining the obligations and powers under this chapter of two or more branches of government involved in the same project significantly affecting the quality of the environment.

(h) Methods to assure adequate public awareness of the preparation and issuance of detailed statements required by RCW 43.21C.030(2)(c).

(i) To prepare rules for projects setting forth the time limits within which the governmental entity responsible for the action shall comply with the provisions of this chapter.

(j) Rules for utilization of a detailed statement for more than one action and rules improving environmental analysis of nonproject proposals and encouraging better interagency coordination and integration between this chapter and other environmental laws.

(k) Rules relating to actions which shall be exempt from the provisions of this chapter in situations of emergency.

(l) Rules relating to the use of environmental documents in planning and decision making and the implementation of the substantive policies and requirements of this chapter, including procedures for appeals under this chapter.

(m) Rules and procedures that provide for the integration of environmental review with project review as provided in RCW 43.21C.240. The rules and procedures shall be jointly developed with the department of community, trade, and economic development and shall be applicable to the preparation of environmental documents for actions in counties, cities, and towns planning under RCW 36.70A.040. The rules and procedures shall also include criteria to analyze the consistency of project actions, including planned

actions under RCW 43.21C.031(2), with development regulations adopted under chapter 36.70A RCW, or in the absence of applicable development regulations, the appropriate elements of a comprehensive plan or subarea plan adopted under chapter 36.70A RCW. Ordinances or procedures adopted by a county, city, or town to implement the provisions of RCW 43.21C.240 prior to the effective date of rules adopted under this subsection (1)(m) shall continue to be effective until the adoption of any new or revised ordinances or procedures that may be required. If any revisions are required as a result of rules adopted under this subsection (1)(m), those revisions shall be made within the time limits specified in RCW 43.21C.120.

(2) In exercising its powers, functions, and duties under this section, the department may:

(a) Consult with the state agencies and with representatives of science, industry, agriculture, labor, conservation organizations, state and local governments and other groups, as it deems advisable; and

(b) Utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals, in order to avoid duplication of effort and expense, overlap, or conflict with similar activities authorized by law and performed by established agencies.

(3) Rules adopted pursuant to this section shall be subject to the review procedures of chapter 34.05 RCW. [1995 c 347 § 206; 1983 c 117 § 7; 1974 ex.s. c 179 § 6.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.120 Rules, ordinances, resolutions and regulations—Adoption—Effective dates. (1) All agencies of government of this state are directed, consistent with rules and guidelines adopted under RCW 43.21C.110, including any revisions, to adopt rules pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation. Designation of policies [policies] under RCW 43.21C.060 and adoption of rules required under this section shall take place not later than one hundred eighty days after the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110, or after the establishment of an agency, whichever shall occur later.

(2) Rules adopted by state agencies under subsection (1) of this section shall be adopted in accordance with the provisions of chapter 34.05 RCW and shall be subject to the review procedures of RCW *34.05.538 and 34.05.240.

(3) All public and municipal corporations, political subdivisions, and counties of this state are directed, consistent with rules and guidelines adopted under RCW 43.21C.110, including any revisions, to adopt rules, ordinances, or resolutions pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation. Designation of policies under RCW 43.21C.060 and adoption of the rules required under this section shall take place not later than one hundred eighty days after the effective date of rules and guidelines

adopted pursuant to RCW 43.21C.110, or after the establishment of the governmental entity, whichever shall occur later.

(4) Ordinances or regulations adopted prior to the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110 shall continue to be effective until the adoptions of any new or revised ordinances or regulations which may be required: PROVIDED, That revisions required by this section as a result of rule changes under RCW 43.21C.110 are made within the time limits specified by this section. [1983 c 117 § 8; 1974 ex.s. c 179 § 8.]

***Reviser's note:** RCW 34.05.538 was repealed by 1989 c 175 § 185, effective July 1, 1989.

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.130 Model ordinances. The department of ecology, in consultation with concerned state agencies, shall with the assistance of the associations of county prosecutors and city attorneys, the association of county elected officials, the Washington state association of counties, and the association of cities, draft model ordinances for use by counties, cities and towns in drafting their ordinances under this chapter. [1974 ex.s. c 179 § 10.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.135 Authority of local governmental units to adopt rules, guidelines and model ordinances by reference. (1) All public and municipal corporations, political subdivisions, and counties of the state are authorized to adopt rules, ordinances, and resolutions which incorporate any of the following by reference to the appropriate sections of the Washington Administrative Code:

(a) Rules and guidelines adopted under RCW 43.21C.110(1) in accordance with the administrative procedure act, chapter 34.05 RCW;

(b) Model ordinances adopted by the department of ecology under RCW 43.21C.130 in accordance with the administrative procedure act, chapter 34.05 RCW.

(2) If any rule, ordinance, or resolution is adopted by reference pursuant to subsection (1) of this section, any publication of such rule, ordinance, or resolution shall be accompanied by a summary of the contents of the sections of the Washington Administrative Code referred to. Such summaries shall be provided to the adopting units of local government by the department of ecology: PROVIDED, That any proposal for a rule, ordinance or resolution which would adopt by reference rules and guidelines or model ordinances pursuant to this section shall be accompanied by the full text of the material to be adopted which need not be published but shall be maintained on file for public use and examination.

(3) Whenever any rule, ordinance, or resolution is adopted by reference pursuant to subsection (1) of this section, the corporation, political subdivision, or county of the state adopting the rule, ordinance, or resolution shall maintain on file for public use and examination not less than three copies of the sections of the Washington Administrative Code referred to. [1975-'76 2nd ex.s. c 99 § 1.]

43.21C.150 RCW 43.21C.030(2)(c) inapplicable when statement previously prepared pursuant to national environmental policy act. The requirements of RCW

43.21C.030(2)(c) pertaining to the preparation of a detailed statement by branches of government shall not apply when an adequate detailed statement has been previously prepared pursuant to the national environmental policy act of 1969, in which event said prepared statement may be utilized in lieu of a separately prepared statement under RCW 43.21C.030(2)(c). [1975 1st ex.s. c 206 § 1; 1974 ex.s. c 179 § 12.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.160 Utilization of statement prepared under RCW 43.21C.030 to implement *chapter 90.62 RCW—Utilization of *chapter 90.62 RCW procedures to satisfy RCW 43.21C.030(2)(c). In the implementation of *chapter 90.62 RCW (the Environmental Coordination Procedures Act of 1973), the department of ecology, consistent with guidelines adopted by the council shall adopt rules which insure that one detailed statement prepared under RCW 43.21C.030 may be utilized by all branches of government participating in the processing of a master application. Whenever the procedures established pursuant to *chapter 90.62 RCW are used, those procedures shall be utilized wherever possible to satisfy the procedural requirements of RCW 43.21C.030(2)(c). The time limits for challenges provided for in RCW 43.21C.080(2) shall be applicable when such procedures are so utilized. [1974 ex.s. c 179 § 13.]

***Reviser's note:** Chapter 90.62 RCW was repealed by 1995 c 347 § 619.

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.165 Challenges to consistency of rules adopted pursuant to RCW 43.21C.110 and 43.21C.160—Procedure—Finality. See RCW 43.21B.250.

43.21C.170 Council on environmental policy. The legislature may establish a council on environmental policy to review and assist in the implementation of this chapter. [1983 c 117 § 6; 1974 ex.s. c 179 § 4. Formerly RCW 43.21C.100.]

43.21C.175 Council on environmental policy—Personnel. The council may employ such personnel as are necessary for the performances of its duties. [1974 ex.s. c 179 § 5. Formerly RCW 43.21C.105.]

43.21C.210 Certain actions during state of emergency exempt from chapter. This chapter does not apply to actions authorized by RCW 43.37.215 and 43.37.220 which are undertaken during a state of emergency declared by the governor under RCW 43.06.210. [1981 c 278 § 4.]

43.21C.220 Incorporation of city or town exempt from chapter. The incorporation of a city or town is exempted from compliance with this chapter. [1982 c 220 § 6.]

Severability—1982 c 220: See note following RCW 36.93.100.

Incorporation proceedings exempt from chapter: RCW 36.93.170.

43.21C.222 Annexation by city or town exempt from chapter. Annexation of territory by a city or town is

exempted from compliance with this chapter. [1994 c 216 § 19.]

Effective date—1994 c 216: See note following RCW 35.02.015.

43.21C.225 Consolidation and annexation of cities and towns exempt from chapter. Consolidations of cities or towns, and the annexations of all of a city or town by another city or town, are exempted from compliance with this chapter. [1985 c 281 § 29.]

Severability—1985 c 281: See RCW 35.10.905.

43.21C.230 Development and adoption of plan under chapter 43.180 RCW exempt from chapter. This chapter does not apply to the development or adoption of the plan required to be developed and adopted under chapter 43.180 RCW. [1983 c 161 § 29.]

Severability—Effective dates—1983 c 161: See RCW 43.180.903 and 43.180.904.

43.21C.240 Project review under the growth management act. (1) If the requirements of subsection (2) of this section are satisfied, a county, city, or town reviewing a project action may determine that the requirements for environmental analysis, protection, and mitigation measures in the county, city, or town's development regulations and comprehensive plans adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws and rules provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action to which the requirements apply.

(2) A county, city, or town may make the determination provided for in subsection (1) of this section if:

(a) In the course of project review, including any required environmental analysis, the local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, or other local, state, or federal rules or laws; and

(b) The local government bases or conditions its approval on compliance with these requirements or mitigation measures.

(3) If a county, city, or town's comprehensive plans, subarea plans, and development regulations adequately address a project's probable specific adverse environmental impacts, as determined under subsections (1) and (2) of this section, the county, city, or town shall not impose additional mitigation under this chapter during project review. Project review shall be integrated with environmental analysis under this chapter.

(4) A comprehensive plan, subarea plan, or development regulation shall be considered to adequately address an impact if the county, city, or town, through the planning and environmental review process under chapter 36.70A RCW and this chapter, has identified the specific adverse environmental impacts and:

(a) The impacts have been avoided or otherwise mitigated; or

(b) The legislative body of the county, city, or town has designated as acceptable certain levels of service, land use

designations, development standards, or other land use planning required or allowed by chapter 36.70A RCW.

(5) In deciding whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the county, city, or town shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the county, city, or town shall base or condition its project approval on compliance with these other existing rules or laws.

(6) Nothing in this section limits the authority of an agency in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by this chapter.

(7) This section shall apply only to a county, city, or town planning under RCW 36.70A.040. [1995 c 347 § 202.]

Findings—Intent—1995 c 347 § 202: "(1) The legislature finds in adopting RCW 43.21C.240 that:

(a) Comprehensive plans and development regulations adopted by counties, cities, and towns under chapter 36.70A RCW and environmental laws and rules adopted by the state and federal government have addressed a wide range of environmental subjects and impacts. These plans, regulations, rules, and laws often provide environmental analysis and mitigation measures for project actions without the need for an environmental impact statement or further project mitigation.

(b) Existing plans, regulations, rules, or laws provide environmental analysis and measures that avoid or otherwise mitigate the probable specific adverse environmental impacts of proposed projects should be integrated with, and should not be duplicated by, environmental review under chapter 43.21C RCW.

(c) Proposed projects should continue to receive environmental review, which should be conducted in a manner that is integrated with and does not duplicate other requirements. Project-level environmental review should be used to: (i) Review and document consistency with comprehensive plans and development regulations; (ii) provide prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level; and (iii) ensure accountability by local government to applicants and the public for requiring and implementing mitigation measures.

(d) When a project permit application is filed, an agency should analyze the proposal's environmental impacts, as required by applicable regulations and the environmental review process required by this chapter, in one project review process. The project review process should include land use, environmental, public, and governmental review, as provided by the applicable regulations and the rules adopted under this chapter, so that documents prepared under different requirements can be reviewed together by the public and other agencies. This project review will provide an agency with the information necessary to make a decision on the proposed project.

(e) Through this project review process: (i) If the applicable regulations require studies that adequately analyze all of the project's specific probable adverse environmental impacts, additional studies under this chapter will not be necessary on those impacts; (ii) if the applicable regulations require measures that adequately address such environmental impacts, additional measures would likewise not be required under this chapter; and (iii) if the applicable regulations do not adequately analyze or address a proposal's specific probable adverse environmental impacts, this chapter provides the authority and procedures for additional review.

(2) The legislature intends that a primary role of environmental review under chapter 43.21C RCW is to focus on the gaps and overlaps that may exist in applicable laws and requirements related to a proposed action. The review of project actions conducted by counties, cities, and towns planning under RCW 36.70A.040 should integrate environmental review with project review. Chapter 43.21C RCW should not be used as a substitute for other land use planning and environmental requirements." [1995 c 347 § 201.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

43.21C.300 Workshops—Handbook. The department of ecology shall conduct annual state-wide workshops and publish an annual state environmental policy act handbook or supplement to assist persons in complying with the provisions of this chapter and the implementing rules. The workshops and handbook shall include, but not be limited to, measures to assist in preparation, processing, and review of environmental documents, relevant court decisions affecting this chapter or rules adopted under this chapter, legislative changes to this chapter, administrative changes to the rules, and any other information which will assist in orderly implementation of this chapter and rules.

The department shall develop the handbook and conduct the workshops in cooperation with, but not limited to, state agencies, the association of Washington cities, the Washington association of counties, educational institutions, and other groups or associations interested in the state environmental policy act. [1983 c 117 § 9.]

43.21C.400 Unfinished nuclear power projects—Council action exempt from this chapter. Council actions pursuant to the transfer of the site or portions of the site under RCW 80.50.300 are exempt from the provisions of this chapter. [1996 c 4 § 4.]

Severability—Effective date—1996 c 4: See RCW 80.50.903 and 80.50.904.

Energy facility site evaluation council: RCW 80.50.030.

43.21C.900 Short title. This chapter shall be known and may be cited as the "State Environmental Policy Act" or "SEPA". [1995 c 347 § 207; 1971 ex.s. c 109 § 7.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

43.21C.910 Severability—1974 ex.s. c 179. If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1974 ex.s. c 179 § 16.]

43.21C.911 Section headings not part of law—1983 c 117. Section headings as used in this act do not constitute any part of the law. [1983 c 117 § 14.]

43.21C.912 Applicability—1983 c 117. *Sections 3 and 4 of this act apply to agency decisions and to appeal proceedings prospectively only and not retrospectively. **Sections 1, 5, 6, 7, and 8 of this act may be applied by agencies retrospectively. [1983 c 117 § 15.]

Reviser's note: *(1) "Sections 3 and 4 of this act" consist of the 1983 c 117 amendment to RCW 43.21C.060 and the enactment of RCW 43.21C.075, respectively.

** (2) "Sections 1, 5, 6, 7, and 8 of this act" consist of the enactment of RCW 43.21C.031 and 43.21C.095 and the 1983 c 117 amendments to RCW 43.21C.100, 43.21C.110, and 43.21C.120, respectively.

43.21C.913 Severability—1983 c 117. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 c 117 § 16.]

43.21C.914 Effective dates—1983 c 117. *(1) Sections 1, 2, and 4 through 16 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

** (2) Section 3 of this act shall take effect one hundred eighty days after the remainder of this act goes into effect under subsection (1) of this section. [1983 c 117 § 17.]

Reviser's note: *(1) "Sections 1, 2, and 4 through 16 of this act" consist of the enactment of RCW 43.21C.031, 43.21C.075, 43.21C.095, 43.21C.300, 43.21C.911, 43.21C.912, and 43.21C.913; the 1983 c 117 amendments to RCW 43.21C.037, 43.21C.100, 43.21C.110, and 43.21C.120; the repeal of RCW 43.21C.032, 43.21C.085, and 43.21C.140; the decodification of RCW 43.21C.070, 43.21C.200, 43.21C.202, and 43.21C.204; and the recodification of RCW 43.21C.100 and 43.21C.105 as RCW 43.21C.170 and 43.21C.175, respectively. The effective date of these sections is April 23, 1983.

** (2) "Section 3 of this act" consists of the 1983 c 117 amendment to RCW 43.21C.060. The effective date of this section is October 20, 1983.

Chapter 43.21E

GRASS BURNING RESEARCH ADVISORY COMMITTEE

Sections

- 43.21E.010 Committee created—Members.
- 43.21E.020 Duties of committee.
- 43.21E.030 Travel expenses.
- 43.21E.900 Termination and dissolution of committee.
- 43.21E.905 Reactivation of committee—Application of chapter.
- 43.21E.910 Severability—1975 1st ex.s. c 44.

Grass burning permits, etc.: RCW 70.94.650 through 70.94.656.

43.21E.010 Committee created—Members. Within thirty days of May 15, 1975 the director of the Washington state department of ecology shall appoint a grass burning research advisory committee consisting of five voting members.

Two members shall be grass growers selected from the area of the state east of the Cascade mountain range, one representing irrigated and one representing dryland growing areas. One member shall be a grass grower selected from the area of the state west of the Cascade mountain range. One member shall be a representative of the Washington state department of agriculture, and one member shall represent the public, and may be selected at large. The committee shall select its own chairman. The state department of ecology shall provide an ex officio, nonvoting member to the committee to act as secretary. [1975 1st ex.s. c 44 § 1.]

43.21E.020 Duties of committee. The grass burning research advisory committee as provided for in RCW 43.21E.010 shall solicit and review research proposals for reducing or to develop alternates to open burning of grass fields. The committee shall advise and make recommendations to the director of the Washington state department of ecology regarding research priorities and the expenditure of mandatory research permit fees and such other grass burning research funds that may be provided by the legislature or from any other sources. [1975 1st ex.s. c 44 § 2.]

43.21E.030 Travel expenses. Travel expenses shall be paid to the grass burning research advisory committee members not otherwise employed by the state for meetings called by the director of the department of ecology in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended upon vouchers approved by said director and paid from funds budgeted for operation purposes of the state department of ecology. [1975-'76 2nd ex.s. c 34 § 102; 1975 1st ex.s. c 44 § 3.]

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

43.21E.900 Termination and dissolution of committee. It is the intent and purpose of this chapter that as soon as an alternative means of grass burning is developed for the state, or by January 1, 1980, whichever is sooner the grass burning research advisory committee shall be dissolved and its actions terminated, and the director of the state department of ecology shall see that such purpose is so carried out. [1975 1st ex.s. c 44 § 4.]

43.21E.905 Reactivation of committee—Application of chapter. Notwithstanding RCW 43.21E.900, within thirty days or after June 30, 1982, the director shall reactivate the grass burning research advisory committee by appointing new members to the committee. The provisions of this chapter, other than RCW 43.21E.900, shall apply to the reactivated committee. [1982 c 163 § 15.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

43.21E.910 Severability—1975 1st ex.s. c 44. If any provision of this 1975 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 44 § 6.]

Chapter 43.21F

STATE ENERGY OFFICE

Sections

- 43.21F.010 Legislative finding and declaration.
- 43.21F.015 State policy.
- 43.21F.025 Definitions.
- 43.21F.045 Duties of department—Transfer of powers and duties relating to energy education, applied research, technology transfer, and energy efficiency in public buildings.
- 43.21F.055 Intervention in certain regulatory proceedings prohibited—Application to energy facility site evaluation council—Avoidance of duplication of activity.
- 43.21F.060 Additional duties and authority of department—Obtaining information—Confidentiality, penalty—Receiving and expending funds.
- 43.21F.090 State energy strategy—Review and report to legislature.
- 43.21F.400 Western interstate nuclear compact—Entered into—Terms.
- 43.21F.405 Western interstate nuclear compact—State board member—Appointment, term—May designate representative.
- 43.21F.410 Western interstate nuclear compact—State and local agencies and officers to cooperate.
- 43.21F.415 Western interstate nuclear compact—Bylaws, amendments to, filed with secretary of state.
- 43.21F.420 Western interstate nuclear compact—Application of state laws, benefits, when persons dispatched to another state.

Clean fuel report to legislature: RCW 70.120.220.

43.21F.010 Legislative finding and declaration. The legislature finds and declares that it is the continuing purpose of state government, consistent with other essential considerations of state policy, to foster wise and efficient energy use and to promote energy self-sufficiency through the use of indigenous and renewable energy sources, consistent with the promotion of reliable energy sources, the general welfare, and the protection of environmental quality. [1975-'76 2nd ex.s. c 108 § 1.]

Severability—1975-'76 2nd ex.s. c 108: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 108 § 45.]

Effective date—1975-'76 2nd ex.s. c 108: "This 1976 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect March 15, 1976." [1975-'76 2nd ex.s. c 108 § 46.]

43.21F.015 State policy. It is the policy of the state of Washington that:

(1) The development and use of a diverse array of energy resources with emphasis on renewable energy resources shall be encouraged;

(2) The supply of energy shall be sufficient to insure the health and economic welfare of its citizens;

(3) The development and use of energy resources shall be consistent with the statutory environmental policies of the state;

(4) Energy conservation and elimination of wasteful and uneconomic uses of energy and materials shall be encouraged, and this conservation should include, but is not limited to, resource recovery and materials recycling;

(5) In energy emergency shortage situations, energy requirements to maintain the public health, safety, and welfare shall be given priority in the allocation of energy resources, and citizens and industry shall be assisted in adjusting to the limited availability of energy in order to minimize adverse impacts on their physical, social, and economic well being;

(6) State government shall provide a source of impartial and objective information in order that this energy policy may be enhanced; and

(7) The state energy strategy shall provide primary guidance for implementation of the state's energy policy. [1994 c 207 § 3; 1981 c 295 § 1.]

Finding—1994 c 207: See note following RCW 43.21F.025.

43.21F.025 Definitions. (1) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; hydropower; organic waste products; wind; tidal activity; any other substance or process used to produce heat, light, or motion; or the savings from nongeneration technologies, including conservation or improved efficiency in the usage of any of the sources described in this subsection;

(2) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm,

public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency, or any other entity, public or private, however organized;

(3) "Director" means the director of the department of community, trade, and economic development;

(4) "Assistant director" means the assistant director of the department of community, trade, and economic development responsible for energy policy activities;

(5) "Department" means the department of community, trade, and economic development;

(6) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, municipal utility, public utility district, joint operating agency, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state; and

(7) "State energy strategy" means the document and energy policy direction developed under section 1, chapter 201, Laws of 1991 including any related appendices. [1996 c 186 § 102; 1994 c 207 § 2; 1987 c 330 § 501; 1981 c 295 § 2.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—1994 c 207: "The legislature finds that the state energy strategy presented to the legislature in 1993 was developed by a dedicated and talented committee of hard-working representatives of the industries and people of this state and that the strategy document should serve to guide energy-related policy decisions by the legislature and other entities within this region." [1994 c 207 § 1.]

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

43.21F.045 Duties of department—Transfer of powers and duties relating to energy education, applied research, technology transfer, and energy efficiency in public buildings. (1) The department shall supervise and administer energy-related activities as specified in RCW 43.330.904 and shall advise the governor and the legislature with respect to energy matters affecting the state.

(2) In addition to other powers and duties granted to the department, the department shall have the following powers and duties:

(a) Prepare and update contingency plans for implementation in the event of energy shortages or emergencies. The plans shall conform to chapter 43.21G RCW and shall include procedures for determining when these shortages or emergencies exist, the state officers and agencies to participate in the determination, and actions to be taken by various agencies and officers of state government in order to reduce hardship and maintain the general welfare during these emergencies. The department shall coordinate the activities undertaken pursuant to this subsection with other persons. The components of plans that require legislation for their implementation shall be presented to the legislature in the form of proposed legislation at the earliest practicable date. The department shall report to the governor and the legislature on probable, imminent, and existing energy shortages, and shall administer energy allocation and curtailment programs in accordance with chapter 43.21G RCW.

(b) Establish and maintain a central repository in state government for collection of existing data on energy resources, including:

(i) Supply, demand, costs, utilization technology, projections, and forecasts;

(ii) Comparative costs of alternative energy sources, uses, and applications; and

(iii) Inventory data on energy research projects in the state conducted under public and/or private auspices, and the results thereof.

(c) Coordinate federal energy programs appropriate for state-level implementation, carry out such energy programs as are assigned to it by the governor or the legislature, and monitor federally funded local energy programs as required by federal or state regulations.

(d) Develop energy policy recommendations for consideration by the governor and the legislature.

(e) Provide assistance, space, and other support as may be necessary for the activities of the state's two representatives to the Pacific northwest electric power and conservation planning council. To the extent consistent with federal law, the director shall request that Washington's council members request the administrator of the Bonneville power administration to reimburse the state for the expenses associated with the support as provided in the Pacific Northwest Electric Power Planning and Conservation Act (P.L. 96-501).

(f) Cooperate with state agencies, other governmental units, and private interests in the prioritization and implementation of the state energy strategy elements and on other energy matters.

(g) Serve as the official state agency responsible for coordinating implementation of the state energy strategy.

(h) No later than December 1, 1982, and by December 1st of each even-numbered year thereafter, prepare and transmit to the governor and the appropriate committees of the legislature a report on the implementation of the state energy strategy and other important energy issues, as appropriate.

(i) Provide support for increasing cost-effective energy conservation, including assisting in the removal of impediments to timely implementation.

(j) Provide support for the development of cost-effective energy resources including assisting in the removal of impediments to timely construction.

(k) Adopt rules, under chapter 34.05 RCW, necessary to carry out the powers and duties enumerated in this chapter.

(l) Provide administrative assistance, space, and other support as may be necessary for the activities of the energy facility site evaluation council, as provided for in RCW 80.50.030.

(m) Appoint staff as may be needed to administer energy policy functions and manage energy facility site evaluation council activities. These employees are exempt from the provisions of chapter 41.06 RCW.

(3) To the extent the powers and duties set out under this section relate to energy education, applied research, and technology transfer programs they are transferred to Washington State University.

(4) To the extent the powers and duties set out under this section relate to energy efficiency in public buildings they are transferred to the department of general administra-

tion. [1996 c 186 § 103; 1994 c 207 § 4; 1990 c 12 § 2; 1987 c 505 § 29; 1981 c 295 § 4.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—1994 c 207: See note following RCW 43.21F.025.

Effective date—1990 c 12: See note following RCW 80.50.030.

43.21F.055 Intervention in certain regulatory proceedings prohibited—Application to energy facility site evaluation council—Avoidance of duplication of activity. The department shall not intervene in any regulatory proceeding before the Washington utilities and transportation commission or proceedings of utilities not regulated by the commission. Nothing in this chapter abrogates or diminishes the functions, powers, or duties of the energy facility site evaluation council pursuant to chapter 80.50 RCW, the utilities and transportation commission pursuant to Title 80 RCW, or other state or local agencies established by law.

The department shall avoid duplication of activity with other state agencies and officers and other persons. [1996 c 186 § 104; 1981 c 295 § 5.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

43.21F.060 Additional duties and authority of department—Obtaining information—Confidentiality, penalty—Receiving and expending funds. In addition to the duties prescribed in RCW 43.21F.045, the department shall have the authority to:

(1) Obtain all necessary and existing information from energy producers, suppliers, and consumers, doing business within the state of Washington, from political subdivisions in this state, or any person as may be necessary to carry out the provisions of chapter 43.21G RCW: PROVIDED, That if the information is available in reports made to another state agency, the department shall obtain it from that agency: PROVIDED FURTHER, That, to the maximum extent practicable, informational requests to energy companies regulated by the utilities and transportation commission shall be channeled through the commission and shall be accepted in the format normally used by the companies. Such information may include but not be limited to:

(a) Sales volume;

(b) Forecasts of energy requirements; and

(c) Energy costs.

Notwithstanding any other provision of law to the contrary, information furnished under this subsection shall be confidential and maintained as such, if so requested by the person providing the information, if the information is proprietary.

It shall be unlawful to disclose such information except as hereinafter provided. A violation shall be punishable, upon conviction, by a fine of not more than one thousand dollars for each offense. In addition, any person who wilfully or with criminal negligence, as defined in RCW 9A.08.010, discloses confidential information in violation of this subsection may be subject to removal from office or immediate dismissal from public employment notwithstanding any other provision of law to the contrary.

Nothing in this subsection prohibits the use of confidential information to prepare statistics or other general data for

publication when it is so presented as to prevent identification of particular persons or sources of confidential information.

(2) Receive and expend funds obtained from the federal government or other sources by means of contracts, grants, awards, payments for services, and other devices in support of the duties enumerated in this chapter. [1996 c 186 § 105; 1981 c 295 § 6; 1975-'76 2nd ex.s. c 108 § 6.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

43.21F.090 State energy strategy—Review and report to legislature. The department shall review the state energy strategy as developed under section 1, chapter 201, Laws of 1991, periodically with the guidance of an advisory committee. For each review, an advisory committee shall be established with a membership resembling as closely as possible the original energy strategy advisory committee specified under section 1, chapter 201, Laws of 1991. Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the department to the governor and the appropriate legislative committees. Any advisory committee established under this section shall be dissolved within three months after their written report is conveyed. [1996 c 186 § 106; 1994 c 207 § 5.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—1994 c 207: See note following RCW 43.21F.025.

43.21F.400 Western interstate nuclear compact—Entered into—Terms. The western interstate nuclear compact is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and any other states joining therein in accordance with the terms of the compact, which compact is substantially as follows:

ARTICLE I. POLICY AND PURPOSE

The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the West and the further development of the economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities and skills requires systematic encouragement, guidance, assistance, and promotion from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the West and contribute to the individual and community well-being of the region's people.

ARTICLE II. THE BOARD

(a) There is hereby created an agency of the party states to be known as the "Western Interstate Nuclear Board"

(hereinafter called the Board). The Board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) The Board members of the party states shall each be entitled to one vote on the Board. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the Board are cast in favor thereof.

(c) The Board shall have a seal.

(d) The Board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Board shall appoint and fix the compensation of an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the Treasurer, and such other personnel as the Board may direct, shall be bonded in such amounts as the Board may require.

(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, or its institutions or subdivisions, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The Board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing pursuant to paragraph (g) of this Article, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Board.

(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

(j) The Board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The Board annually shall make to the governor of each party state, a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said state. The Board may issue such additional reports as it may deem desirable.

ARTICLE III. FINANCES

(a) The Board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Each of the Board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II(h) of this compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II(h) hereof, the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) Any expenses and any other costs for each member of the Board in attending Board meetings shall be met by the Board.

(e) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the Board.

(f) The accounts of the Board shall be open at any reasonable time for inspection to persons authorized by the Board, and duly designated representatives of governments contributing to the Board's support.

ARTICLE IV. ADVISORY COMMITTEES

The Board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and

lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, State and Federal Government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

ARTICLE V. POWERS

The Board shall have power to—

(a) Encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields.

(b) Ascertain and analyze on a continuing basis the position of the West with respect to the employment in industry of nuclear and related scientific findings and technologies.

(c) Encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, by-products, and all other appropriate adaptations of scientific and technological advances and discoveries.

(d) Collect, correlate, and disseminate information relating to the peaceful uses of nuclear energy, materials, and products, and other products and processes resulting from the application of related science and technology.

(e) Encourage the development and use of nuclear energy, facilities, installations, and products as part of a balanced economy.

(f) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

1. Nuclear industry, medicine, or education, or the promotion or regulation thereof.

2. Applying nuclear scientific advances or discoveries, and any industrial commercial or other processes resulting therefrom.

3. The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, by-products, installations, or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto.

(g) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific, technological or industrial fields to which this compact relates.

(h) Undertake such nonregulatory functions with respect to non-nuclear sources of radiation as may promote the economic development and general welfare of the West.

(i) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields.

(j) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states or their subdivisions in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of uniformity but shall also give appropriate weight to any special

circumstances which may justify variations to meet local conditions.

(k) Consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, byproducts, wastes, and any other nuclear or related substances, in such manner and under such conditions as will make their availability or disposal practicable on an economic and efficient basis.

(l) Consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields.

(m) Advise and consult with the federal government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields.

(n) Cooperate with the Atomic Energy Commission, the National Aeronautics and Space Administration, the Office of Science and Technology, or any agencies successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

(o) Act as licensee, contractor or sub-contractor of the United States Government or any party state with respect to the conduct of any research activity requiring such license or contract and operate such research facility or undertake any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the Board by this compact.

(p) Prepare, publish and distribute (with or without charge) such reports, bulletins, newsletters or other materials as it deems appropriate.

(q) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents.

The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for aid pursuant to Article VI of this compact and the furnishing of aid in response thereto.

Unless the party states concerned expressly otherwise agree, the Board shall not administer the summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party states.

However, the plan or plans of the Board in force pursuant to this paragraph shall provide for reports to the Board concerning the occurrence of nuclear incidents and the requests for aid on account thereof, together with summaries

of the actual working and effectiveness of mutual aid in particular instances.

From time to time, the Board shall analyze the information gathered from reports of aid pursuant to Article VI and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available.

(r) Prepare, maintain, and implement a regional plan or regional plans for carrying out the duties, powers, or functions conferred upon the Board by this compact.

(s) Undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the federal government as are useful in connection with the fields covered by this compact.

ARTICLE VI. MUTUAL AID

(a) Whenever a party state, or any state or local governmental authorities therein, request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

(b) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

(c) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(d) All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(e) Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of officers, employees and equipment incurred in connection with such requests: PROVIDED, That nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

(f) Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

ARTICLE VII. SUPPLEMENTARY AGREEMENTS

(a) To the extent that the Board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate.

No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the Board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

(d) The provisions of this Article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

ARTICLE VIII. OTHER LAWS AND RELATIONS

Nothing in this compact shall be construed to—

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress; nor limit, diminish, affect, or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the Board to own or operate any facility, reactor, or installation for industrial or commercial purposes.

ARTICLE IX. ELIGIBLE PARTIES,
ENTRY INTO FORCE AND WITHDRAWAL

(a) Any or all of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law: PROVIDED, That it shall not become initially effective until enacted into law by five states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(d) Guam and American Samoa, or either of them may participate in the compact to such extent as may be mutually agreed by the Board and the duly constituted authorities of Guam or American Samoa, as the case may be. However, such participation shall not include the furnishing or receipt of mutual aid pursuant to Article VI, unless that Article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected. Neither Guam nor American Samoa shall be entitled to voting participation on the Board, unless it has become a full party to the compact.

ARTICLE X. SEVERABILITY AND CONSTRUCTION

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the Constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof. [1969 c 9 § 1. Formerly RCW 43.31.400.]

Severability—1969 c 9: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 c 9 § 6.]

43.21F.405 Western interstate nuclear compact—State board member—Appointment, term—May designate representative. The board member from Washington shall be appointed by and shall serve at the pleasure of the governor. The board member may designate another person

as his representative to attend meetings of the board. [1969 c 9 § 2. Formerly RCW 43.31.405.]

Severability—1969 c 9: See note following RCW 43.21F.400.

43.21F.410 Western interstate nuclear compact—State and local agencies and officers to cooperate. All departments, agencies and officers of this state and its subdivisions are directed to cooperate with the board in the furtherance of any of its activities pursuant to the compact. [1969 c 9 § 3. Formerly RCW 43.31.410.]

Severability—1969 c 9: See note following RCW 43.21F.400.

43.21F.415 Western interstate nuclear compact—Bylaws, amendments to, filed with secretary of state. Pursuant to Article II(j) of the compact, the western interstate nuclear board shall file copies of its bylaws and any amendments thereto with the secretary of state of the state of Washington. [1969 c 9 § 4. Formerly RCW 43.31.415.]

Severability—1969 c 9: See note following RCW 43.21F.400.

43.21F.420 Western interstate nuclear compact—Application of state laws, benefits, when persons dispatched to another state. The laws of the state of Washington and any benefits payable thereunder shall apply and be payable to any persons dispatched to another state pursuant to Article VI of the compact. If the aiding personnel are officers or employees of the state of Washington or any subdivisions thereof, they shall be entitled to the same workers' compensation or other benefits in case of injury or death to which they would have been entitled if injured or killed while engaged in coping with a nuclear incident in their jurisdictions of regular employment. [1987 c 185 § 15; 1969 c 9 § 5. Formerly RCW 43.31.420.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Severability—1969 c 9: See note following RCW 43.21F.400.

Chapter 43.21G

ENERGY SUPPLY EMERGENCIES, ALERTS

Sections

- 43.21G.010 Legislative finding—Intent.
 - 43.21G.020 Definitions.
 - 43.21G.030 Intent in developing energy production, allocation, and consumption programs.
 - 43.21G.040 Governor's energy emergency powers—Energy supply alert—Construction of chapter.
 - 43.21G.050 Duty of executive authority of state and local governmental agencies to carry out supply alert or emergency measures—Liability for actions.
 - 43.21G.060 Consideration of actions, orders, etc., of federal authorities.
 - 43.21G.070 Compliance by affected persons.
 - 43.21G.080 Compliance by distributors—Fair and just reimbursement.
 - 43.21G.090 Petition for exception or modification—Appeals.
 - 43.21G.100 Penalty.
 - 43.21G.900 Severability—Effective date—1975-'76 2nd ex.s. c 108.
- Governor's powers to declare energy emergency, etc.: RCW 43.06.200, 43.06.210.*

43.21G.010 Legislative finding—Intent. The legislature finds that energy in various forms is increasingly subject to possible shortages and supply disruptions, to the point that there may be foreseen an emergency situation, and

that without the ability to institute appropriate emergency measures to regulate the production, distribution, and use of energy, a severe impact on the public health, safety, and general welfare of our state's citizens may occur. The prevention or mitigation of such energy shortages or disruptions and their effects is necessary for preservation of the public health, safety, and general welfare of the citizens of this state.

It is the intent of this chapter to:

(1) Establish necessary emergency powers for the governor and define the situations under which such powers are to be exercised;

(2) Provide penalties for violations of this chapter.

It is further the intent of the legislature that in developing proposed orders under the powers granted in RCW 43.21G.040 as now or hereafter amended the governor may utilize, on a temporary or ad hoc basis, the knowledge and expertise of persons experienced in the technical aspects of energy supply, distribution, or use. Such utilization shall be in addition to support received by the governor from the department of community, trade, and economic development under RCW 43.21F.045 and *43.21F.065 and from other state agencies. [1996 c 186 § 507; 1981 c 295 § 11; 1977 ex.s. c 328 § 1; 1975-'76 2nd ex.s. c 108 § 15.]

*Reviser's note: RCW 43.21F.065 was repealed by 1996 c 186 § 524, effective July 1, 1996.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Severability—1977 ex.s. c 328: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 328 § 20.]

43.21G.020 Definitions. As used in this chapter:

(1) "Energy supply facility" means a facility which produces, extracts, converts, transports, or stores energy.

(2) "Energy" means any of the following, individually or in combination: Petroleum fuels; other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material, or electricity.

(3) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency or any other entity, public or private, however organized.

(4) "Committee" means the joint committee on energy and utilities created by RCW 44.39.010 as now or hereafter amended.

(5) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, joint operating agencies, municipal utility, public utility district, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state.

(6) "Regulated distributor" means a public service company as defined in chapter 80.04 RCW which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state.

(7) "Energy supply alert" means a situation which threatens to disrupt or diminish the supply of energy to the

extent that the public health, safety, and general welfare may be jeopardized.

(8) "Energy emergency" means a situation in which the unavailability or disruption of the supply of energy poses a clear and foreseeable danger to the public health, safety, and general welfare.

(9) "State or local governmental agency" means any county, city, town, municipal corporation, political subdivision of the state, or state agency. [1977 ex.s. c 328 § 2; 1975-'76 2nd ex.s. c 108 § 16.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.030 Intent in developing energy production, allocation, and consumption programs. It is the intent of the legislature that the governor shall, in developing plans for the production, allocation, and consumption of energy, give high priority to supplying vital public services including, but not limited to, essential governmental operations, public health and safety functions, emergency services, public mass transportation systems, fish production, food production and processing facilities, including the provision of water to irrigated agriculture, and energy supply facilities, during a condition of energy supply alert or energy emergency. In developing any such plans, provisions should be made for the equitable distribution of energy among the geographic areas of the state.

It is further the intent of the legislature that the governor shall, to the extent possible, encourage and rely upon voluntary programs and local and regional programs for the production, allocation, and consumption of energy and that involvement of energy users and producers be secured in implementing such programs. [1977 ex.s. c 328 § 3; 1975-'76 2nd ex.s. c 108 § 17.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.040 Governor's energy emergency powers—Energy supply alert—Construction of chapter. (1) The governor may subject to the definitions and limitations provided in this chapter:

(a) Upon finding that an energy supply alert exists within this state or any part thereof, declare a condition of energy supply alert; or

(b) Upon finding that an energy emergency exists within this state or any part thereof, declare a condition of energy emergency. A condition of energy emergency shall terminate thirty consecutive days after the declaration of such condition if the legislature is not in session at the time of such declaration and if the governor fails to convene the legislature pursuant to Article III, section 7 of the Constitution of the state of Washington within thirty consecutive days of such declaration. If the legislature is in session or convened, in accordance with this subsection, the duration of the condition of energy emergency shall be limited in accordance with subsection (3) of this section.

Upon the declaration of a condition of energy supply alert or energy emergency, the governor shall present to the committee any proposed plans for programs, controls, standards, and priorities for the production, allocation, and consumption of energy during any current or anticipated

condition of energy emergency, any proposed plans for the suspension or modification of existing rules of the Washington Administrative Code, and any other relevant matters the governor deems desirable. The governor shall review any recommendations of the committee concerning such plans and matters.

Upon the declaration of a condition of energy supply alert or energy emergency, the emergency powers as set forth in this chapter shall become effective only within the area described in the declaration.

(2) A condition of energy supply alert shall terminate ninety consecutive days after the declaration of such condition unless:

(a) Extended by the governor upon issuing a finding that the energy supply alert continues to exist, and with prior approval of such an extension by the committee; or

(b) Extended by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply; or

(c) Upon the request of the governor, extended by declaration of the legislature by concurrent resolution of a continuing energy supply alert.

In the event any such initial extension is implemented, the condition shall terminate one hundred and fifty consecutive days after the declaration of such condition. One or more subsequent extensions may be implemented through the extension procedures set forth in this subsection. In the event any such subsequent extension is implemented, the condition shall terminate sixty consecutive days after the implementation of such extension.

(3) A condition of energy emergency shall terminate forty-five consecutive days after the declaration of such condition unless:

(a) Extended by the governor upon issuing a finding that the energy emergency continues to exist, and with prior approval of such an extension by the committee; or

(b) Extended by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply; or

(c) Upon the request of the governor, extended by declaration of the legislature by concurrent resolution of a continuing energy emergency.

In the event any such initial extension is implemented, the condition shall terminate ninety consecutive days after the declaration of such condition. One or more subsequent extensions may be implemented through the extension procedures set forth in this subsection. In the event any such subsequent extension is implemented, the condition shall terminate forty-five consecutive days after the implementation of such extension.

(4) A condition of energy supply alert or energy emergency shall cease to exist upon a declaration to that effect by either of the following: (a) The governor; or (b) the legislature, by concurrent resolution, if in regular or special session: PROVIDED, That the governor shall terminate a condition of energy supply alert or energy emergency when the energy supply situation upon which the declaration of a condition of energy supply alert or energy emergency was based no longer exists.

(5) In a condition of energy supply alert, the governor may, as deemed necessary to preserve and protect the public health, safety, and general welfare, and to minimize, to the

fullest extent possible, the injurious economic, social, and environmental consequences of such energy supply alert, issue orders to: (a) Suspend or modify existing rules of the Washington Administrative Code of any state agency relating to the consumption of energy by such agency or to the production of energy, and (b) direct any state or local governmental agency to implement programs relating to the consumption of energy by the agency which have been developed by the governor or the agency and reviewed by the committee.

(6) In addition to the powers in subsection (5) of this section, in a condition of energy emergency, the governor may, as deemed necessary to preserve and protect the public health, safety, and general welfare, and to minimize, to the fullest extent possible, the injurious economic, social, and environmental consequences of such an emergency, issue orders to: (a) Implement programs, controls, standards, and priorities for the production, allocation, and consumption of energy; (b) suspend and modify existing pollution control standards and requirements or any other standards or requirements affecting or affected by the use of energy, including those relating to air or water quality control; and (c) establish and implement regional programs and agreements for the purposes of coordinating the energy programs and actions of the state with those of the federal government and of other states and localities.

The governor shall immediately transmit the declaration of a condition of energy supply alert or energy emergency and the findings upon which the declaration is based and any orders issued under the powers granted in this chapter to the committee.

Nothing in this chapter shall be construed to mean that any program, control, standard, priority or other policy created under the authority of the emergency powers authorized by this chapter shall have any continuing legal effect after the cessation of the condition of energy supply alert or energy emergency.

If any provision of this chapter is in conflict with any other provision, limitation, or restriction which is now in effect under any other law of this state, including, but not limited to, chapter 34.05 RCW, this chapter shall govern and control, and such other law or rule or regulation promulgated thereunder shall be deemed superseded for the purposes of this chapter.

Because of the emergency nature of this chapter, all actions authorized or required hereunder, or taken pursuant to any order issued by the governor, shall be exempted from any and all requirements and provisions of the state environmental policy act of 1971, chapter 43.21C RCW, including, but not limited to, the requirement for environmental impact statements.

Except as provided in this section nothing in this chapter shall exempt a person from compliance with the provisions of any other law, rule, or directive unless specifically ordered by the governor. [1987 c 505 § 83; 1985 c 308 § 1; 1981 c 281 § 1; 1980 c 87 § 23; 1979 ex.s. c 158 § 1; 1977 ex.s. c 328 § 4; 1975-'76 2nd ex.s. c 108 § 18.]

Effective date—1985 c 308: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 29, 1985." [1985 c 308 § 2.]

Severability—1981 c 281: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 281 § 3.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.050 Duty of executive authority of state and local governmental agencies to carry out supply alert or emergency measures—Liability for actions. To protect the public welfare during a condition of energy supply alert or energy emergency, the executive authority of each state or local governmental agency is hereby authorized and directed to take action to carry out the orders issued by the governor pursuant to this chapter as now or hereafter amended. A local governmental agency shall not be liable for any lawful actions consistent with RCW 43.21G.030 as now or hereafter amended taken in good faith in accordance with such orders issued by the governor. [1981 c 281 § 2; 1977 ex.s. c 328 § 5; 1975-'76 2nd ex.s. c 108 § 19.]

Severability—1981 c 281: See note following RCW 43.21G.040.

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.060 Consideration of actions, orders, etc., of federal authorities. In order to attain uniformity, as far as is practicable throughout the United States, in measures taken to aid in energy crisis management, all action taken under this chapter as now or hereafter amended, and all orders and rules made pursuant hereto, shall be taken or made with due consideration for and consistent when practicable with the orders, rules, regulations, actions, recommendations, and requests of federal authorities. [1977 ex.s. c 328 § 6; 1975-'76 2nd ex.s. c 108 § 20.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.070 Compliance by affected persons. Notwithstanding any provision of law or contract to the contrary, all persons who are affected by an order issued or action taken pursuant to this chapter as now or hereafter amended shall comply therewith immediately. [1977 ex.s. c 328 § 7; 1975-'76 2nd ex.s. c 108 § 21.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.080 Compliance by distributors—Fair and just reimbursement. The governor may order any distributor to take such action on his behalf as may be required to implement orders issued pursuant to this chapter as now or hereafter amended: PROVIDED, That orders to regulated distributors shall be issued by the Washington utilities and transportation commission in conformance with orders of the governor. No distributor shall be liable for actions taken in accordance with such orders issued by the governor or the Washington utilities and transportation commission.

All allocations of energy from one distributor to another distributor pursuant to orders issued or as a result of actions taken under this chapter as now or hereafter amended are subject to fair and just reimbursement. Such reimbursement for any allocation of energy between regulated distributors shall be subject to the approval of the Washington utilities

and transportation commission. A distributor is authorized to enter into agreements with another distributor for the purpose of determining financial or commodity reimbursement. [1977 ex.s. c 328 § 8; 1975-'76 2nd ex.s. c 108 § 22.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.090 Petition for exception or modification—Appeals. (1) Any person aggrieved by an order issued or action taken pursuant to this chapter as now or hereafter amended may petition the governor and request an exception from or modification of such order or action. The governor may grant, modify, or deny such petition as the public interest may require.

(2) An appeal from any order issued or action taken pursuant to this chapter as now or hereafter amended may be taken to the state supreme court. Such an appeal shall take the form of a petition for a writ of mandamus or prohibition under Article IV, section 4 of the state Constitution, and the supreme court shall have exclusive jurisdiction to hear and act upon such an appeal. Notwithstanding the provisions of chapter 7.16 RCW, or any other applicable statute, the superior courts of this state shall have no jurisdiction to entertain an action or suit relating to any order issued or action taken pursuant to this chapter as now or hereafter amended, nor to hear and determine any appeal from any such order. The provisions of Rule 16.2, Rules of Appellate Procedure, shall apply to any proceedings in the supreme court brought pursuant to this chapter as now or hereafter amended. [1977 ex.s. c 328 § 9; 1975-'76 2nd ex.s. c 108 § 23.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.100 Penalty. Any person wilfully violating any provision of an order issued by the governor pursuant to this chapter shall be guilty of a gross misdemeanor. [1975-'76 2nd ex.s. c 108 § 24.]

43.21G.900 Severability—Effective date—1975-'76 2nd ex.s. c 108. See notes following RCW 43.21F.010.

Chapter 43.21H

STATE ECONOMIC POLICY

Sections

- 43.21H.010 Purpose.
 43.21H.020 State and local authorities to insure that economic values be given appropriate consideration in rule-making process.
 43.21H.030 Statutory obligations of agencies not affected.
 43.21H.900 Severability—1975-'76 2nd ex.s. c 117.

43.21H.010 Purpose. The purpose of this chapter is to assert that it is the intent of the legislature that economic values are given appropriate consideration along with environmental, social, health, and safety considerations in the promulgation of rules by state and local government. [1975-'76 2nd ex.s. c 117 § 1.]

43.21H.020 State and local authorities to insure that economic values be given appropriate consideration

in rule-making process. All state agencies and local government entities with rule-making authority under state law or local ordinance shall adopt methods and procedures which will insure that economic values will be given appropriate consideration in the rule-making process along with environmental, social, health, and safety considerations. [1975-'76 2nd ex.s. c 117 § 2.]

43.21H.030 Statutory obligations of agencies not affected. Nothing in this chapter shall in any way affect the specific statutory obligations of any agency:

- (1) To comply with environmental, social, health, safety, or other standards prescribed by law;
- (2) To coordinate or consult with any other public agency; or
- (3) To act, or refrain from acting, where required by law, upon the recommendations or certification of another public agency. [1975-'76 2nd ex.s. c 117 § 3.]

43.21H.900 Severability—1975-'76 2nd ex.s. c 117. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 117 § 4.]

Chapter 43.21I

OFFICE OF MARINE SAFETY

Sections

- 43.21I.005 Findings.
 43.21I.010 Office of marine safety.
 43.21I.030 Administrator's powers.
 43.21I.040 Authority to administer oaths and issue subpoenas.
 43.21I.900 Effective dates—Severability—1991 c 200.

Abolishment of office: RCW 88.46.921.

43.21I.005 Findings. (*Effective June 30, 1997.*) The legislature declares that Washington's waters have irreplaceable value for the citizens of the state. These waters are vital habitat for numerous and diverse marine life and wildlife and the source of recreation, aesthetic pleasure, and pride for Washington's citizens. These waters are also vital for much of Washington's economic vitality.

The legislature finds that the transportation of oil on these waters creates a great potential hazard to these important natural resources. The legislature also finds that there is no state agency responsible for maritime safety to ensure this state's interest in preserving these resources.

The legislature therefore finds that in order to protect these waters it is necessary to establish an office of marine safety which will have the responsibility to promote the safety of marine transportation in Washington. [1991 c 200 § 401; (1995 2nd sp.s. c 14 § 514, expires June 30, 1997). Formerly RCW 43.21A.705.]

Reviser's note: This section was both amended and recodified by 1995 2nd sp.s. c 14. Both the amendment and recodification expire June 30, 1997, pursuant to 1995 2nd sp.s. c 14 § 536.

43.21I.010 Office of marine safety. (*Effective June 30, 1997.*) (1) There is hereby created an agency of state government to be known as the office of marine safety. The

office shall be vested with all powers and duties transferred to it and such other powers and duties as may be authorized by law. The main administrative office of the office shall be located in the city of Olympia. The administrator may establish administrative facilities in other locations, if deemed necessary for the efficient operation of the office, and if consistent with the principles set forth in subsection (2) of this section.

(2) The office of marine safety shall be organized consistent with the goals of providing state government with a focus in marine transportation and serving the people of this state. The legislature recognizes that the administrator needs sufficient organizational flexibility to carry out the office's various duties. To the extent practical, the administrator shall consider the following organizational principles:

(a) Clear lines of authority which avoid functional duplication within and between subelements of the office;

(b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public; and

(c) Maximum span of control without jeopardizing adequate supervision.

(3) The office shall provide leadership and coordination in identifying and resolving threats to the safety of marine transportation and the impact of marine transportation on the environment:

(a) Working with other state agencies and local governments to strengthen the state and local governmental partnership in providing public protection;

(b) Providing expert advice to the executive and legislative branches of state government;

(c) Providing active and fair enforcement of rules;

(d) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing marine safety measures;

(e) Providing information to the public; and

(f) Carrying out such other related actions as may be appropriate to this purpose.

(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the office shall ensure an opportunity for consultation, review, and comment before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the administrator may create such administrative divisions, offices, bureaus, and programs within the office as the administrator deems necessary. The administrator shall have complete charge of and supervisory powers over the office, except where the administrator's authority is specifically limited by law.

(6) The administrator shall appoint such personnel as are necessary to carry out the duties of the office. In addition to exemptions set forth in *RCW 41.06.070(28), the administrator, the administrator's confidential secretary, and up to four professional staff members shall be exempt from the provisions of chapter 41.06 RCW. All other employees of the office shall be subject to the provisions of chapter 41.06 RCW. [1992 c 73 § 4; (1995 2nd sp.s. c 14 § 515, expires June 30, 1997); 1991 c 200 § 402. Formerly RCW 43.21A.710.]

Reviser's note: *(1) RCW 41.06.070 was amended by 1993 c 281 § 21, changing subsection (28) to subsection (3).

(2) This section was both amended and recodified by 1995 2nd sp.s. c 14. Both the amendment and recodification expire June 30, 1997, pursuant to 1995 2nd sp.s. c 14 § 536.

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

43.211.030 Administrator's powers. (*Effective June 30, 1997.*) In addition to any other powers granted the administrator, the administrator may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of this chapter and chapter 88.46 RCW. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The administrator shall review each advisory committee within the jurisdiction of the office and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed. The criteria specified in RCW 43.131.070 shall be used to determine whether or not each advisory committee shall be continued;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(4) Delegate powers, duties, and functions of the office to employees of the office as the administrator deems necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(5) Enter into contracts on behalf of the office to carry out the purposes of this chapter and chapter 88.46 RCW;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program for the purposes of this chapter and chapter 88.46 RCW; or

(7) Accept gifts, grants, or other funds. [1992 c 73 § 11; (1995 2nd sp.s. c 14 § 516, expires June 30, 1997); 1991 c 200 § 405. Formerly RCW 43.21A.715.]

Reviser's note: This section was both amended and recodified by 1995 2nd sp.s. c 14. Both the amendment and recodification expire June 30, 1997, pursuant to 1995 2nd sp.s. c 14 § 536.

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

43.211.040 Authority to administer oaths and issue subpoenas. (*Effective June 30, 1997.*) (1) The administrator shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before the administrator together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings shall be governed by chapter 34.05 RCW.

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by chapter 34.05 RCW. [1991 c 200 § 407; (1995 2nd sp.s. c 14 § 517, expires June 30, 1997). Formerly RCW 43.21A.720.]

Reviser's note: This section was both amended and recodified by 1995 2nd sp.s. c 14. Both the amendment and recodification expire June 30, 1997, pursuant to 1995 2nd sp.s. c 14 § 536.

43.21I.900 Effective dates—Severability—1991 c 200. See RCW 90.56.901 and 90.56.904.

Chapter 43.21J

ENVIRONMENTAL AND FOREST RESTORATION PROJECTS

Sections

43.21J.005	Legislative findings.
43.21J.010	Intent—Purpose—Definitions.
43.21J.020	Environmental and forest restoration account.
43.21J.030	Environmental enhancement and job creation task force.
43.21J.040	Environmental enhancement and restoration project proposals—Evaluation—Award of funds.
43.21J.050	Training or employment.
43.21J.060	Unemployment compensation benefits—Training.
43.21J.070	Unemployment compensation benefits—Special base year and benefit year.
43.21J.800	Joint legislative audit and review committee report.
43.21J.900	Short title—1993 c 516.
43.21J.901	Section captions and part headings—1993 c 516.
43.21J.902	Severability—1993 c 516.
43.21J.903	Conflict with federal requirements—1993 c 516.
43.21J.904	Effective date—1993 c 516.

43.21J.005 Legislative findings. (1) The legislature finds that the long-term health of the economy of Washington state depends on the sustainable management of its natural resources. Washington's forests, estuaries, waterways, and watersheds provide a livelihood for thousands of citizens of Washington state and millions of dollars of income and tax revenues every year from forests, fisheries, shellfisheries, recreation, tourism, and other water-dependent industries.

(2) The legislature further finds that the livelihoods and revenues produced by Washington's forests, estuaries, waterways, and watersheds would be enhanced by immediate investments in clean water infrastructure and habitat restoration.

(3) The legislature further finds that an insufficiency in financial resources, especially in timber-dependent communities, has resulted in investments in clean water and habitat restoration too low to ensure the long-term economic and environmental health of Washington's forests, estuaries, waterways, and watersheds.

(4) The legislature further finds that unemployed workers and Washington's economically distressed communities, especially timber-dependent areas, can benefit from opportunities for employment in environmental restoration projects.

(5) The legislature therefore declares that immediate investments in a variety of environmental restoration projects, based on sound principles of watershed management and environmental and forest restoration, are necessary to rehabilitate damaged watersheds and to assist dislocated workers and the unemployed gain job skills necessary for long-term employment. [1993 c 516 § 1.]

43.21J.010 Intent—Purpose—Definitions. (1) It is the intent of this chapter to provide financial resources to

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make substantial progress toward: (a) Implementing the Puget Sound water quality management plan and other watershed-based management strategies and plans; (b) ameliorating degradation to watersheds; and (c) keeping and creating stable, environmentally sound, good wage employment in Washington state. The legislature intends that employment under this chapter is not to result in the displacement or partial displacement, whether by the reduction of hours of nonovertime work, wages, or other employment benefits, of currently employed workers, including but not limited to state civil service employees, or of currently or normally contracted services.

(2) It is the purpose of this chapter to:

(a) Implement clean water, forest, and habitat restoration projects that will produce measurable improvements in water and habitat quality, that rate highly when existing environmental ranking systems are applied, and that provide economic stability.

(b) Facilitate the coordination and consistency of federal, state, tribal, local, and private water and habitat protection and enhancement programs in the state's watersheds.

(c) Fund necessary projects for which a public planning process has been completed.

(d) Provide immediate funding to create jobs and training for environmental restoration and enhancement jobs for unemployed workers and displaced workers in impact areas, especially rural natural resources-dependent communities.

(3) For purposes of this chapter "impact areas" means: (a) Distressed counties as defined in RCW 43.165.010(3)(a); (b) subcounty areas in those counties not covered under (a) of this subsection that are rural natural resources impact areas as defined in RCW 43.31.601; (c) urban subcounty areas as defined in *RCW 43.165.010(3)(c); and (d) areas that the task force determines are likely to experience dislocations in the near future from downturns in natural resource-based industries.

(4) For purposes of this chapter, "high-risk youth" means youth eligible for Washington conservation corps programs under chapter 43.220 RCW or Washington service corps programs under chapter 50.65 RCW.

(5) For purposes of this chapter, "dislocated forest products worker" has the meaning set forth in RCW 50.70.010.

(6) For purposes of this chapter, "task force" means the environmental enhancement and job creation task force created under RCW 43.21J.030. [1995 c 226 § 26; 1993 c 516 § 2.]

***Reviser's note:** RCW 43.165.010 was amended by 1996 c 290 § 2, changing subsection (3)(c) to subsection (3)(d).

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

43.21J.020 Environmental and forest restoration account. (1) The environmental and forest restoration account is established in the state treasury. Money in the account may be spent only after appropriation by the legislature and in a manner consistent with this chapter. Private nonprofit organizations and state, local, and tribal entities are eligible for funds under this chapter. Money in the account may be used to make grants, loans, or interagen-

cy contracts as needed to implement environmental and forest restoration projects.

(2) For fiscal years 1994 through 1998, at least fifty percent of the funds in the environmental and forest restoration account shall be used for environmental restoration and enhancement projects in rural communities impacted by the decline in timber harvest levels as defined in chapter 50.70 RCW and that employ displaced timber workers. These projects may include watershed restoration such as removing or upgrading roads to reduce erosion and sedimentation, and improvements in forest habitat such as thinning and pruning. Beginning July 1, 1998, at least fifty percent of the funds in the environmental and forest restoration account shall be used for environmental restoration and enhancement projects in counties with unemployment rates above the state average.

(3) The environmental and forest restoration account shall consist of funds appropriated by law, principal and interest from the repayment of loans granted under this chapter, and federal and other money received by the state for deposit in the account.

(4) At least ten percent of the funds distributed from the environmental and forest restoration account annually shall be allocated to the Washington conservation corps established under chapter 43.220 RCW to employ high-risk youth on projects consistent with this chapter and to fund administrative support services required by the senior environmental corps established under chapter 43.63A RCW.

(5) At least five percent of the funds distributed from the environmental and forest restoration account annually shall be used for contracts with nonprofit corporations to fund or finance projects, including those that increase private sector investments in pollution prevention activities and equipment and that are consistent with the provisions of this section and RCW 43.21J.040.

(6) No more than five percent of the annual revenues to the environmental and forest restoration account may be expended for administrative purposes by any state agency or project administration; however, funds expended by the Washington conservation corps shall be subject solely to the limitations set forth in RCW 43.220.230.

(7) Except for essential administrative and supervisory purposes, funds in the environmental and forest restoration account may not be used for hiring permanent state employees. [1993 c 516 § 3.]

43.21J.030 Environmental enhancement and job creation task force. (1) There is created the environmental enhancement and job creation task force within the office of the governor. The purpose of the task force is to provide a coordinated and comprehensive approach to implementation of chapter 516, Laws of 1993. The task force shall consist of the commissioner of public lands, the director of the department of fish and wildlife, the director of the department of ecology, the director of the parks and recreation commission, the timber team coordinator, the executive director of the work force training and education coordinating board, and the executive director of the *Puget Sound water quality authority, or their designees. The task force may seek the advice of the following agencies and organizations: The department of community, trade, and economic development, the conservation commission, the

employment security department, the interagency committee for outdoor recreation, appropriate federal agencies, appropriate special districts, the Washington state association of counties, the association of Washington cities, labor organizations, business organizations, timber-dependent communities, environmental organizations, and Indian tribes. The governor shall appoint the task force chair. Members of the task force shall serve without additional pay. Participation in the work of the committee by agency members shall be considered in performance of their employment. The governor shall designate staff and administrative support to the task force and shall solicit the participation of agency personnel to assist the task force.

(2) The task force shall have the following responsibilities:

(a) Soliciting and evaluating, in accordance with the criteria set forth in RCW 43.21J.040, requests for funds from the environmental and forest restoration account and making distributions from the account. The task force shall award funds for projects and training programs it approves and may allocate the funds to state agencies for disbursement and contract administration;

(b) Coordinating a process to assist state agencies and local governments to implement effective environmental and forest restoration projects funded under this chapter;

(c) Considering unemployment profile data provided by the employment security department;

(d) No later than December 31, 1993, providing recommendations to the appropriate standing committees of the legislature for improving the administration of grants for projects or training programs funded under this chapter that prevent habitat and environmental degradation or provide for its restoration;

(e) Submitting to the appropriate standing committees of the legislature a biennial report summarizing the jobs and the environmental benefits created by the projects funded under this chapter.

(3) Beginning July 1, 1994, the task force shall have the following responsibilities:

(a) To solicit and evaluate proposals from state and local agencies, private nonprofit organizations, and tribes for environmental and forest restoration projects;

(b) To rank the proposals based on criteria developed by the task force in accordance with RCW 43.21J.040; and

(c) To determine funding allocations for projects to be funded from the account created in RCW 43.21J.020 and for projects or programs as designated in the omnibus operating and capital appropriations acts. [1994 c 264 § 17; 1993 c 516 § 5.]

***Reviser's note:** The Puget Sound water quality authority and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1995, and repealed June 30, 1996. See 1990 c 115 §§ 11 and 12. Powers, duties, and functions of the Puget Sound water quality authority pertaining to cleanup and protection of Puget Sound transferred to the Puget Sound action team by 1996 c 138 § 11. See RCW 90.71.903.

43.21J.040 Environmental enhancement and restoration project proposals—Evaluation—Award of funds. (1) Subject to the limitations of RCW 43.21J.020, the task force shall award funds from the environmental and forest restoration account on a competitive basis. The task

force shall evaluate and rate environmental enhancement and restoration project proposals using the following criteria:

(a) The ability of the project to produce measurable improvements in water and habitat quality;

(b) The cost-effectiveness of the project based on: (i) Projected costs and benefits of the project; (ii) past costs and environmental benefits of similar projects; and (iii) the ability of the project to achieve cost efficiencies through its design to meet multiple policy objectives;

(c) The inclusion of the project as a high priority in a federal, state, tribal, or local government plan relating to environmental or forest restoration, including but not limited to a local watershed action plan, storm water management plan, capital facility plan, growth management plan, or a flood control plan; or the ranking of the project by conservation districts as a high priority for water quality and habitat improvements;

(d) The number of jobs to be created by the project for dislocated forest products workers, high-risk youth, and residents of impact areas;

(e) Participation in the project by environmental businesses to provide training, cosponsor projects, and employ or jointly employ project participants;

(f) The ease with which the project can be administered from the community the project serves;

(g) The extent to which the project will either augment existing efforts by organizations and governmental entities involved in environmental and forest restoration in the community or receive matching funds, resources, or in-kind contributions; and

(h) The capacity of the project to produce jobs and job-related training that will pay market rate wages and impart marketable skills to workers hired under this chapter.

(2) The following types of projects and programs shall be given top priority in the first fiscal year after July 1, 1993:

(a) Projects that are highly ranked in and implement adopted or approved watershed action plans, such as those developed pursuant to *Puget Sound water quality authority rules adopted for local planning and management of nonpoint source pollution;

(b) Conservation district projects that provide water quality and habitat improvements;

(c) Indian tribe projects that provide water quality and habitat improvements; or

(d) Projects that implement actions approved by a shellfish protection district under chapter 100, Laws of 1992.

(3) Funds shall not be awarded for the following activities:

(a) Administrative rule making;

(b) Planning; or

(c) Public education. [1993 c 516 § 4.]

***Reviser's note:** The Puget Sound water quality authority and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1995, and repealed June 30, 1996. See 1990 c 115 §§ 11 and 12. Powers, duties, and functions of the Puget Sound water quality authority pertaining to cleanup and protection of Puget Sound transferred to the Puget Sound action team by 1996 c 138 § 11. See RCW 90.71.903.

43.21J.050 Training or employment. (1) Eligibility for training or employment in projects funded through the environmental and forest restoration account shall, to the

extent practicable, be for workers who are currently unemployed.

(2) To the greatest extent practicable, the following groups of individuals shall be given preference for training or employment in projects funded through the environmental and forest restoration account:

(a) Dislocated workers who are receiving unemployment benefits or have exhausted unemployment benefits; and

(b) High-risk youth.

(3) Projects funded for forest restoration shall be for workers whose employment was terminated in the Washington forest products industry within the previous four years.

(4) The task force shall submit a list to private industry councils and the employment security department of projects receiving funds under the provisions of this chapter. The list shall include the number, location, and types of jobs expected to be provided by each project. The employment security department shall recruit workers for these jobs by:

(a) Notifying dislocated forest workers who meet the definitions in chapter 50.70 RCW, who are receiving unemployment benefits or who have exhausted unemployment benefits, of their eligibility for the programs;

(b) Notifying other unemployed workers;

(c) Developing a pool of unemployed workers including high-risk youth eligible to enroll in the program; and

(d) Establishing procedures for workers to apply to the programs.

(5) The employment security department shall refer eligible workers to employers hiring under the environmental and forest restoration account programs. Recipients of funds shall consider the list of eligible workers developed by the employment security department before conducting interviews or making hiring decisions. Recipients of funds shall ensure that workers are aware of whatever opportunities for vocational training, job placement, and remedial education are available from the employment security department.

(6) An individual is eligible for applicable employment security benefits while participating in training related to this chapter. Eligibility shall be confirmed by the commissioner of employment security by submitting a commissioner-approved training waiver.

(7) Persons receiving funds from the environmental and forest restoration account shall not be considered state employees for the purposes of existing provisions of law with respect to hours of work, sick leave, vacation, and civil service but shall receive health benefits. Persons receiving funds from this account who are hired by a state agency, except for Washington conservation and service corps enrollees, shall receive medical and dental benefits as provided under chapter 41.05 RCW and industrial insurance coverage under Title 51 RCW, but are exempt from the provisions of chapter 41.06 RCW.

(8) Compensation for employees, except for Washington conservation and service corps enrollees, hired under the program established by this chapter shall be based on market rates in accordance with the required skill and complexity of the jobs created. Remuneration paid to employees under this chapter shall be considered covered employment for purposes of chapter 50.04 RCW.

(9) Employment under this program shall not result in the displacement or partial displacement, whether by the reduction of hours of nonovertime work, wages, or other

employment benefits, of currently employed workers, including but not limited to state civil service employees, or of currently or normally contracted services. [1993 c 516 § 8.]

43.21J.060 Unemployment compensation benefits—Training. An individual shall be considered to be in training with the approval of the commissioner as defined in RCW 50.20.043, and be eligible for applicable unemployment insurance benefits while participating in and making satisfactory progress in training related to this chapter. [1993 c 516 § 9.]

43.21J.070 Unemployment compensation benefits—Special base year and benefit year. For the purpose of providing the protection of the unemployment compensation system to individuals at the conclusion of training or employment obtained as a result of this chapter, a special base year and benefit year are established.

(1) Only individuals who have entered training or employment provided by the environmental and forest restoration account, and whose employment or training under such account was not considered covered under chapter 50.04 RCW, shall be allowed the special benefit provisions of this chapter.

(2) An application for initial determination made under this chapter must be filed in writing with the employment security department within twenty-six weeks following the week in which the individual commenced employment or training obtained as a result of this chapter. Notice from the individual, from the employing entity, or notice of hire from employment security department administrative records shall satisfy this requirement.

(3) For the purpose of this chapter, a special base year is established for an individual consisting of the first four of the last five completed calendar quarters, or if a benefit year is not established using the first four of the last five completed calendar quarters as the base year, the last four completed calendar quarters immediately prior to the first day of the calendar week in which the individual began employment or training provided by the environmental and forest restoration account.

(4) A special individual benefit year is established consisting of the entire period of training or employment provided by the environmental and forest restoration account and a fifty-two consecutive week period commencing with the first day of the calendar week in which the individual last participated in such employment or training. No special benefit year shall have a duration in excess of three hundred twelve calendar weeks. Such special benefit year will not be established unless the criteria contained in RCW 50.04.030 has been met, except that an individual meeting the requirements of this chapter and who has an unexpired benefit year established which would overlap the special benefit year may elect to establish a special benefit year under this chapter, notwithstanding the provisions in RCW 50.04.030 relating to establishment of a subsequent benefit year, and RCW 50.40.010 relating to waiver of rights. Such unexpired benefit year shall be terminated with the beginning of the special benefit year if the individual elects to establish a special benefit year under this chapter.

(5) The individual's weekly benefit amount and maximum amount payable during the special benefit year shall be governed by the provisions contained in RCW 50.20.120. The individual's basic and continuing right to benefits shall be governed by the general laws and rules relating to the payment of unemployment compensation benefits to the extent that they are not in conflict with the provisions of this chapter.

(6) The fact that wages, hours, or weeks worked during the special base year may have been used in computation of a prior valid claim for unemployment compensation shall not affect a claim for benefits made under the provisions of this chapter. However, wages, hours, and weeks worked used in computing entitlement on a claim filed under this chapter shall not be available or used for establishing entitlement or amount of benefits in any succeeding benefit year.

(7) Benefits paid to an individual filing under the provisions of this section shall not be charged to the experience rating account of any contribution paying employer. [1993 c 516 § 10.]

43.21J.800 Joint legislative audit and review committee report. On or before June 30, 1998, the joint legislative audit and review committee shall prepare a report to the legislature evaluating the implementation of the environmental restoration jobs act of 1993, chapter 516, Laws of 1993. [1996 c 288 § 36; 1993 c 516 § 11.]

43.21J.900 Short title—1993 c 516. This act shall be known as the environmental restoration jobs act of 1993. [1993 c 516 § 15.]

43.21J.901 Section captions and part headings—1993 c 516. Section captions and part headings as used in this act constitute no part of the law. [1993 c 516 § 16.]

43.21J.902 Severability—1993 c 516. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 516 § 17.]

43.21J.903 Conflict with federal requirements—1993 c 516. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state. [1993 c 516 § 19.]

43.21J.904 Effective date—1993 c 516. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its

existing public institutions, and shall take effect July 1, 1993.
[1993 c 516 § 20.]

Chapter 43.22

DEPARTMENT OF LABOR AND INDUSTRIES

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49.82.140.

Electrical apparatus use and construction rules, change of, enforcement:
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Explosives, duties: Chapter 70.74 RCW.

Farm labor contractors, duties: Chapter 19.30 RCW.

Industrial deaths, autopsies and post-mortems: RCW 68.50.103 through
68.50.105.

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Labor disputes, arbitration: Chapter 49.08 RCW.

Office located at state capital: RCW 43.17.050.

*Prevailing wages on public works—Director of labor and industries to
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Rules and regulations: RCW 43.17.060.

Seasonal laborers: Chapter 49.40 RCW.

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Victims of crimes, compensation, duties of department: Chapter 7.68 RCW.

Wage collection: Chapter 49.48 RCW.

Wages, minimum: Chapter 49.46 RCW.

43.22.005 Deputy directors. The director of labor and industries may appoint and deputize two assistant directors to be known as deputy directors. The director shall designate one deputy director who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director. [1985 c 325 § 1; 1969 ex.s. c 32 § 2.]

43.22.010 Divisions of department—Personnel. The department of labor and industries shall be organized into divisions that promote efficient and effective performance of the duties the agency is charged by statute to administer.

The director may appoint such clerical and other assistants as may be necessary for the general administration of the department. [1994 c 164 § 2; 1974 ex.s. c 27 § 1. Prior: 1973 1st ex.s. c 153 § 8; 1973 1st ex.s. c 52 § 2; 1971 c 66 § 2; 1969 ex.s. c 32 § 1; 1965 c 8 § 43.22.010; prior: (i) 1927 c 306 § 1, part; 1917 c 36 § 2, part; RRS § 8637, part. (ii) 1921 c 7 § 74; RRS § 10832.]

Effective date—1973 1st ex.s. c 52: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1973." [1973 1st ex.s. c 52 § 12.]

43.22.020 Supervisor of industrial insurance—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial insurance, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such adjusters, medical and other examiners, auditors, inspectors, clerks, and other assistants as may be necessary to the administration of workers' compensation and medical aid in this state. [1994 c 164 § 3; 1965 c 8 § 43.22.020. Prior: 1921 c 7 § 75; RRS § 10833.]

Industrial insurance: Title 51 RCW.

43.22.030 Powers and duties. The director of labor and industries shall:

(1) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of workers' compensation and medical aid in this state;

(2) Have the custody of all property acquired by the state at execution sales upon judgments obtained for delinquent industrial insurance premiums or medical aid contributions, and penalties and costs; sell and dispose of the same at private sales for the sale purchase price, and pay the proceeds into the state treasury to the credit of the accident fund, or medical aid fund, as the case may be. In case of the sale of real estate the director shall execute the deed in the name of the state. [1994 c 164 § 4; 1987 c 185 § 16;

1965 c 8 § 43.22.030. Prior: 1921 c 7 § 78, part; RRS § 10836, part.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Workers' compensation: Title 51 RCW.

43.22.040 Supervisor of industrial safety and health—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial safety and health, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such inspectors, clerks, and other assistants as may be necessary to carry on the industrial safety and health work of the department. [1994 c 164 § 5; 1973 1st ex.s. c 52 § 3; 1965 c 8 § 43.22.040. Prior: 1921 c 7 § 76; RRS § 10834.]

Effective date—1973 1st ex.s. c 52: See note following RCW 43.22.010.

Administrative expenses: RCW 51.16.105.

43.22.050 Powers and duties. The director of labor and industries shall:

(1) Exercise all the powers and perform all the duties prescribed by law in relation to the inspection of factories, mills, workshops, storehouses, warerooms, stores and buildings, and the machinery and apparatus therein contained, and steam vessels, and other vessels operated by machinery, and in relation to the administration and enforcement of all laws and safety standards providing for the protection of employees in mills, factories, workshops, and in employments subject to the provisions of Title 51 RCW, and in relation to the enforcement, inspection, certification, and promulgation of safe places and safety device standards in all industries: PROVIDED, HOWEVER, This section shall not apply to railroads;

(2) Exercise all the powers and perform all the duties prescribed by law in relation to the inspection of tracks, bridges, structures, machinery, equipment, and apparatus of street railways, gas plants, electrical plants, water systems, telephone lines, telegraph lines, and other public utilities, with respect to the safety of employees, and the administration and enforcement of all laws providing for the protection of employees of street railways, gas plants, electrical plants, water systems, telephone lines, telegraph lines, and other public utilities;

(3) Exercise all the powers and perform all the duties prescribed by law in relation to the enforcement, amendment, alteration, change, and making additions to, rules and regulations concerning the operation, placing, erection, maintenance, and use of electrical apparatus, and the construction thereof. [1994 c 164 § 6; 1973 1st ex.s. c 52 § 4; 1971 ex.s. c 239 § 9; 1965 c 8 § 43.22.050. Prior: 1955 c 173 § 1; 1921 c 7 § 80; RRS § 10838.]

Effective date—1973 1st ex.s. c 52: See note following RCW 43.22.010.

Severability—1971 ex.s. c 239: See RCW 70.62.900.

Boilers and steam vessels: Chapter 70.79 RCW.

Electrical apparatus: Chapters 19.28, 19.29 RCW.

Elevators, escalators and dumbwaiters: Chapter 70.87 RCW.

Industrial safety and health: Chapter 49.17 RCW.

43.22.053 Supervisor of building and construction safety inspection services—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of building and construction safety inspection services, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such inspectors, clerks, and other assistants as may be necessary to carry on building and construction safety inspection services subject to the provisions of chapter 41.06 RCW. [1994 c 164 § 7; 1969 ex.s. c 32 § 3.]

43.22.200 Right of entry to inspect. The supervisor of industrial safety and health or the supervisor's deputy shall enter, inspect, and examine any coal mine, and the workings and the machinery belonging thereto, at all reasonable times, either day or night, but not so as to impede the working of the mine. They shall make inquiry into the condition of the mine, workings, machinery, ventilation, drainage, method of lighting or using lights, and into all methods and things relating to the health and safety of persons employed in or about the mine, and especially make inquiry whether or not the provisions of the coal mining code have been complied with. The management of each mine shall furnish the means necessary for such entry, inspection, examination, and exit. [1994 c 164 § 8; 1973 1st ex.s. c 52 § 5; 1965 c 8 § 43.22.200. Prior: 1917 c 36 § 8; RRS § 8643.]

Effective date—1973 1st ex.s. c 52: See note following RCW 43.22.010.

43.22.210 Frequency of inspections—Compelling access—Investigations. (1) It shall be the duty of the supervisor of industrial safety and health or the supervisor's deputy to carefully examine each coal mine in operation in this state at least every four months, and more often as is necessary, to see that every precaution is taken to ensure the safety of all workers who may be engaged in the mine. These inspections shall include at least two visits of the inspection force to every working place in every mine in the state during each calendar year. The supervisor or the supervisor's deputy shall make a record of each visit, noting the time and the material circumstances of the inspection, and shall keep each record on file in the office of the department; and also post at the mine a notice of the inspection.

(2) If the management of any operating company shall refuse to permit the members of the department to enter any mine, the supervisor or the supervisor's deputy shall file an affidavit setting forth such refusal, with the judge of the superior court of the county in which the mine is situated, and obtain an order from such judge commanding the management of the operating company to permit such examination and inspection, and to furnish the necessary facilities for the same, or in default thereof to be adjudged in contempt of court and punished accordingly.

(3) If the supervisor or the supervisor's deputy shall, after examination of any mine, or the works and machinery connected therewith, find the same to be worked contrary to the provisions of this act [1917 c 36], or unsafe for the

workers employed therein, the supervisor shall notify the management, stating what changes are necessary. If the trouble is not corrected within reasonable time, the supervisor shall, through the attorney general, in the name of the state immediately apply to the superior court of the county in which the mine is located, or to a judge of said court in chambers, for a writ of injunction to enjoin the operation of all work in and about the said mine. Whereupon said court or judge shall at once proceed to hear and determine the case, and if the cause appears to be sufficient, after hearing the parties and their evidence, as in like cases, shall issue its writ to restrain the workings of said mine until all cause of danger is removed; and the cost of such proceeding shall be borne by the operating company of the mine: PROVIDED, That if the said court shall find the cause not sufficient, then the case shall be dismissed, and the costs will be borne by the state: PROVIDED, ALSO, That should the supervisor find during the inspection of a mine, or portion of a mine, such dangerous condition existing therein that in his or her opinion any delay in removing the workers from such dangerous places might cause loss of life or serious personal injury to the employee, the supervisor shall have the right to temporarily withdraw all persons from such dangerous places until the foregoing provisions of this section can be carried into effect.

(4) Whenever he or she is notified of any loss of life in or about the mine, or whenever an explosion or other serious accident occurs, the supervisor shall immediately go or send his or her deputy to the scene of the accident to investigate and to render every possible assistance.

(5) The supervisor or the supervisor's deputy shall make a record of the circumstances attending each accident investigated, which record shall be preserved in the files of the department. To enable the supervisor or the supervisor's deputy to make such investigation and record, they shall have power to compel the attendance of witnesses and to administer oaths or affirmations to them. The costs of such investigations shall be paid by the state. [1994 c 164 § 9; 1989 c 12 § 14; 1973 1st ex.s. c 52 § 6; 1965 c 8 § 43.22.210. Prior: 1917 c 36 § 9; RRS § 8644. Formerly RCW 43.22.190, part, 43.22.210 through 43.22.240.]

Effective date—1973 1st ex.s. c 52: See note following RCW 43.22.010.

43.22.260 Supervisor of industrial relations—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial relations, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint an assistant to be known as the industrial statistician, and an assistant to be known as the supervisor of employment standards and may appoint and employ experts, clerks, and other assistants as may be necessary to carry on the industrial relations work of the department. [1994 c 164 § 10; 1975 1st ex.s. c 296 § 31; 1973 2nd ex.s. c 16 § 11; 1973 1st ex.s. c 154 § 82; 1965 c 8 § 43.22.260. Prior: 1921 c 7 § 77; RRS § 10835.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

Severability—1973 2nd ex.s. c 16: See RCW 49.12.900.

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

43.22.270 Powers and duties. The director of labor and industries shall have the power, and it shall be the director's duty:

(1) To study and keep in touch with problems of industrial relations and, from time to time, make public reports and recommendations to the legislature;

(2) To, with the assistance of the industrial statistician, exercise all the powers and perform all the duties in relation to collecting, assorting, and systematizing statistical details relating to labor within the state and systematizing such statistical information to, as far as possible, conform to the plans and reports of the United States department of labor;

(3) To, with the assistance of the industrial statistician, make such special investigations and collect such special statistical information as may be needed for use by the department or division of the state government having need of industrial statistics;

(4) To, with the assistance of the supervisor of employment standards, supervise the administration and enforcement of all laws respecting the employment and relating to the health, sanitary conditions, surroundings, hours of labor, and wages of employees employed in business and industry in accordance with the provisions of chapter 49.12 RCW;

(5) To exercise all the powers and perform all the duties, not specifically assigned to the department of labor and industries, now vested in, and required to be performed by, the commissioner of labor;

(6) To exercise such other powers and perform such other duties as may be provided by law. [1994 c 164 § 11; 1977 c 75 § 48; 1975 1st ex.s. c 296 § 32; 1973 2nd ex.s. c 16 § 12; 1973 1st ex.s. c 154 § 83; 1965 c 8 § 43.22.270. Prior: 1921 c 7 § 81; RRS 10839.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

Severability—1973 2nd ex.s. c 16: See RCW 49.12.900.

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

Apprenticeships: Chapter 49.04 RCW.

Arbitration of disputes: Chapter 49.08 RCW.

Public employees' collective bargaining, arbitration of disputes: RCW 41.56.100.

Public employment labor relations: Chapter 41.58 RCW.

Wage collection for aggrieved employees: RCW 49.48.040.

43.22.282 Industrial welfare committee abolished—Transfer of powers, duties, and functions. The industrial welfare committee established by this chapter is abolished. All powers, duties, and functions of the committee are transferred to the director of labor and industries. [1982 c 163 § 16.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

43.22.290 Reports by employers. Every owner, operator, or manager of a factory, workshop, mill, mine, or other establishment where labor is employed, shall make to the department, upon blanks furnished by it, such reports and returns as the department may require, for the purpose of compiling such labor statistics as are authorized by this chapter, and the owner or business manager shall make such reports and returns within the time prescribed therefor by the director, and shall certify to the correctness thereof.

In the reports of the department no use shall be made of the names of individuals, firms, or corporations supplying the information called for by this section, such information being deemed confidential, and not for the purpose of disclosing personal affairs, and any officer, agent, or employee of the department violating this provision shall be fined a sum not exceeding five hundred dollars, or be imprisoned for not more than one year. [1965 c 8 § 43.22.290. Prior: 1901 c 74 § 3; RRS § 7588.]

43.22.300 Compelling attendance of witnesses and testimony—Penalty. The director may issue subpoenas, administer oaths and take testimony in all matters relating to the duties herein required, such testimony to be taken in some suitable place in the vicinity to which testimony is applicable.

Witnesses subpoenaed and testifying before any officer of the department shall be paid the same fees as witnesses before a superior court, such payment to be made from the funds of the department.

Any person duly subpoenaed under the provisions of this section who wilfully neglects or refuses to attend or testify at the time and place named in the subpoena, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not exceeding thirty days. [1965 c 8 § 43.22.300. Prior: 1901 c 74 § 4; RRS § 7589.]

43.22.310 Access to plants—Penalty for refusal. The director or any employee of the department of labor and industries may enter any factory, mill, office, workshop, or public or private works at any time for the purpose of gathering facts and statistics as provided by this chapter, and examine into the methods of protection from danger to employees, and the sanitary conditions in and around such buildings and places and make a record thereof, and any owner or occupant of such factory, mill, office or workshop, or public or private works, or his agent who refuses to allow an inspector or employee of the department to enter, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned in the county jail not to exceed ninety days. [1965 c 8 § 43.22.310. Prior: 1901 c 74 § 5; RRS § 7590.]

43.22.330 Annual report. The director of labor and industries shall submit to the governor each year a report of business transacted by the department during the preceding fiscal year together with such statistics and information as the governor deems of public interest and such recommendations as the director believes merit consideration in the interest of improved administration. [1977 c 75 § 49; 1965 c 8 § 43.22.330. Prior: (i) 1901 c 74 § 2; RRS § 7587. (ii) 1901 c 74 § 7; RRS § 7592.]

43.22.331 Annual report on workers' compensation fraud. The department shall annually compile a comprehensive report on workers' compensation fraud in Washington. The report shall include the department's activities related to the prevention, detection, and prosecution of worker,

employer, and provider fraud and the cost of such activities, as well as the actual and estimated cost savings of such activities. The report shall be submitted to the appropriate committees of the legislature prior to the start of the legislative session in January. [1995 c 160 § 7.]

43.22.335 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.22.340 through 43.22.420.

(1) "Park trailer" means a park trailer as defined in the American National Standards Institute A119.5 standard for park trailers.

(2) "Recreational vehicle" means a vehicular-type unit primarily designed for recreational camping or travel use that has its own motive power or is mounted on or towed by another vehicle. The units include travel trailers, fifth-wheel trailers, folding camping trailers, truck campers, and motor homes. [1995 c 280 § 1.]

43.22.340 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Rules and regulations governing safety of body and frame design and plumbing, heating and electrical equipment—Compliance. The director of labor and industries shall prescribe and enforce rules and regulations governing safety of body and frame design, and the installation of plumbing, heating, and electrical equipment in mobile homes, commercial coaches, recreational vehicles, and/or park trailers: PROVIDED, That the director shall not prescribe or enforce rules and regulations governing the body and frame design of recreational vehicles and park trailers until after the American National Standards Institute shall have published standards and specifications upon this subject. Such rules and regulations shall be reasonably consistent with recognized and accepted principles of safety for body and frame design and plumbing, heating, and electrical installations, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe body and frame design, construction, plumbing, heating, electrical, and other equipment and shall correlate with and, so far as practicable, conform to the then current standards and specifications of the American National Standards Institute standards A119.1 for mobile homes and commercial coaches, A119.2 for recreational vehicles, and A119.5 for park trailers. It shall be unlawful for any person to lease, sell or offer for sale, within this state, any mobile homes, commercial coaches, recreational vehicles, and/or park trailers manufactured after January 1, 1968, containing plumbing, heating, electrical, or other equipment, and after July 1, 1970 body and frame design or construction unless such equipment meets the requirements of the rules and regulations provided for herein. [1995 c 280 § 2; 1970 ex.s. c 27 § 1; 1969 ex.s. c 229 § 1; 1967 c 157 § 1.]

43.22.345 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Penalty. Any person violating the provisions of RCW 43.22.340 shall be guilty of a misdemeanor. Each day upon which a violation

occurs shall constitute a separate violation. [1995 c 280 § 3; 1969 ex.s. c 229 § 4.]

43.22.350 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Compliance insignia—Fee schedule—Out-of-state sales. (1) In compliance with any applicable provisions of this chapter, the director of the department of labor and industries shall establish a schedule of fees, whether on the basis of plan approval or inspection, for the issuance of an insignia which indicates that the mobile home, commercial coach, recreational vehicle, and/or park trailer complies with the provisions of RCW 43.22.340 through 43.22.410 or for any other purpose specifically authorized by any applicable provision of this chapter.

(2) Insignia are not required on mobile homes, commercial coaches, recreational vehicles, and/or park trailers manufactured within this state for sale outside this state which are sold to persons outside this state. [1995 c 280 § 4; 1977 ex.s. c 21 § 6; 1970 ex.s. c 27 § 2; 1967 c 157 § 2.]

Construction—1977 ex.s. c 21: See note following RCW 43.22.431.

43.22.355 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Self-certification for recreational vehicles and park trailers—Procedures—Performance audit of quality control programs. The director or the director's authorized representative may allow qualifying recreational vehicle and/or park trailer manufacturers to be self-certified as to compliance with the American National Standards Institute A119.2 standard for recreational vehicles and the American National Standards Institute A119.5 standard for park trailers. Except as provided in subsection (4) of this section, a manufacturer approved for the department's self-certification is exempt from the requirements under RCW 43.22.434 and 43.22.360. The director shall adopt rules to implement the self-certification program. The director may establish fees at a sufficient level to cover the costs of administering this program.

(1) Before a manufacturer becomes self-certified, the department shall make an initial audit of the manufacturer making self-certification application. The audit must review and report on the following:

(a) The manufacturer's quality control program;

(b) The manufacturer's demonstrated ability to manufacture products in conformance with either or both of the American National Standards Institute standards A119.2 and A119.5; and

(c) The availability on site of comprehensive plans for each model being manufactured.

(2) At the sole discretion of the director, a manufacturer currently being audited by the department that is deemed to meet the criteria for an initial self-certification audit may become a self-certified manufacturer without an additional self-certification audit.

(3) If the department denies an application to allow a manufacturer to be self-certified, the manufacturer shall be notified in writing including the reasons for denial. A copy of the initial self-certification audit shall be provided to the manufacturer. A manufacturer who is denied self-certification may appeal the denial under chapter 34.05 RCW.

(4) If the department has reason to believe that the manufacturer is no longer meeting the criteria established in subsection (1) of this section, the department may make an audit of the manufacturer. For purposes of enforcement of this subsection, the department retains inspection and investigation authority under RCW 43.22.434. At the conclusion of this audit, the director or the director's authorized representative may continue the manufacturer's self-certification or require the manufacturer to meet all of the requirements of this chapter from which the manufacturer was once exempted.

(5) The manufacturer to whom the authorization is given shall pay all of the costs of the initial self-certification audit and any subsequent audit that the department has the authority to perform.

(6) The department shall conduct a performance audit of additional industry association quality control programs utilized by self-certified manufacturers at least once every two years. [1995 c 280 § 6.]

43.22.360 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Plans and specifications—Approval—Alterations—Rules. (1) Plans and specifications of each model or production prototype of a mobile home, commercial coach, recreational vehicle, and/or park trailer showing body and frame design, construction, plumbing, heating and electrical specifications and data shall be submitted to the department of labor and industries for approval and recommendations with respect to compliance with the regulations and standards of each of such agencies. When plans have been submitted and approved as aforesaid, no changes or alterations shall be made to body and frame design, construction, plumbing, heating or electrical installations or specifications shown thereon in any mobile home, commercial coach, recreational vehicle, or park trailer without prior written approval of the department of labor and industries.

(2) The director may adopt rules that provide for approval of a plan that is certified as meeting state requirements or the equivalent by a professional who is licensed or certified in a state whose licensure or certification requirements meet or exceed Washington requirements. [1995 c 289 § 1; 1995 c 280 § 7; 1970 ex.s. c 27 § 3; 1967 c 157 § 3.]

Reviser's note: This section was amended by 1995 c 280 § 7 and by 1995 c 289 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

43.22.370 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Leased, sold, or manufactured in state prior to July 1, 1968—Compliance not required—Exception. Any mobile home, commercial coach, recreational vehicle, and/or park trailer leased or sold in Washington and manufactured prior to July 1, 1968, which has not been inspected prior to its sale and which does not meet the requirements prescribed will not be required to comply with said requirements except for alterations or installations referred to in RCW 43.22.360. [1995 c 280 § 8; 1970 ex.s. c 27 § 4; 1969 ex.s. c 229 § 2; 1967 c 157 § 4.]

43.22.380 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Manufactured for use outside state—Compliance not required—Exception. Used mobile homes, commercial coaches, recreational vehicles, and/or park trailers manufactured for use outside this state which do not meet the requirements prescribed and have been used for six months or more will not be required to comply with said requirements except for alterations or installations referred to in RCW 43.22.360. [1995 c 280 § 9; 1970 ex.s. c 27 § 5; 1967 c 157 § 5.]

43.22.390 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Insigne of approval, when required. Mobile homes, commercial coaches, recreational vehicles, and/or park trailers subject to the provisions of RCW 43.22.340 through 43.22.410, and mobile homes, commercial coaches, recreational vehicles, and/or park trailers upon which alterations of body and frame design, construction or installations of plumbing, heating or electrical equipment referred to in RCW 43.22.360 are made after July 1, 1968, shall have affixed thereto such insigne of approval. [1995 c 280 § 10; 1970 ex.s. c 27 § 6; 1967 c 157 § 6.]

43.22.400 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Meeting standards of other states at least equal to this state. If the director of the department of labor and industries determines that the standards for body and frame design, construction and the plumbing, heating and electrical equipment installed in mobile homes, commercial coaches, recreational vehicles, and/or park trailers by the statutes or rules and regulations of other states are at least equal to the standards prescribed by this state, he may so provide by regulation. Any mobile home, commercial coach, recreational vehicle, and/or park trailer which a state listed in such regulations has approved as meeting its standards for body and frame design, construction and plumbing, heating and electrical equipment shall be deemed to meet the standards of the director of the department of labor and industries, if he determines that the standards of such state are actually being enforced. [1995 c 280 § 11; 1970 ex.s. c 27 § 7; 1967 c 157 § 7.]

43.22.410 Mobile homes, commercial coaches, recreational vehicles, and park trailers—Meeting requirements of chapter deemed compliance with county or city ordinances. Any mobile home, commercial coach, recreational vehicle, and/or park trailer that meets the requirements prescribed under RCW 43.22.340 shall not be required to comply with any ordinances of a city or county prescribing requirements for body and frame design, construction or plumbing, heating and electrical equipment installed in mobile homes, commercial coaches, recreational vehicles, and/or park trailers. [1995 c 280 § 12; 1970 ex.s. c 27 § 8; 1967 c 157 § 8.]

43.22.420 Factory assembled structures advisory board. There is hereby created a factory assembled structures advisory board consisting of nine members to be appointed by the director of labor and industries. It shall be the purpose and function of the board to advise the director

on all matters pertaining to the enforcement of this chapter including but not limited to standards of body and frame design, construction and plumbing, heating and electrical installations, minimum inspection procedures, the adoption of rules and regulations pertaining to the manufacture of factory assembled structures, mobile homes, commercial coaches, recreational vehicles, and park trailers. The advisory board shall periodically review the rules promulgated under RCW 43.22.450 through 43.22.490 and shall recommend changes of such rules to the department if it deems changes advisable.

The members of the advisory board shall be representative of consumers, the regulated industries, and allied professionals. The term of each member shall be four years. However, the director may appoint the initial members of the advisory board to staggered terms not exceeding four years.

The chief inspector or any person acting as chief inspector for the factory assembled structures, mobile home, commercial coach, recreational vehicle, and park trailer section shall serve as secretary of the board during his tenure as chief. Meetings of the board shall be called at the discretion of the director of labor and industries, but at least quarterly. Each member of the board shall be paid travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended which shall be paid out of the appropriation to the department of labor and industries, upon vouchers approved by the director of labor and industries or his or her designee. [1995 c 280 § 13; 1987 c 330 § 601; 1975-'76 2nd ex.s. c 34 § 103; 1971 ex.s. c 82 § 1; 1970 ex.s. c 27 § 9; 1969 ex.s. c 229 § 3.]

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

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

43.22.430 RCW 43.22.340 and 43.22.350 through 43.22.420 not to apply to common carrier equipment. RCW 43.22.340 and 43.22.350 through 43.22.420 shall not apply to common carrier equipment. [1970 ex.s. c 27 § 10.]

43.22.431 Mobile home safety and construction standards—Enforcement by director of labor and industries authorized. The director of the department of labor and industries may enforce mobile home safety and construction standards adopted by the secretary of housing and urban development under the National Mobile Home Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Furthermore, the director may make agreements with the United States government and private inspection organizations to implement the development and enforcement of applicable provisions of this chapter and the National Mobile Home Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). [1977 ex.s. c 21 § 1.]

Construction—1977 ex.s. c 21: "This 1977 amendatory act is not intended to repeal, alter, or diminish existing state law respecting mobile homes, commercial coaches, and recreational vehicles in those areas unregulated under federal law." [1977 ex.s. c 21 § 4.]

43.22.432 Mobile home construction and safety standards and regulations—Federal—Adoption by state—Procedure. The department may adopt all standards

and regulations adopted by the secretary under the National Mobile Home Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) for mobile home construction and safety standards. If any deletions or amendments to the federal standards or regulations are thereafter made and notice thereof is given to the department, the standards or regulations shall be considered automatically adopted by the state under this chapter after the expiration of thirty days from publication in the federal register of a final order describing the deletions or amendments unless within that thirty day period the department objects to the deletion or amendment. In case of objection, the department shall proceed under the rule making procedure of chapter 34.05 RCW. [1977 ex.s. c 21 § 2.]

Construction—1977 ex.s. c 21: See note following RCW 43.22.431.

43.22.433 Violations—Penalties. Any person who violates any of the provisions of RCW 43.22.431 through 43.22.434 and 43.22.350 or any rules or regulations adopted pursuant to RCW 43.22.431 through 43.22.434 and 43.22.350 is guilty of a gross misdemeanor, punishable by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or by both such fine and imprisonment. [1977 ex.s. c 21 § 3.]

Construction—1977 ex.s. c 21: See note following RCW 43.22.431.

43.22.434 Inspections and investigations necessary to promulgate or enforce mobile home, commercial coach, recreational vehicle, park trailer, factory built housing, and factory built structure rules—Director's duties. (1) The director or the director's authorized representative may conduct such inspections and investigations as may be necessary to promulgate or enforce mobile home, commercial coach, recreational vehicle, park trailer, factory built housing, and factory built commercial structure rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge may:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which mobile homes, commercial coaches, recreational vehicles, park trailers, factory built housing, and factory built commercial structures are manufactured, stored, or held for sale; and

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the National Mobile Home Construction and Safety Standards Act of 1974. Each inspection shall be commenced and completed with reasonable promptness.

(3) In carrying out the inspections authorized by this section the director may establish, by rule, and impose on mobile home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by the director in conducting the inspections. [1995 c 280 § 5; 1977 ex.s. c 21 § 5.]

Construction—1977 ex.s. c 21: See note following RCW 43.22.431.

43.22.440 Mobile home installation service and warranty service standards—Enforcement. (1) The legislature finds that inspections of mobile home installation are not done on a consistent basis. Mobile homes provide housing for many people in the state, and improperly installed mobile homes are a serious health and safety risk. Where possible and practical, mobile homes should be treated the same as any housing inhabited or to be inhabited by persons in this state, including housing built according to the state building code.

(2) In consultation with the factory assembled structures advisory board for mobile homes, the director of labor and industries shall by rule establish uniform standards for the performance and workmanship of installation service and warranty service by persons or entities engaged in performing the services within this state for all mobile homes, as defined in RCW 46.04.302. The standards shall conform, where applicable, with statutes, rules, and recommendations established under the federal national mobile home construction and safety standards act of 1974 (42 U.S.C. Sec. 5401 et seq.). These rules regarding the installation of mobile homes shall be enforced and fees charged by the counties and cities in the same manner the state building code is enforced under RCW 19.27.050.

(3) In addition to and in conjunction with the remedies provided in this chapter, failure to remedy any breach of the standards and rules so established, upon adequate notice and within a reasonable time, is a violation of the consumer protection act, chapter 19.86 RCW and subject to the remedies provided in that chapter. [1988 c 239 § 5; 1980 c 153 § 1.]

43.22.442 Requirement of timely compensation by mobile home manufacturer to representative for warranty service performed. A manufacturer of mobile homes who designates a representative within this state to provide consumers with warranty service for mobile homes on behalf of the manufacturer shall make reasonable and timely compensation to the representative for performance of the warranty service. [1980 c 153 § 2.]

43.22.445 Mobile homes—Warranties and inspections—Advertising of dimensions. See RCW 46.70.135.

43.22.450 Factory built housing and commercial structures, regulating installation of—Definitions. Whenever used in RCW 43.22.450 through 43.22.490:

(1) "Department" means the Washington state department of labor and industries;

(2) "Approved" means approved by the department;

(3) "Factory built housing" means any structure designed primarily for human occupancy other than a mobile home the structure or any room of which is either entirely or substantially prefabricated or assembled at a place other than a building site;

(4) "Install" means the assembly of factory built housing or factory built commercial structures at a building site;

(5) "Building site" means any tract, parcel or subdivision of land upon which factory built housing or a factory built commercial structure is installed or is to be installed;

(6) "Local enforcement agency" means any agency of the governing body of any city or county which enforces laws or ordinances governing the construction of buildings;

(7) "Commercial structure" means a structure designed or used for human habitation, or human occupancy for industrial, educational, assembly, professional or commercial purposes. [1973 1st ex.s. c 22 § 1; 1970 ex.s. c 44 § 1.]

43.22.455 Factory built housing and commercial structures, regulating installation of—Housing must be approved, have department insignia—Significance of insignia—Modification of housing during installation must be approved. No factory built housing or factory built commercial structure shall be installed on a building site in this state after the effective date of the regulations adopted pursuant to RCW 43.22.480 unless it is approved and bears the insignia of approval of the department.

(1) Any factory built housing or factory built commercial structure bearing an insignia of approval of the department shall be deemed to comply with any laws, ordinances or regulations enacted by any city or county or any local enforcement agency which govern the manufacture and construction of factory built housing or factory built commercial structures or on-site housing.

(2) No factory built housing or factory built commercial structure which has been approved by the department shall be in any way modified prior to, or during installation by a manufacturer or installer unless approval of such modification is first made by the department. [1973 1st ex.s. c 22 § 2; 1970 ex.s. c 44 § 2.]

43.22.460 Factory built housing and commercial structures, regulating installation of—Certain requirements reserved to local jurisdictions. Local land use requirements, building setbacks, side and rear yard requirements, site development and property line requirements, and review and regulation of zoning requirements are specifically reserved to local jurisdictions notwithstanding anything contained in RCW 43.22.450 through 43.22.490. [1970 ex.s. c 44 § 3.]

43.22.465 Factory built housing and commercial structures, regulating installation of—Injunctive process, procedure. The department may obtain from a superior court having jurisdiction, a temporary injunction enjoining the installation of factory built housing or factory built commercial structures on any building site upon affidavit of the department that such factory built housing or factory built commercial structures do not conform to the requirements of RCW 43.22.450 through 43.22.490 or to the rules adopted pursuant to RCW 43.22.450 through 43.22.490. The affidavit must set forth such violations in detail. The injunction may be made permanent, in the discretion of the court. [1973 1st ex.s. c 22 § 3; 1970 ex.s. c 44 § 4.]

43.22.470 Factory built housing and commercial structures, regulating installation of—Delegation of inspection duty to local agency. The department shall have the authority to delegate all or part of its duties of inspection to a local enforcement agency. [1970 ex.s. c 44 § 5.]

43.22.480 Factory built housing and commercial structures, installation—Rules—Enforcement—Standards—Fees. (1) The department shall adopt and enforce rules that protect the health, safety, and property of the people of this state by assuring that all factory built housing or factory built commercial structures are structurally sound and that the plumbing, heating, electrical, and other components thereof are reasonably safe. The rules shall be reasonably consistent with recognized and accepted principles of safety and structural soundness, and in adopting the rules the department shall consider, so far as practicable, the standards and specifications contained in the uniform building, plumbing, and mechanical codes, including the barrier free code and the Washington energy code as adopted by the state building code council pursuant to chapter 19.27A RCW, and the national electrical code, including the state rules as adopted pursuant to chapter 19.28 RCW and published by the national fire protection association.

(2) The department shall set a schedule of fees which will cover the costs incurred by the department in the administration and enforcement of RCW 43.22.450 through 43.22.490.

(3) The director may adopt rules that provide for approval of a plan that is certified as meeting state requirements or the equivalent by a professional who is licensed or certified in a state whose licensure or certification requirements meet or exceed Washington requirements. [1995 c 289 § 2; 1989 c 134 § 1; 1979 ex.s. c 76 § 2; 1973 1st ex.s. c 22 § 5; 1970 ex.s. c 44 § 7.]

43.22.485 Factory built housing and commercial structures, regulating installation of—Recognizing out-of-state standards, enforcement, as department approved. If the director of the department determines that the standards for factory built housing or factory built commercial structures prescribed by statute, rule or regulation of another state are at least equal to the regulations prescribed under RCW 43.22.450 through 43.22.490, and that such standards are actually enforced by such other state, he may provide by regulation that factory built housing or factory built commercial structures approved by such other state shall be deemed to have been approved by the department. [1973 1st ex.s. c 22 § 6; 1970 ex.s. c 44 § 8.]

43.22.490 Factory built housing and commercial structures, regulating installation of—Violation as misdemeanor—Penalty. Any person who violates any of the provisions of RCW 43.22.450 through 43.22.490 or any rules or regulations adopted pursuant to RCW 43.22.450 through 43.22.490 is guilty of a misdemeanor, punishable by a fine not exceeding five hundred dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. [1970 ex.s. c 44 § 9.]

43.22.495 Manufactured housing—Department of community, trade, and economic development duties. Beginning on July 1, 1991, the department of community, trade, and economic development shall be responsible for performing all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by

the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The department of community, trade, and economic development may enter into state or local interagency agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

The directors of the department of community, trade, and economic development and the department of labor and industries shall immediately take such steps as are necessary to ensure that chapter 176, Laws of 1990 is implemented on June 7, 1990. [1995 c 399 § 69; 1990 c 176 § 1.]

Department of community, trade, and economic development duties: RCW 43.63A.460.

43.22.500 Printing and distribution of publications—Fees. The department of labor and industries, to defray the costs of printing, reprinting, or distributing printed matter issued by the department of labor and industries including, but not limited to, the matters listed in RCW 43.22.505, may charge a fee for such publications in an amount which will reimburse the department for the costs of printing, reprinting, and distributing such publications: PROVIDED, That every person subject to regulation by the department may upon request receive without charge one copy per year of any publication printed pursuant to RCW 43.22.505 whenever such person is affected by any statute, rule or regulation printed therein. All fees collected shall be deposited in the state treasury to the credit of the appropriate fund or account. [1979 ex.s. c 67 § 2; 1975 1st ex.s. c 123 § 1.]

Severability—1979 ex.s. c 67: See note following RCW 19.28.330.

43.22.505 Printing and distribution of publications—Authorized subject matters. The department of labor and industries is specifically authorized to print, reprint, and distribute subject matter including but not limited to the following:

- (1) The provisions of Title 51 RCW;
- (2) The provisions of Title 49 RCW;
- (3) The provisions of chapter 7.68 RCW;
- (4) The provisions of chapter 88.16 RCW;
- (5) The provisions of chapter 19.28 RCW;
- (6) The provisions of chapter 43.22 RCW;
- (7) The provisions of chapter 41.56 RCW;
- (8) The provisions of chapter 49.66 RCW;
- (9) The provisions of chapter 70.79 RCW;
- (10) The provisions of chapter 70.74 RCW;
- (11) The provisions of chapter 70.87 RCW;
- (12) The provisions of all other statutes administered by the department or such statutes as have a relationship to the functions and obligations of the department; and

(13) The rules and regulations of the department of labor and industries, the state apprenticeship council, the state board of pilotage commissioners and the board of boiler rules promulgated pursuant to the statutory provisions cited above. [1975 1st ex.s. c 123 § 2.]

Chapter 43.23

DEPARTMENT OF AGRICULTURE

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- Apiaries act: Chapter 15.60 RCW.*
Apiculture division: RCW 15.60.010.
Apple advertising commission: Chapter 15.24 RCW.
Chief assistants: RCW 43.17.040.
Cold storage food lockers: Chapter 19.32 RCW.
Commercial feed law, director's duties relating to: Chapter 15.53 RCW.
Commission merchants: Chapter 20.01 RCW.
Condemnation by authorized: RCW 15.04.030.
Conservation research at northwest Washington nursery, director's duties relating to: Chapter 15.69 RCW.
Control of pet animals infected with diseases communicable to humans, director's duties: Chapter 16.70 RCW.
Crop credit associations: Chapter 31.16 RCW.
Dairies and dairy products, director's duties relating to: Chapter 15.36 RCW.
Department created: RCW 43.17.010.
Drugs, food and cosmetics act: Chapter 69.04 RCW.
Eggs and egg products, duties concerning: Chapter 69.25 RCW.
Farm labor
contractors: Chapter 19.30 RCW.

- director may aid in obtaining and employment of: RCW 15.64.010.*
unemployment compensation: RCW 50.04.150.
Farm marketing act, powers and duties under, generally: Chapter 15.64 RCW.
Filled dairy products, director's duties relating to: Chapter 15.38 RCW.
Food, drug and cosmetic act, duties under: Chapter 69.04 RCW.
Grades and packs, generally, standards of, duties relating to: Chapters 15.04, 15.17 RCW.
Honey, enforcement powers and duties: Chapter 69.28 RCW.
Horticultural plants and facilities, inspection and licensing of, duties relating to: RCW 15.04.030, chapter 15.13 RCW.
Inspection, duties relating to generally: Chapter 15.04 RCW.
Inspectors to enforce and carry out Title 15 RCW, appointment by: RCW 15.04.020, 15.04.040, 15.04.060, 15.04.070.
International marketing program for agricultural commodities and trade center: RCW 28B.30.535 through 28B.30.543.
- Livestock**
identification: Chapter 16.57 RCW.
markets: Chapter 16.65 RCW.
Marketing, director's duties relating to: Chapters 15.64, 15.65, 15.66 RCW.
Meat inspection: Chapter 16.49A RCW.
Milk, fluid milk act, director's duties relating to: Chapter 15.36 RCW.
Milk and milk products for animal food act, duties relating to: Chapter 15.37 RCW.
Minimum flows and levels—Departmental authority exclusive—Other recommendations considered: RCW 90.03.247.
Nurserymen and nursery dealers, duties relating to: RCW 15.04.030.
Oath: RCW 43.17.030.
Office maintained at state capital: RCW 43.17.050.
Oleomargarine, consumer protection, director to enforce: RCW 15.40.040.
Pesticide application act: Chapter 17.21 RCW.
Pesticide control act, director's duties under: Chapter 15.58 RCW.
Planting stock act, powers and duties relating to: Chapter 15.14 RCW.
*Poisons, enforcement of
caustic or corrosive poison act: RCW 69.36.040.
chapter relating to: RCW 69.40.025.*
Powers and duties generally: RCW 15.04.020 through 15.04.030, 43.17.030, chapter 43.23 RCW.
Predatory birds, controlled by: RCW 15.04.110, 15.04.120.
Rule-making power: RCW 43.17.060.
Rural rehabilitation program, director's duties relating to: Chapter 15.70 RCW.
Seeds, director's duties relating to: Chapter 15.49 RCW.
Soil conservation: Chapter 89.08 RCW.
State fairs commission: Chapter 15.76 RCW.
State international trade fairs, duties relating to: RCW 43.31.800 through 43.31.850.
State trade fair fund, horse racing moneys, disposition: RCW 67.16.100.
Vacancy: RCW 43.17.020, 43.17.040.
Weighing commodities in highway transport—Weighmasters, director's duties relating to: Chapter 15.80 RCW.
Wheat commission act, director's duties relating to: Chapter 15.63 RCW.

43.23.001 Definitions. For purposes of this chapter:

- (1) "Department" means department of agriculture;
- (2) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated. [1995 c 374 § 61.]

Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

43.23.002 Director—Appointment—Powers and duties—Salary. The executive and administrative head of the department of agriculture shall be the director. The director shall be appointed by the governor with the consent of the senate and shall have complete charge of and supervisory power over the department. The director shall be paid a salary fixed by the governor in accordance with RCW 43.03.040. [1983 c 248 § 1.]

43.23.005 Deputy director—Appointment—Powers and duties. The director of agriculture may appoint a deputy director who shall assist the director in the administration of the affairs of the department and who shall have charge and general supervision of the department in the absence or disability of the director, and who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director. [1983 c 248 § 2; 1967 c 240 § 14.]

43.23.010 Divisions of department—Assistant directors—State veterinarian—Salaries—Assignment of duties. In order to obtain maximum efficiency and effectiveness within the department of agriculture, the director may create such administrative divisions within the department as he or she deems necessary. The director shall appoint a deputy director as well as such assistant directors as shall be needed to administer the several divisions within the department. The director shall appoint no more than eight assistant directors. The officers appointed under this section are exempt from the provisions of the state civil service law as provided in *RCW 41.06.070(7), and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. The director shall also appoint and deputize a state veterinarian who shall be an experienced veterinarian properly licensed to practice veterinary medicine in this state.

The director of agriculture shall have charge and general supervision of the department and may assign supervisory and administrative duties other than those specified in RCW 43.23.070 to the division which in his or her judgment can most efficiently carry on those functions. [1990 c 37 § 1; 1983 c 248 § 3; 1967 c 240 § 1; 1965 c 8 § 43.23.010. Prior: 1951 c 170 § 1; 1921 c 7 § 83; RRS § 10841.]

***Reviser's note:** RCW 41.06.070 was amended by 1993 c 281 § 21, changing subsection (7) to subsection (1)(g).

Severability—1967 c 240: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 c 240 § 52.] For codification of 1967 c 240, see Codification Tables, Volume 0.

Apiary advisory committee: RCW 15.60.010.

43.23.015 Divisions of department—Reassignment of division functions. Except for the functions specified in RCW 43.23.070, the director may, at his discretion, reassign any of the functions delegated to the various divisions of the department under the provisions of this chapter or any other law to any other division of the department. [1983 c 248 § 4; 1967 c 240 § 15.]

43.23.025 Rule-making authority. For rules adopted after July 23, 1995, the director of agriculture may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. [1995 c 403 § 104.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

43.23.030 Powers and duties. The director of agriculture shall exercise all the powers and perform all the duties relating to the development of markets, for agricultural products, state and federal cooperative marketing programs, land utilization for agricultural purposes, water resources, transportation, and farm labor as such matters relate to the production, distribution and sale of agricultural commodities including private sector cultured aquatic products as defined in RCW 15.85.020. [1985 c 457 § 15; 1983 c 248 § 5; 1967 c 240 § 3; 1965 c 8 § 43.23.030. Prior: (i) 1921 c 7 § 90; RRS § 10848. (ii) 1937 c 90 § 10; RRS § 10847-1.]

Fair commission: Chapter 15.76 RCW.

Farm marketing: Chapters 15.64, 15.65, 15.66 RCW.

43.23.035 Powers and duties—State agricultural market development programs and activities. The department of agriculture is hereby designated as the agency of state government for the administration and implementation of state agricultural market development programs and activities, both domestic and foreign, and shall, in addition to the powers and duties otherwise imposed by law, have the following powers and duties:

(1) To study the potential marketability of various agricultural commodities of this state in foreign and domestic trade;

(2) To collect, prepare, and analyze foreign and domestic market data;

(3) To establish a program to promote and assist in the marketing of Washington-bred horses: PROVIDED, That the department shall present a proposal to the legislature no later than December 1, 1986, that provides for the elimination of all state funding for the program after June 30, 1989;

(4) To encourage and promote the sale of Washington's agricultural commodities and products at the site of their production through the development and dissemination of referral maps and other means;

(5) To encourage and promote those agricultural industries, such as the wine industry, which attract visitors to rural areas in which other agricultural commodities and products are produced and are, or could be, made available for sale;

(6) To encourage and promote the establishment and use of public markets in this state for the sale of Washington's agricultural products;

(7) To maintain close contact with foreign firms and governmental agencies and to act as an effective intermediary between foreign nations and Washington traders;

(8) To publish and disseminate to interested citizens and others information which will aid in carrying out the purposes of chapters 43.23, 15.64, 15.65, and 15.66 RCW;

(9) To encourage and promote the movement of foreign and domestic agricultural goods through the ports of Washington;

(10) To conduct an active program by sending representatives to, or engaging representatives in, foreign countries to promote the state's agricultural commodities and products;

(11) To assist and to make Washington agricultural concerns more aware of the potentials of foreign trade and to encourage production of those commodities that will have high export potential and appeal;

(12) To coordinate the trade promotional activities of appropriate federal, state, and local public agencies, as well as civic organizations; and

(13) To develop a coordinated marketing program with the department of community, trade, and economic development, utilizing existing trade offices and participating in mutual trade missions and activities.

As used in this section, "agricultural commodities" includes products of both terrestrial and aquatic farming. [1995 c 399 § 70; 1986 c 202 § 1; 1985 c 159 § 3.]

Severability—1986 c 202: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 202 § 7.]

Legislative declaration and intent—1985 c 159: "The legislature declares that:

(1) Marketing is a dynamic and changing part of Washington agriculture and a vital element in expanding the state economy.

(2) The export of agricultural products produced in Washington state contributes substantial benefits to the economic base of the state, provides a large number of jobs and sizeable tax revenues to state and local governments, provides an important stabilizing effect on prices received by agricultural producers, and contributes to the United States balance of trade.

(3) State government should play a significant role in the development and expansion of markets for Washington grown and processed agricultural and food products.

(4) In order for state government to serve the best interests of agriculture in the area of market development, the role of state government in this area must be clearly defined.

(5) The department of agriculture, the department of commerce and economic development, and the IMPACT center at Washington State University, each possesses its own unique body of knowledge, expertise, and relationships that, when combined and applied in a logical and cooperative manner, will benefit the agricultural industry and the overall state economy and will provide a powerful force to seek aggressively new domestic and international markets for Washington's agricultural products.

It is the intent of the legislature to establish an organized agricultural market development function within state government with clearly defined areas of responsibility which will be responsive to the state's agricultural and food products industries' needs, without duplicating established private sector marketing efforts." [1985 c 159 § 1.]

43.23.050 Powers and duties. The director of agriculture shall:

(1) Exercise all the powers and perform all the duties prescribed by law relating to horticulture, and horticultural plants and products;

(2) Enforce and supervise the administration of all laws relating to horticulture, horticultural products, and horticultural interests. [1983 c 248 § 6; 1967 c 240 § 5; 1965 c 8 § 43.23.050. Prior: 1921 c 7 § 91; RRS § 10849.]

Horticultural

pests and diseases: Chapter 15.08 RCW.

plants and facilities: Chapter 15.13 RCW.

43.23.070 Powers and duties of state veterinarian.

The state veterinarian shall exercise all the powers and perform all duties prescribed by law relating to diseases among domestic animals and the quarantine and destruction of diseased animals.

He shall enforce and supervise the administration of all laws relating to meat inspection, the prevention, detection, control and eradication of diseases of domestic animals, and all other matters relative to the diseases of livestock and their effect upon the public health. [1983 c 248 § 7; 1967 c 240 § 7; 1965 c 8 § 43.23.070. Prior: 1943 c 56 § 1; 1921 c 7 § 92; Rem. Supp. 1943 § 10850.]

Animal health: Chapter 16.36 RCW.

Dairies and dairy products: Chapter 15.36 RCW.

Diseased animals: Chapters 16.36, 16.44 RCW.

43.23.090 Powers and duties. The director of agriculture shall exercise all powers and perform all duties prescribed by law with respect to the inspection of foods, food products, drinks, milk and milk products, and dairies and dairy products and the components thereof.

He shall enforce and supervise the administration of all laws relating to foods, food products, drinks, milk and milk products, dairies and dairy products, and their inspection, manufacture, and sale. [1983 c 248 § 8; 1967 c 240 § 9; 1965 c 8 § 43.23.090. Prior: 1921 c 7 § 93; RRS § 10851.]

Commercial feed law: Chapter 15.53 RCW.

Eggs and egg products: Chapter 69.25 RCW.

Food, drugs and cosmetics: Chapter 69.04 RCW.

Honey: Chapter 69.28 RCW.

Weighing commodities in highway transport: Chapter 15.80 RCW.

Weights and measures: Chapters 19.92, 19.94 RCW.

43.23.110 Powers and duties. The director of agriculture shall exercise all powers and perform all duties prescribed by law with respect to grains, grain and hay products, grain and terminal warehouses, commercial feeds, commercial fertilizers, and chemical pesticides.

He shall enforce and supervise the administration of all laws relating to grains, grain and hay products, grain and terminal warehouses, commercial feeds, commercial fertilizers, and chemical pesticides. [1983 c 248 § 9; 1967 c 240 § 11; 1965 c 8 § 43.23.110. Prior: 1921 c 7 § 94; RRS § 10852.]

Commercial fertilizers: Chapter 15.54 RCW.

Grain and terminal warehouses: Chapter 22.09 RCW.

Quarantine: Chapter 17.24 RCW.

Seeds: Chapter 15.49 RCW.

Weeds: Chapters 17.04, 17.06, 17.08 RCW.

43.23.120 Bulletins and reports. The director of agriculture may publish and distribute bulletins and reports embodying information upon the subjects of agriculture, horticulture, livestock, dairying, foods and drugs, and other matters pertaining to his department. [1977 c 75 § 50; 1965 c 8 § 43.23.120. Prior: (i) 1919 c 126 § 1, part; 1913 c 60 § 6, part; RRS § 2724, part. (ii) 1921 c 7 § 89, part; RRS § 10847, part.]

43.23.130 Annual report. The director of agriculture shall make an annual report to the governor containing an account of all matters pertaining to his department and its administration. [1977 c 75 § 51; 1965 c 8 § 43.23.130. Prior: (i) 1919 c 126 § 1, part; 1913 c 60 § 6, part; RRS § 2724, part. (ii) 1921 c 7 § 89, part; RRS § 10847, part.]

43.23.160 Powers and duties. The director of agriculture shall exercise all the powers and perform all the duties prescribed by law relating to commission merchants, livestock identification, livestock brand registration and inspection. All officers appointed to enforce these laws who have successfully completed a course of training prescribed by the Washington state criminal justice training commission shall have the authority generally vested in a peace officer solely for the purpose of enforcing these laws.

He shall enforce and supervise the administration of all laws relating to commission merchants, livestock identification and shall have the power to enforce all laws relating to any division under the supervision of the director of agriculture. [1983 c 248 § 10; 1967 c 240 § 13. Prior: 1965 c 8 § 43.23.160; prior: 1951 c 170 § 3.]

43.23.170 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the director or the department of agriculture shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 623.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

43.23.200 Official chemists of department—Designated—Duties. The chief chemist of the department of agriculture dairy and food laboratory and the chief chemist of the department of agriculture chemical and hop laboratory shall be the official chemists of the department of agriculture. Official chemists of the department shall provide laboratory services and analyze all substances that the director of agriculture may send to them and report to the director without unnecessary delay the results of any analysis so made. When called upon by the director, they or any of the additional chemists provided for pursuant to RCW 43.23.205 shall assist in any prosecution for the violation of any law enforced by the department. [1987 c 393 § 14; 1981 c 297 § 27.]

Severability—1981 c 297: See note following RCW 15.36.201.

43.23.205 Additional chemists—Appointment—Duties—Compensation. The director of agriculture may appoint one or more competent graduate chemists to serve as additional chemist of the department of agriculture, who may perform any of the duties required of and under the supervision of the official chemists, and whose compensation shall be fixed by the director. [1981 c 297 § 28.]

Severability—1981 c 297: See note following RCW 15.36.201.

43.23.220 Disposition of impounded livestock on Hanford reservation—Agreements to act as federal government's agent. The director of agriculture may enter

written agreements with one or more agencies of the United States to act as the federal government's agent for determining the disposition of livestock impounded on the federal Hanford reservation. The director's authority under such an agreement may include, but is not limited to, selling or donating, on behalf of the federal government, unclaimed livestock to a qualified person, organization, or governmental agency that the director determines to be capable of humanely transporting and caring for the livestock. The director may sell or donate such livestock only if the livestock remains unclaimed after the completion of a reasonable attempt to ascertain ownership and, if ownership is not otherwise determined, by the publication of notice that the livestock has been impounded on the reservation. [1983 c 248 § 12.]

43.23.230 Agricultural local fund. The agricultural local fund is hereby established in the custody of the state treasurer. The fund shall consist of such money as is directed by law for deposit in the fund, and such other money not subject to appropriation that the department authorizes to be deposited in the fund. Any money deposited in the fund, the use of which has been restricted by law, may only be expended in accordance with those restrictions. The department may make disbursements from the fund. The fund is not subject to legislative appropriation. [1988 c 254 § 1.]

43.23.240 Senior environmental corps—Department powers and duties. (1) The department of agriculture shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under RCW 43.63A.247:

- Appoint a representative to the coordinating council;
- Develop project proposals;
- Administer project activities within the agency;
- Develop appropriate procedures for the use of volunteers;

- Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;

- Maintain project records and provide project reports;
- Apply for and accept grants or contributions for corps approved projects; and

- With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers. [1992 c 63 § 8.]

Severability—1992 c 63: See note following RCW 43.63A.240.

43.23.250 Collection of unpaid penalties, assessments, and debts—Use of collection agencies. Except as otherwise specified by law, the director or his or her designee has the authority to retain collection agencies licensed under chapter 19.16 RCW for the purposes of collecting unpaid penalties, assessments, and other debts owed to the department.

The director or his or her designee may also collect as costs moneys paid to the collection agency as charges, or in

the case of credit cards or financial instruments, such as checks returned for nonpayment, moneys paid to financial institutions. [1995 c 374 § 62.]

Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

43.23.255 Assessments levied by director—Personal debt—Costs of collecting—Civil actions authorized—Attorneys' fees. Except as otherwise specified by law, any due and payable assessment levied under the authority of the director or his or her designee in such specified amount as may be determined by the department shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the department when payment is called for by the department. In the event any person fails to pay the department the full amount of such assessment or such other sum on or before the date due, the department may, and is hereby authorized to, add to such unpaid assessment or other sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other sum, the department may bring a civil action against such person or persons in a court of competent jurisdiction for the collections thereof, including all costs and reasonable attorneys' fees together with the above specified ten percent, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable. [1995 c 374 § 63.]

Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

43.23.260 Interest on unpaid balances. Except as otherwise specified by law, the department is authorized to charge interest at the rate authorized under RCW 43.17.240 for all unpaid balances for moneys owed to the department. [1995 c 374 § 64.]

Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

43.23.265 Dishonored check or negotiable instrument. Except as otherwise specified by law, in the event a check or negotiable instrument as defined by RCW 62A.3-104 is dishonored by nonacceptance or nonpayment, the department is entitled to collect a reasonable handling fee for each instrument. If the check or instrument is not paid within fifteen days and proper notice is sent, the department is authorized to recover the assessment, the handling fee, and any other charges allowed by RCW 62A.3-515. [1995 c 374 § 65.]

Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

43.23.270 Export market development project records—Confidentiality. Except for release of statistical information not descriptive of any readily identifiable person or persons, all financial and commercial information and records supplied by persons to the department with respect to export market development projects shall be kept confidential unless confidentiality is waived by the party supplying the information. For purposes of this section, persons

include any natural person, joint venture, firm, partnership or association, private or public corporation, or governmental entity. [1996 c 80 § 2.]

Chapter 43.24

DEPARTMENT OF LICENSING

Sections

- 43.24.001 Department of licensing—Creation—Director—Powers, duties, and functions—Personnel.
- 43.24.010 Authority of director—Personnel.
- 43.24.020 Powers and duties—Generally.
- 43.24.023 Rule-making authority.
- 43.24.024 Authorization to delegate rule-making authority to assistant director of the business and professions administration.
- 43.24.026 Business and professions administration created—Transfer of powers, duties and functions to—Divisions of real estate and professional licensing.
- 43.24.030 "License" defined.
- 43.24.040 Forms to be prescribed.
- 43.24.060 Examinations—Committees—Duties, compensation, travel expenses.
- 43.24.065 Appointment of temporary additional members of boards and committees for administration and grading of examinations.
- 43.24.080 Issuance of licenses.
- 43.24.085 License or registration fees for businesses, occupations and professions—Policy—Maximum fees—Determination.
- 43.24.086 Fee policy for professions, occupations, and businesses—Determination by rule.
- 43.24.090 Examination of handicapped persons.
- 43.24.110 Revocation of licenses—Hearings—Committee—Powers, compensation, travel expenses.
- 43.24.115 Director's duties as to refusal, revocation or suspension of licenses—Performance by assistants.
- 43.24.120 Appeal—Further review.
- 43.24.125 Enforcement in accordance with RCW 43.05.100 and 43.05.110.
- 43.24.130 License moratorium for persons in service.
- 43.24.140 Extension or modification of licensing, certification, or registration period authorized—Rules and regulations, manner and content.

Applications for licenses, discrimination to require disclosure of race or religion in: RCW 43.01.100, 43.01.110.

Corporation doing business without license, penalty: RCW 9.24.040.

Department created: RCW 46.01.020, 43.17.010.

Drivers' training schools, director's powers and duties relating to: Chapter 46.82 RCW.

Emergency management workers, licensing requirements waived during emergency: RCW 38.52.180.

For-hire vehicles, certificates and operators' permits, director's powers and duties relating to: Chapter 46.72 RCW.

Gambling commission, administrator and staff for: RCW 9.46.080.

Health, department of, functions transferred to: RCW 43.70.901.

Jury source list—Master jury list—Creation—Adoption of rules for implementation of methodology and standards by agencies: RCW 2.36.054 and 2.36.0571.

Marine recreation land act, duties: Chapter 43.99 RCW.

Massachusetts trusts, rules and regulations by director: RCW 23.90.040.

Mobile home, travel trailer, and camper excise tax, duties of director: Chapter 82.50 RCW.

Motor vehicles

accident reports, tabulation and analysis of to be available to: RCW 46.52.060.

administration by director of licensing: RCW 46.01.030, 46.01.040.

agents of: RCW 46.01.130, 46.01.140.

amateur radio operators with special license plates, director to furnish lists of: RCW 46.16.340.

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certified copies of departmental records relating to, department to furnish: RCW 46.01.250.

departmental records relating to, destruction of: RCW 46.01.260.

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lighting and other vehicle equipment, director's powers and duties relating to: Chapter 46.37 RCW.

motor vehicle dealer's licenses, director's powers and duties relating to: Chapter 46.70 RCW.

motor vehicle excise tax, duties concerning: Chapter 82.44 RCW.

motor vehicle fuel tax, duties concerning: Chapter 82.36 RCW.

motor vehicle fund moneys distributed to: RCW 46.68.090.

motor vehicle revenue, director's powers and duties relating to: Chapter 46.68 RCW.

motor vehicle transporters' licenses, director's powers and duties relating to: Chapter 46.76 RCW.

safety responsibility act, director's powers and duties relating to: Chapter 46.29 RCW.

vehicle and operator licensing, rules for: RCW 46.01.110.

vehicle wreckers' licensing, director's powers and duties relating to: Chapter 46.80 RCW.

Oath of director: RCW 43.17.030.

Offices of department maintained at state capital: RCW 43.17.050.

Powers and duties of director: RCW 43.17.030, 43.24.020, chapter 46.01 RCW.

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Securities act, licensing requirements: Chapter 21.20 RCW.

Vacancies in department: RCW 43.17.020, 43.17.040.

Veterans, motor vehicle license issued free to disabled: RCW 73.04.110.

Veterans' preferences, qualifications for: RCW 73.04.090.

43.24.001 Department of licensing—Creation—Director—Powers, duties, and functions—Personnel. See chapter 46.01 RCW.

43.24.010 Authority of director—Personnel. The director of licensing shall have charge and general supervision of the department of licensing.

He may appoint such clerical and other assistants as may be necessary to carry on the work of the department and deputize one or more of such assistants to perform duties in the name of the director. [1979 c 158 § 94; 1965 c 100 § 1; 1965 c 8 § 43.24.010. Prior: 1921 c 7 § 95; RRS § 10853.]

Director of licensing, appointment and qualifications: RCW 43.17.020, 46.01.090.

Powers of department and director of licensing: RCW 46.01.130.

43.24.020 Powers and duties—Generally. The director of licensing shall administer all laws with respect to the examination of applicants for, and the issuance of, licenses to persons to engage in any business, profession, trade, occupation, or activity except for health professions. [1994 c 92 § 496; 1989 1st ex.s. c 9 § 314; 1979 c 158 § 95; 1965 c 100 § 2; 1965 c 8 § 43.24.020. Prior: (i) 1921 c 7 § 96; RRS § 10854. (ii) 1921 c 7 § 104; RRS § 10862. (iii) 1929 c 133 § 1; RRS § 5852-24.]

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

Powers, duties and functions of director and department of licensing: Chapter 46.01 RCW.

43.24.023 Rule-making authority. For rules adopted after July 23, 1995, the director of the department of licensing may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule, except rules defining or clarifying terms in, or procedures necessary to the implementation of, a statute. [1995 c 403 § 107.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

43.24.024 Authorization to delegate rule-making authority to assistant director of the business and professions administration. The director of licensing may delegate to the assistant director of the business and professions administration in the department of licensing authority to promulgate rules and regulations relating to the licensing of persons engaged in businesses and professions. The director may delegate the authority to issue and sign licenses, certificates, permits and renewals thereof pertaining to those activities transferred to the business and professions administration in the department of licensing pursuant to RCW 46.01.050. [1994 c 92 § 497; 1979 c 158 § 96; 1965 ex.s. c 170 § 42.]

43.24.026 Business and professions administration created—Transfer of powers, duties and functions to—Divisions of real estate and professional licensing. See RCW 46.01.050, 46.01.055.

43.24.030 "License" defined. The word "license" shall be construed to mean and include license, certificate of registration, certificate of qualification, certificate of competency, certificate of authority, and any other instrument, by whatever name designated, authorizing the practice of a profession or calling, the carrying on of a business or occupation, or the doing of any act required by law to be authorized by the state. [1965 c 8 § 43.24.030. Prior: 1921 c 7 § 98; RRS § 10856.]

43.24.040 Forms to be prescribed. The director of licensing shall prescribe the various forms of applications, certificates, and licenses required by law. [1979 c 158 § 97; 1965 c 8 § 43.24.040. Prior: 1921 c 7 § 97; RRS § 10855.]

Application forms—Licenses—Mention of race or religion prohibited: RCW 43.01.100, 43.01.110.

Director to prescribe forms for applications, licenses, certificates: RCW 46.01.160.

43.24.060 Examinations—Committees—Duties, compensation, travel expenses. (1) The director of licensing shall, from time to time, fix such times and places for holding examinations of applicants as may be convenient, and adopt general rules and regulations prescribing the method of conducting examinations.

The governor, from time to time, upon the request of the director of licensing, shall appoint examining committees, composed of three persons possessing the qualifications

provided by law to conduct examinations of applicants for licenses to practice the respective professions or callings for which licenses are required.

The committees shall prepare the necessary lists of examination questions, conduct the examinations, which may be either oral or written, or partly oral and partly written, and shall make and file with the director of licensing lists, signed by all the members conducting the examination, showing the names and addresses of all applicants for licenses who have successfully passed the examination, and showing separately the names and addresses of the applicants who have failed to pass the examination, together with all examination questions and the written answers thereto submitted by the applicants.

Each member of a committee shall receive twenty-five dollars per day for each day spent in conducting the examination and in going to and returning from the place of examination, and travel expenses, in accordance with RCW 43.03.050 and 43.03.060.

(2) The director of licensing may appoint advisory committees to advise the department regarding the preparation of examinations for professional licensing and such other specific aspects of regulating the professions within the jurisdiction of the department as the director may designate. Such a committee and its members shall serve at the pleasure of the director.

Each member of an advisory committee shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses incurred in attending meetings of the committee in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 78; 1982 c 227 § 15; 1979 c 158 § 98; 1975-'76 2nd ex.s. c 34 § 105; 1965 c 100 § 3; 1965 c 8 § 43.24.060. Prior: 1921 c 7 § 99; RRS § 10857.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective date—1982 c 227: See note following RCW 19.09.100.

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

43.24.065 Appointment of temporary additional members of boards and committees for administration and grading of examinations. The director of licensing may, at the request of a board or committee established under Title 18 RCW under the administrative authority of the department of licensing, appoint temporary additional members for the purpose of participating as members during the administration and grading of practical examinations for licensure, certification, or registration. The appointment shall be for the duration of the examination specified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board or committee, including the requirement to be licensed, certified, or registered. While serving as board or committee members, persons so appointed have all the powers, duties, and immunities and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the board or committee. This authority is intended to provide for more efficient, economical, and effective examinations. [1985 c 116 § 1.]

43.24.080 Issuance of licenses. At the close of each examination the department of licensing shall prepare the proper licenses, where no further fee is required to be paid, and issue licenses to the successful applicants signed by the director and notify all successful applicants, where a further fee is required, of the fact that they are entitled to receive such license upon the payment of such further fee to the department of licensing and notify all applicants who have failed to pass the examination of that fact. [1979 c 158 § 99; 1965 c 100 § 4; 1965 c 8 § 43.24.080. Prior: 1921 c 7 § 101; RRS § 10859.]

43.24.085 License or registration fees for businesses, occupations and professions—Policy—Maximum fees—Determination.

Reviser's note: RCW 43.24.085 was amended by 1983 c 75 § 17 without reference to its repeal by 1983 c 168 § 13. It has been decodified for publication purposes pursuant to RCW 1.12.025.

43.24.086 Fee policy for professions, occupations, and businesses—Determination by rule. It shall be the policy of the state of Washington that the cost of each professional, occupational or business licensing program be fully borne by the members of that profession, occupation or business. The director of licensing shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations or businesses, except for health professions, administered by the business and professions administration in the department of licensing. In fixing said fees, the director shall set the fees for each such program at a sufficient level to defray the costs of administering that program. All such fees shall be fixed by rule adopted by the director in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

For fees associated with the licensing or regulation of health professions administered by the department of health, see RCW 43.70.250. [1989 1st ex.s. c 9 § 315; 1987 c 467 § 7; 1983 c 168 § 12.]

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

Severability—1983 c 168: See RCW 18.120.910.

Regulation of health professions: Chapters 18.120 and 18.122 RCW.

43.24.090 Examination of handicapped persons. Any person taking any written examination prescribed or authorized by law, for a license or permit to practice any trade, occupation, or profession, who, because of any handicap, is unable to write the examination himself, may dictate it to and have it written or typed by another, to the same effect as though the examination were written out by himself. Any expense connected therewith shall be borne by the person taking the examination. [1965 c 8 § 43.24.090. Prior: 1947 c 143 § 1; Rem. Supp. 1947 § 8265-20.]

43.24.110 Revocation of licenses—Hearings—Committee—Powers, compensation, travel expenses. Whenever there is filed in a matter under the jurisdiction of the director of licensing any complaint charging that the holder of a license has been guilty of any act or omission

which by the provisions of the law under which the license was issued would warrant the revocation thereof, verified in the manner provided by law, the director of licensing shall request the governor to appoint, and the governor shall appoint within thirty days of the request, two qualified practitioners of the profession or calling of the person charged, who, with the director or his duly appointed representative, shall constitute a committee to hear and determine the charges and, in case the charges are sustained, impose the penalty provided by law. In addition, the governor shall appoint a consumer member of the committee.

The decision of any three members of such committee shall be the decision of the committee.

The appointed members of the committee shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses, in accordance with RCW 43.03.050 and 43.03.060. [1986 c 259 § 149. Prior: 1984 c 287 § 79; 1984 c 279 § 60; 1979 c 158 § 101; 1975-'76 2nd ex.s. c 34 § 106; 1965 c 100 § 5; 1965 c 8 § 43.24.110; prior: 1921 c 7 § 103; RRS § 10861.]

Severability—1986 c 259: See note following RCW 18.130.010.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Severability—1984 c 279: See RCW 18.130.901.

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

43.24.115 Director's duties as to refusal, revocation or suspension of licenses—Performance by assistants. The director may deputize one or more of his assistants to perform his duties with reference to refusal, revocation or suspension of licenses, including the power to preside at hearings and to render decisions therein subject to the approval of the director. [1965 c 100 § 6.]

43.24.120 Appeal—Further review. Any person feeling aggrieved by the refusal of the director to issue a license, or to renew one, or by the revocation or suspension of a license shall have a right of appeal to superior court from the decision of the director of licensing, which shall be taken, prosecuted, heard, and determined in the manner provided in chapter 34.05 RCW.

The decision of the superior court may be reviewed by the supreme court or the court of appeals in the same manner as other civil cases. [1987 c 202 § 212; 1979 c 158 § 102; 1971 c 81 § 112; 1965 c 8 § 43.24.120. Prior: 1921 c 7 § 106; RRS § 10864.]

Rules of court: *Writ procedure superseded by RAP 2.1, 2.2, 18.22.*

Intent—1987 c 202: See note following RCW 2.04.190.

43.24.125 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the director or the department of licensing shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 624.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

43.24.130 License moratorium for persons in service. Notwithstanding any provision of law to the contrary, the license of any person licensed by the director of licensing to practice a profession or engage in an occupation, if valid and in force and effect at the time the licensee entered service in the armed forces or the merchant marine of the United States, shall continue in full force and effect so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The director shall renew the license of every such person who applies for renewal thereof within six months after being honorably discharged from service upon payment of the renewal fee applicable to the then current year or other license period. [1979 c 158 § 103; 1965 c 8 § 43.24.130. Prior: 1945 c 112 § 1; 1943 c 108 § 1; RRS § 10864-1.]

43.24.140 Extension or modification of licensing, certification, or registration period authorized—Rules and regulations, manner and content. Notwithstanding any provision of law to the contrary which provides for a licensing period for any type of license subject to this chapter, the director of licensing may, from time to time, extend or otherwise modify the duration of any licensing, certification, or registration period, whether an initial or renewal period, if the director determines that it would result in a more economical or efficient operation of state government and that the public health, safety, or welfare would not be substantially adversely affected thereby. However, no license, certification, or registration may be issued or approved for a period in excess of four years, without renewal. Such extension, reduction, or other modification of a licensing, certification, or registration period shall be by rule or regulation of the department of licensing adopted in accordance with the provisions of chapter 34.05 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended or modified period. [1984 c 279 § 25; 1979 c 158 § 104; 1971 c 52 § 1.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 43.27A WATER RESOURCES

Sections

43.27A.015 Powers, duties and functions of department of water resources, director thereof, transferred to department of ecology.

43.27A.020 Definitions.

43.27A.090 Powers and duties of department.

43.27A.130 Department of ecology to inventory state water resources.

43.27A.190 Water resource orders.

43.27A.220 "Person" defined.

43.27A.900 Liberal construction.

43.27A.910 Severability—1967 c 242.

43.27A.015 Powers, duties and functions of department of water resources, director thereof, transferred to department of ecology. See RCW 43.21A.064.

43.27A.020 Definitions. As used in this chapter, and unless the context indicates otherwise, words and phrase shall mean:

"Department" means the department of ecology;

"Director" means the director of ecology;

"State agency" and "state agencies" mean any branch, department or unit of state government, however designated or constituted;

"Water resources" means all waters above, upon, or beneath the surface of the earth, located within the state and over which the state has sole or concurrent jurisdiction.

"Beneficial use" means, but its meaning shall not be limited to: Domestic water supplies; irrigation; fish, shellfish, game, and other aquatic life; recreation; industrial water supplies; generation of hydroelectric power; and navigation. [1987 c 109 § 31; 1967 c 242 § 2.]

Purpose—Short title—Construction—Rules—Severability—Cautions—1987 c 109: See notes following RCW 43.21B.001.

43.27A.090 Powers and duties of department. The department shall be empowered as follows:

(1) To represent the state at, and fully participate in, the activities of any basin or regional commission, interagency committee, or any other joint interstate or federal-state agency, committee or commission, or publicly financed entity engaged in the planning, development, administration, management, conservation or preservation of the water resources of the state.

(2) To prepare the views and recommendations of the state of Washington on any project, plan or program relating to the planning, development, administration, management, conservation and preservation of any waters located in or affecting the state of Washington, including any federal permit or license proposal, and appear on behalf of, and present views and recommendations of the state at any proceeding, negotiation or hearing conducted by the federal government, interstate agency, state or other agency.

(3) To cooperate with, assist, advise and coordinate plans with the federal government and its officers and agencies, and serve as a state liaison agency with the federal government in matters relating to the use, conservation, preservation, quality, disposal or control of water and activities related thereto.

(4) To cooperate with appropriate agencies of the federal government and/or agencies of other states, to enter into contracts, and to make appropriate contributions to federal or interstate projects and programs and governmental bodies to carry out the provisions of this chapter.

(5) To apply for, accept, administer and expend grants, gifts and loans from the federal government or any other entity to carry out the purposes of this chapter and make contracts and do such other acts as are necessary insofar as they are not inconsistent with other provisions hereof.

(6) To develop and maintain a coordinated and comprehensive state water and water resources related development plan, and adopt, with regard to such plan, such policies as are necessary to insure that the waters of the state are used, conserved and preserved for the best interest of the state. There shall be included in the state plan a description of developmental objectives and a statement of the recommended means of accomplishing these objectives. To the extent the director deems desirable, the plan shall integrate into the state plan, the plans, programs, reports, research and studies of other state agencies.

(7) To assemble and correlate information relating to water supply, power development, irrigation, watersheds, water use, future possibilities of water use and prospective demands for all purposes served through or affected by water resources development.

(8) To assemble and correlate state, local and federal laws, regulations, plans, programs and policies affecting the beneficial use, disposal, pollution, control or conservation of water, river basin development, flood prevention, parks, reservations, forests, wildlife refuges, drainage and sanitary systems, waste disposal, water works, watershed protection and development, soil conservation, power facilities and area and municipal water supply needs, and recommend suitable legislation or other action to the legislature, the congress of the United States, or any city, municipality, or to responsible state, local or federal executive departments or agencies.

(9) To cooperate with federal, state, regional, interstate and local public and private agencies in the making of plans for drainage, flood control, use, conservation, allocation and distribution of existing water supplies and the development of new water resource projects.

(10) To encourage, assist and advise regional, and city and municipal agencies, officials or bodies responsible for planning in relation to water aspects of their programs, and coordinate local water resources activities, programs, and plans.

(11) To promulgate such rules and regulations as are necessary to carry out the purposes of this chapter.

(12) To hold public hearings, and make such investigations, studies and surveys as are necessary to carry out the purposes of the chapter.

(13) To subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and require the production of any books or papers when the department deems such measures necessary in the exercise of its rule-making power or in determining whether or not any license, certificate, or permit shall be granted or extended. [1988 c 127 § 25; 1967 c 242 § 9.]

43.27A.130 Department of ecology to inventory state water resources. The department of ecology may make complete inventories of the state's water resources and enter into such agreements with the director of the United States geological survey as will insure that investigations and surveys are carried on in an economical manner. [1988 c 127 § 26; 1967 c 242 § 15.]

43.27A.190 Water resource orders. Notwithstanding and in addition to any other powers granted to the department of ecology, whenever it appears to the department that a person is violating or is about to violate any of the provisions of the following:

(1) Chapter 90.03 RCW; or

(2) Chapter 90.44 RCW; or

(3) Chapter 86.16 RCW; or

(4) Chapter 43.37 RCW; or

(5) Chapter 43.27A RCW; or

(6) Any other law relating to water resources administered by the department; or

(7) A rule or regulation adopted, or a directive or order issued by the department relating to subsections (1) through

(6) of this section; the department may cause a written regulatory order to be served upon said person either personally, or by registered or certified mail delivered to addressee only with return receipt requested and acknowledged by him. The order shall specify the provision of the statute, rule, regulation, directive or order alleged to be or about to be violated, and the facts upon which the conclusion of violating or potential violation is based, and shall order the act constituting the violation or the potential violation to cease and desist or, in appropriate cases, shall order necessary corrective action to be taken with regard to such acts within a specific and reasonable time. The regulation of a headgate or controlling works as provided in RCW 90.03.070, by a watermaster, stream patrolman, or other person so authorized by the department shall constitute a regulatory order within the meaning of this section. A regulatory order issued hereunder shall become effective immediately upon receipt by the person to whom the order is directed, except for regulations under RCW 90.03.070 which shall become effective when a written notice is attached as provided therein. Any person aggrieved by such order may appeal the order pursuant to RCW 43.21B.310. [1987 c 109 § 11; 1969 ex.s. c 284 § 7.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Severability—1969 ex.s. c 284: See note following RCW 90.48.290.

43.27A.220 "Person" defined. Whenever the word "person" is used in RCW 43.27A.190, it shall be construed to include any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual or any other entity whatsoever. [1988 c 127 § 27; 1969 ex.s. c 284 § 11.]

Severability—1969 ex.s. c 284: See note following RCW 90.48.290.

43.27A.900 Liberal construction. The rule of strict construction shall have no application to this chapter, but the same shall be liberally construed, in order to carry out the purposes and objectives for which this chapter is intended. [1967 c 242 § 22.]

43.27A.910 Severability—1967 c 242. If any provision of this chapter, or its application to any person or circumstance, is held invalid, the remainder of this chapter, or the application to other persons or circumstances, is not affected. [1967 c 242 § 21.]

Chapter 43.30

DEPARTMENT OF NATURAL RESOURCES

Sections

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Youth development and conservation corps: Chapter 43.51 RCW.

43.30.010 Purpose. The purpose of this chapter is to provide for more effective and efficient management of the

forest and land resources in the state by consolidating into a department of natural resources certain powers, duties and functions of the division of forestry of the department of conservation and development, the board of state land commissioners, the state forest board, all state sustained yield forest committees, director of conservation and development, state capitol committee, director of licensing, secretary of state, director of revenue, and commissioner of public lands. [1979 c 107 § 4; 1965 c 8 § 43.30.010. Prior: 1957 c 38 § 1.]

43.30.020 Definitions. For the purpose of this chapter, except where a different interpretation is required by the context:

(1) "Department" means the department of natural resources;

(2) "Board" means the board of natural resources;

(3) "Administrator" means the administrator of the department of natural resources;

(4) "Supervisor" means the supervisor of natural resources;

(5) "Agency" and "state agency" means any branch, department, or unit of the state government, however designated or constituted;

(6) "Commissioner" means the commissioner of public lands. [1965 c 8 § 43.30.020. Prior: 1957 c 38 § 2.]

43.30.030 Department created. The department of natural resources is hereby created, to consist of a board of natural resources, an administrator and a supervisor. [1965 c 8 § 43.30.030. Prior: 1957 c 38 § 3.]

43.30.040 Board of natural resources—Composition. The board shall consist of six members: The governor or the governor's designee, the superintendent of public instruction, the commissioner of public lands, the dean of the college of forest resources of the University of Washington, the dean of the college of agriculture of Washington State University, and a representative of those counties that contain state forest lands acquired or transferred under chapter 76.12 RCW.

The county representative shall be selected by the legislative authorities of those counties that contain state forest lands acquired or transferred under chapter 76.12 RCW. In the selection of the county representative, each participating county shall have one vote. The Washington state association of counties shall conduct a meeting for the purpose of making the selection and shall notify the board of the selection. The county representative shall be a duly elected member of a county legislative authority who shall serve a term of four years unless the representative should leave office for any reason. The initial term shall begin on July 1, 1986. [1986 c 227 § 1; 1979 ex.s. c 57 § 9; 1965 c 8 § 43.30.040. Prior: 1957 c 38 § 4.]

43.30.050 Administrator of department. The commissioner of public lands shall be the administrator of the department. [1965 c 8 § 43.30.050. Prior: 1957 c 38 § 5.]

43.30.060 Supervisor of natural resources—Appointment. The supervisor shall be appointed by the administrator with the advice and consent of the board. He shall serve at the pleasure of the administrator. [1965 c 8 § 43.30.060. Prior: 1957 c 38 § 6.]

43.30.095 Enforcement in accordance with RCW 43.05.100 and 43.05.110 Enforcement action taken after July 23, 1995, by the commissioner or supervisor of public lands shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 625.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

43.30.115 Park land trust revolving fund. The park land trust revolving fund is to be utilized by the department of natural resources for the exclusive purpose of acquiring real property, including all reasonable costs associated with these acquisitions, as a replacement for the property transferred to the state parks and recreation commission or as directed by the legislature in order to maintain the land base of the affected trusts. Proceeds from transfers of real property to the state parks and recreation commission or other proceeds identified from transfers of real property as directed by the legislature shall be deposited in this fund. Disbursement from the park land trust revolving fund to acquire replacement property shall be on the authorization of the department of natural resources. In order to maintain an effective expenditure and revenue control, the park land trust revolving fund is subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund. [1995 c 211 § 5.]

Reviser's note: 1995 c 211 directed that this section be added to chapter 43.85 RCW. This section has been codified in chapter 43.30 RCW, which relates more directly to the department of natural resources.

Findings—Intent—Effective date—Severability—1995 c 211: See notes following RCW 43.51.060.

43.30.125 Department to exercise certain powers and duties—State geological survey. The department of natural resources shall assume full charge and supervision of the state geological survey and perform such other duties as may be prescribed by law. [1988 c 127 § 3; 1965 c 8 § 43.21.050. Prior: 1921 c 7 § 69; RRS § 10827. Formerly RCW 43.21.050.]

Coal mining maps: RCW 78.40.250.

Mining survey reports, forwarding to: RCW 78.06.030.

Provisions relating to geological survey: Chapter 43.92 RCW, RCW 43.27A.130.

43.30.130 Department to exercise certain powers and duties—Commissioner of public lands. The department shall exercise all of the powers, duties and functions now vested in the commissioner of public lands and such powers, duties and functions are hereby transferred to the department: PROVIDED, That nothing herein contained shall effect his ex officio membership on any committee provided by law. [1965 c 8 § 43.30.130. Prior: 1957 c 38 § 13.]

43.30.135 Powers of department—Forested lands.

(1) The department may:

(a) Inquire into the production, quality, and quantity of second growth timber to ascertain conditions for reforestation; and

(b) Publish information pertaining to forestry and forest products which it considers of benefit to the people of the state.

(2) The department shall:

(a) Collect information through investigation by its employees, on forest lands owned by the state, including:

(i) Condition of the lands;

(ii) Forest fire damage;

(iii) Illegal cutting, trespassing, or thefts; and

(iv) The number of acres and the value of the timber that is cut and removed each year, to determine which state lands are valuable chiefly for growing timber;

(b) Prepare maps of each timbered county showing state land therein; and

(c) Protect state land as much as is practical and feasible from fire, trespass, theft, and the illegal cutting of timber.

(3) When the department considers it to be in the best interest of the state, it may cooperate with any agency of another state, the United States or any agency thereof, the Dominion of Canada or any agency or province thereof, and any county, town, corporation, individual, or Indian tribe within the state of Washington in:

(a) Forest surveys;

(b) Forest studies;

(c) Forest products studies; and

(d) Preparation of plans for the protection, management, and replacement of trees, wood lots, and timber tracts. [1986 c 100 § 50.]

Study—1989 c 424: "The department of natural resources shall conduct a study of state-owned hardwood forests. The study shall include, but is not limited to: A comprehensive inventory of state-owned hardwood forests and a qualitative assessment of those stands, research into reforestation of hardwoods on state lands, and an analysis of management policies for increasing the supply of commercially harvestable hardwoods on state lands." [1989 c 424 § 5.]

Report to legislature—1989 c 424: "If by October 1, 1989, the United States congress makes an appropriation to the United States forest service for a Washington state forest inventory and timber supply study, the department of natural resources shall conduct an inventory and prepare a report on the timber supply in Washington state. The report shall identify the quantity of timber present now and the quantity of timber that may be available from forest lands in the future using various assumptions of landowner management, including changes in the forest land base, amount of capital invested in timber management, and expected harvest age. This report shall categorize the results according to region of the state, land ownership, land productivity, and according to major timber species.

The report shall contain an estimate of the acreage and volume of old growth and other timber on lands restricted from commercial timber harvesting due to state or federal decisions, such as national parks, wilderness areas, national recreation areas, scenic river designations, natural areas, geologic areas, or other land allocations which restrict or limit timber harvesting activities. The department shall determine the definition of old growth for the purposes of this section.

State appropriations for these purposes in the 1989-91 budget may be expended if needed for project planning and design. The report shall be submitted to the appropriate committees of the senate and the house of representatives by June 1, 1991." [1989 c 424 § 8.]

43.30.138 Duties of department—Mining. The department of natural resources shall:

(1) Collect, compile, publish, and disseminate statistics and information relating to mining, milling, and metallurgy;

(2) Make special studies of the mineral resources and industries of the state;

(3) Collect and assemble an exhibit of mineral specimens, both metallic and nonmetallic, especially those of economic and commercial importance; such collection to constitute the museum of mining and mineral development;

(4) Collect and assemble a library pertaining to mining, milling, and metallurgy of books, reports, drawings, tracings, and maps and other information relating to the mineral industry and the arts and sciences of mining and metallurgy;

(5) Make a collection of models, drawings, and descriptions of the mechanical appliances used in mining and metallurgical processes;

(6) Issue bulletins and reports with illustrations and maps with detailed description of the natural mineral resources of the state;

(7) Preserve and maintain such collections and library open to the public for reference and examination and maintain a bureau of general information concerning the mineral and mining industry of the state, and issue from time to time at cost of publication and distribution such bulletins as may be deemed advisable relating to the statistics and technology of minerals and the mining industry;

(8) Make determinative examinations of ores and minerals, and consider other scientific and economical problems relating to mining and metallurgy;

(9) Cooperate with all departments of the state government, state educational institutions, the United States geological survey and the United States bureau of mines. All departments of the state government and educational institutions shall render full cooperation to the department in compiling useful and scientific information relating to the mineral industry within and without the state, without cost to the department. [1988 c 127 § 4; 1965 c 8 § 43.21.070. Prior: 1935 c 142 § 2; RRS § 8614-2. Formerly RCW 43.21.070.]

Coal mining maps: RCW 78.40.250.

Mining survey reports forwarded to: RCW 78.06.030.

43.30.141 Gifts and bequests relating to mining.

The department of natural resources may receive on behalf of the state, for the benefit of mining and mineral development, gifts, bequests, devises, and legacies of real or personal property and use them in accordance with the wishes of the donors and manage, use, and dispose of them for the best interests of mining and mineral development. [1988 c 127 § 5; 1965 c 8 § 43.21.080. Prior: 1935 c 142 § 3; RRS § 8614-3. Formerly RCW 43.21.080.]

43.30.145 Collection of minerals for exhibition.

The department of natural resources may, from time to time, prepare special collections of ores and minerals representative of the mineral industry of the state to be displayed or used at any world fair, exposition, mining congress, or state exhibition, in order to promote information relating to the mineral wealth of the state. [1988 c 127 § 6; 1965 c 8 § 43.21.090. Prior: 1935 c 142 § 4; RRS § 8614-4. Formerly RCW 43.21.090.]

43.30.150 Powers and duties of board—Personnel—Advisory committees—Organization—Travel expenses. The board shall:

- (1) Perform duties relating to appraisal, appeal, approval and hearing functions as provided by law;
- (2) Establish policies to insure that the acquisition, management and disposition of all lands and resources within the department's jurisdiction are based on sound principles designed to achieve the maximum effective development and use of such lands and resources consistent with laws applicable thereto;
- (3) Constitute the board of appraisers provided for in Article 16, section 2 of the state Constitution;
- (4) Constitute the commission on harbor lines provided for in Article 15, section 1 of the state Constitution as amended;
- (5) Hold regular monthly meetings at such times as it may determine, and such special meetings as may be called by the chairman or majority of the board membership upon written notice to all members thereof: PROVIDED, That the board may dispense with any regular meetings, except that the board shall not dispense with two consecutive regular meetings;
- (6) Adopt and enforce such rules and regulations as may be deemed necessary and proper for carrying out the powers, duties and functions imposed upon it by this chapter;
- (7) Employ and fix the compensation of such technical, clerical and other personnel as may be deemed necessary for the performance of its duties;
- (8) Appoint such advisory committees as it may deem appropriate to advise and assist it to more effectively discharge its responsibilities. The members of such committees shall receive no compensation, but shall be entitled to reimbursement for travel expenses in attending committee meetings in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended;
- (9) Meet and organize within thirty days after March 6, 1957 and on the third Monday of each January following a state general election at which the elected ex officio members of the board are elected. The board shall select its own chairman. The commissioner of public lands shall be the secretary of the board. The board may select a vice chairman from among its members. In the absence of the chairman and vice chairman at a meeting of the board, the members shall elect a chairman pro tem. No action shall be taken by the board except by the agreement of at least four members. The department and the board shall maintain its principal office at the capital;
- (10) Be entitled to reimbursement individually for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1988 c 128 § 10; 1986 c 227 § 2; 1975-'76 2nd ex.s. c 34 § 107; 1965 c 8 § 43.30.150. Prior: 1957 c 38 § 15.]

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

43.30.160 Powers and duties of administrator—Personnel. The administrator shall have responsibility for performance of all the powers, duties and functions of the department except those specifically assigned to the board. In the performance of his powers, duties and functions, the

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administrator shall conform to policies established by the board, and may employ and fix the compensation of such personnel as may be required to perform the duties of his office. [1965 c 8 § 43.30.160. Prior: 1957 c 38 § 16.]

43.30.170 Powers and duties of supervisor—Personnel—Bond. The supervisor shall:

- (1) Be charged with the direct supervision of the department's activities as delegated to him by the administrator;
- (2) Perform his duties in conformance with the policies established by the board;
- (3) Organize the department, with approval of the administrator, into such subordinate divisions as he may deem appropriate for the conduct of its operations;
- (4) Employ and fix the compensation of such technical, clerical and other personnel as may be required to carry on activities under his supervision;
- (5) Delegate by order any of his powers, duties and functions to one or more deputies or assistants as he may desire;
- (6) Furnish before entering upon his duties a surety bond payable to the state in such amount as may be determined by the board, conditioned for the faithful performance of his duties and for his accounting of all moneys and property of the state that may come into his possession or under his control by virtue of his office. [1965 c 8 § 43.30.170. Prior: 1957 c 38 § 17.]

43.30.180 Oaths may be administered by supervisor and deputies. The supervisor and his duly authorized deputies may administer oaths. [1965 c 8 § 43.30.180. Prior: 1957 c 38 § 18.]

43.30.210 Administrator may designate substitute for member of board, commission, etc. When any officer, member, or employee of an agency abolished by provisions of this chapter is, under provisions of existing law, designated as a member ex officio of another board, commission, committee, or other agency, and no provision is made in this chapter with respect to a substitute, the administrator shall designate the officer or other person to serve hereafter in that capacity. [1965 c 8 § 43.30.210. Prior: 1957 c 38 § 21.]

43.30.250 Property transactions, restrictive conveyances, highway purpose—Existing law to continue. Nothing in this chapter shall be interpreted as changing existing law with respect to:

- (1) Property given to a state agency on restrictive conveyance with provision for reversion to the grantor or for the vesting of title in another if and when such property is not used by the agency concerned for the stipulated purposes;
- (2) Land or other property acquired by any state agency for highway purposes. [1965 c 8 § 43.30.250. Prior: 1957 c 38 § 25.]

43.30.260 Real property—Services and facilities available to other state agencies, cost. Upon request by any state agency vested by law with the authority to acquire or manage real property, the department shall make available

to such agency the facilities and services of the department of natural resources with respect to such acquisition or management, upon condition that such agency reimburse the department for the costs of such services. [1965 c 8 § 43.30.260. Prior: 1957 c 38 § 26.]

43.30.265 Real property asset base—Natural resources real property replacement account. (1) The legislature finds that the department of natural resources has a need to maintain the real property asset base it manages and needs an accounting mechanism to complete transactions without reducing the real property asset base.

(2) The natural resources real property replacement account is created in the state treasury. This account shall consist of funds transferred or paid for the disposal or transfer of real property by the department of natural resources under RCW 79.01.009. The funds in this account shall be used solely for the acquisition of replacement real property and may be spent only when, and as, authorized by legislative appropriation. [1992 c 167 § 1.]

43.30.270 Employees—Applicability of merit system. All employees of the department of natural resources shall be governed by any merit system which is now or may hereafter be enacted by law governing such employment. [1965 c 8 § 43.30.270. Prior: 1957 c 38 § 27.]

43.30.280 Natural resources equipment fund—Authorized—Purposes—Expenditure. A revolving fund in the custody of the state treasurer, to be known as the natural resources equipment fund, is hereby created to be expended by the department of natural resources without appropriation solely for the purchase of equipment, machinery, and supplies for the use of the department and for the payment of the costs of repair and maintenance of such equipment, machinery, and supplies. [1965 c 8 § 43.30.280. Prior: 1963 c 141 § 1.]

43.30.290 Natural resources equipment fund—Reimbursement. The natural resources equipment fund shall be reimbursed by the department of natural resources for all moneys expended from it. Reimbursement may be prorated over the useful life of the equipment, machinery, and supplies purchased by moneys from the fund. Reimbursement may be made from moneys appropriated or otherwise available to the department for the purchase, repair and maintenance of equipment, machinery, and supplies and shall be prorated on the basis of relative benefit to the programs. For the purpose of making reimbursement, all existing and hereafter acquired equipment, machinery, and supplies of the department shall be deemed to have been purchased from the natural resources equipment fund. [1965 c 8 § 43.30.290. Prior: 1963 c 141 § 2.]

43.30.300 Outdoor recreation—Construction, operation, and maintenance of primitive facilities—Right of way and public access—Use of state and federal outdoor recreation funds. The department of natural resources is authorized:

(1) To construct, operate, and maintain primitive outdoor recreation and conservation facilities on lands under

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its jurisdiction which are of primitive character when deemed necessary by the department to achieve maximum effective development of such lands and resources consistent with the purposes for which the lands are held. This authority shall be exercised only after review by the interagency committee for outdoor recreation and determination by the committee that the department is the most appropriate agency to undertake such construction, operation and maintenance. Such review is not required for campgrounds designated and prepared or approved by the department.

(2) To acquire right of way and develop public access to lands under the jurisdiction of the department of natural resources and suitable for public outdoor recreation and conservation purposes.

(3) To receive and expend funds from federal and state outdoor recreation funding measures for the purposes of RCW 43.30.300 and 79.08.109. [1987 c 472 § 13; 1986 c 100 § 51; 1967 ex.s. c 64 § 1.]

Severability—1987 c 472: See RCW 79.71.900.

Construction—1967 ex.s. c 64: "Nothing in this act shall be construed as affecting the jurisdiction or responsibility of any other state or local governmental agency, except as provided in section 1 of this act." [1967 ex.s. c 64 § 4.]

Severability—1967 ex.s. c 64: "If any provision of sections 1 through 4 of this act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 ex.s. c 64 § 3.]

Exchange of lands to secure private lands for parks and recreation purposes: RCW 79.08.109.

Interagency committee for outdoor recreation: Chapter 43.99 RCW.

43.30.310 Rules pertaining to public use of state lands—Enforcement—Penalty. For the promotion of the public safety and the protection of public property, the department of natural resources may, in accordance with chapter 34.05 RCW, issue, promulgate, adopt, and enforce rules pertaining to use by the public of state-owned lands and property which are administered by the department.

A violation of any rule adopted under this section shall constitute a misdemeanor unless the department specifies by rule, when not inconsistent with applicable statutes, that violation of the rule is an infraction under chapter 7.84 RCW: PROVIDED, That violation of a rule relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

The commissioner of public lands and such of his employees as he may designate shall be vested with police powers when enforcing:

(1) The rules of the department adopted under this section; or

(2) The general criminal statutes or ordinances of the state or its political subdivisions where enforcement is necessary for the protection of state-owned lands and property. [1987 c 380 § 14; 1979 ex.s. c 136 § 38; 1969 ex.s. c 160 § 1.]

Effective date—Severability—1987 c 380: See RCW 7.84.900 and 7.84.901.

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

43.30.350 Department of natural resources to exercise mining and geology powers and duties of department of conservation. See RCW 43.27A.120 and 43.27A.130.

43.30.355 Department to participate in and administer federal Safe Drinking Water Act in conjunction with other departments. See RCW 43.21A.445.

43.30.360 Clarke-McNary fund. The department and Washington State University may each receive funds from the federal government in connection with cooperative work with the United States department of agriculture, authorized by sections 4 and 5 of the Clarke-McNary act of congress, approved June 7, 1924, providing for the procurement, protection, and distribution of forestry seed and plants for the purpose of establishing windbreaks, shelter belts, and farm wood lots and to assist the owners of farms in establishing, improving, and renewing wood lots, shelter belts, and windbreaks; and are authorized to disburse such funds as needed. [1986 c 100 § 46.]

43.30.370 Cooperative farm forestry funds. The department and Washington State University may each receive funds from the federal government for cooperative work, as authorized by the cooperative forest management act of congress, approved May 18, 1937, and as subsequently authorized by any amendments to or substitutions for that act, for all purposes authorized by those acts, and to disburse the funds in cooperation with the federal government in accordance therewith. [1986 c 100 § 47.]

43.30.390 Sustainable harvest sale. The board of natural resources shall offer for sale the sustainable harvest as identified in the 1984-1993 forest land management program, or as subsequently revised. In the event that decisions made by entities other than the department cause a decrease in the sustainable harvest the department shall offer additional timber sales from state-managed lands. [1989 c 424 § 9.]

Effective date—1989 c 424: See note following RCW 76.12.200.

43.30.400 Senior environmental corps—Department powers and duties. (1) The department of natural resources shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under RCW 43.63A.247:

- Appoint a representative to the coordinating council;
- Develop project proposals;
- Administer project activities within the agency;
- Develop appropriate procedures for the use of volunteers;
- Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;
- Maintain project records and provide project reports;
- Apply for and accept grants or contributions for corps-approved projects; and
- With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal,

state, and local agencies to carry out corps-approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers. [1992 c 63 § 10.]
Severability—1992 c 63: See note following RCW 43.63A.240.

43.30.410 Watershed restoration projects—Permit processing. A permit required by the department for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. [1995 c 378 § 13.]

Chapter 43.31

DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

(Formerly: Department of trade and economic development)

Sections

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43.31.055 Business expansion and trade development.

Reviser's note: RCW 43.31.055 was amended by 1993 c 512 § 4 without reference to its repeal by 1993 c 280 § 82, effective July 1, 1994. It has been decodified, effective July 1, 1994, for publication purposes pursuant to RCW 1.12.025.

43.31.057 Washington products—Expansion of market—Pamphlet. The department of community, trade, and economic development is directed to develop and promote means to stimulate the expansion of the market for Washington products and shall have the following powers and duties:

- (1) To develop a pamphlet for state-wide circulation which will encourage the purchase of items produced in the state of Washington;
- (2) To include in the pamphlet a listing of products of Washington companies which individuals can examine when making purchases so they may have the opportunity to select one of those products in support of this program;
- (3) To distribute the pamphlets on the broadest possible basis through local offices of state agencies, business organizations, chambers of commerce, or any other means the department deems appropriate;
- (4) In carrying out these powers and duties the department shall cooperate and coordinate with other agencies of government and the private sector. [1993 c 280 § 39; 1986 c 183 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative declaration—1986 c 183: "The legislature declares that: (1) The development and sale of Washington business products is a vital element in expanding the state economy.

(2) The marketing of items produced in Washington state contributes substantial benefits to the economic base of the state, provides a large number of jobs and sizeable tax revenues to state and local governments, and provides an important stimulation to the economic strength of Washington companies.

(3) State government should play a significant role in the development and expansion of markets for Washington products." [1986 c 183 § 1.]

Severability—1986 c 183: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 183 § 5.]

43.31.086 *Business assistance center—Additional duties. To assist state agencies in reducing regulatory costs to small business and to promote greater public participation in the rule-making process, the *business assistance center shall:

- (1) Develop agency guidelines for the preparation of a small business economic impact statement and compliance with chapter 19.85 RCW;
- (2) Review and provide comments to agencies on draft or final small business economic impact statements;
- (3) Advise the joint administrative rules review committee on whether an agency reasonably assessed the costs of a proposed rule and reduced the costs for small business as required by chapter 19.85 RCW; and
- (4) Organize and chair a state rules coordinating committee, consisting of agency rules coordinators and interested members of the public, to develop an education and training program that includes, among other components, a component that addresses voluntary compliance, for agency personnel responsible for rule development and implementation. The *business assistance center shall submit recommendations to the department of personnel for an administrative procedures training program that is based on the sharing of interagency resources. [1994 c 249 § 15.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Severability—Application—1994 c 249: See notes following RCW 34.05.310.

43.31.088 *Business assistance center—ISO-9000 quality standards. (1) The department, through its *business assistance center, shall assist companies seeking to adopt ISO-9000 quality standards. The department shall:

(a) Prepare and disseminate information regarding ISO-9000;

(b) Assemble and maintain information on public and private sector individuals, organizations, educational institutions, and advanced technology centers that can provide technical assistance to firms that wish to become ISO-registered;

(c) Assemble and maintain information on Washington firms which have received ISO registration;

(d) Undertake other activities it deems necessary to execute this section;

(e) Survey appropriate sectors to determine the level of interest in receiving ISO-9000 certification and coordinate with the program;

(f) Establish a mechanism for businesses to make self-assessments of relative need to become ISO-9000 certified;

(g) Assist and support nonprofit organizations, and other organizations, currently providing education, screening, and certification training; and

(h) Coordinate the Washington program with other similar state, regional, and federal programs.

(2) For the purposes of this section, "ISO-9000" means the series of standards published in 1987, and subsequent revisions, by the international organization for standardization for quality assurance in design, development, production, final inspection and testing, and installation and servicing of products, processes, and services.

(3) For the purposes of this section, registration to the American national standards institute/American society for quality control Q90 series shall be considered ISO-9000 registration. [1994 c 140 § 2.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Findings—Intent—1994 c 140: "The legislature finds that since the publication by the international organization for standardization of its ISO-9000 series of quality systems standards, more than twenty thousand facilities in the United Kingdom and several thousand in Europe have become registered in the standards. By comparison, currently only about four hundred United States companies have adopted the standards. The international organization for standardization is a Geneva-based organization founded in 1947 to promote standardization with a view to facilitating trade.

The legislature further finds that the growing world-wide acceptance by over sixty nations of the ISO-9000 series of quality systems standards, including adoption by the twelve nations of the European Community, means that more Washington companies will need to look at the adoption of ISO-9000 to remain competitive in global markets. Adoption of ISO-9000, as well as other quality systems, may also help Washington companies improve quality. However, many small businesses know little about the standards or how registration is achieved.

It is the intent of the legislature that the department of community, trade, and economic development encourage and assist state businesses to adopt ISO-9000 and other quality systems as part of the state's strategy for global industrial competitiveness." [1994 c 140 § 1.]

Effective date—1994 c 140: "This act shall take effect July 1, 1994." [1994 c 140 § 4.]

43.31.091 Business assistance center—Termination. The business assistance center and its powers and duties shall be terminated on June 30, 1995, as provided in RCW

43.31.092. [1993 c 280 § 80; 1990 c 297 § 9; 1987 c 348 § 16. Formerly RCW 43.131.343.]

Effective date—1993 c 280 §§ 80, 81: "Sections 80 and 81 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 10, 1993]." [1993 c 280 § 85.]

Severability—1993 c 280: See RCW 43.330.903.

Legislative findings—1987 c 348: See note following RCW 43.175.010.

43.31.092 Business assistance center—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1996:

(1) Section 2, chapter 348, Laws of 1987 and RCW 43.31.083;

(2) Section 11, chapter 466, Laws of 1985, section 3, chapter 348, Laws of 1987, section 2, chapter 430, Laws of 1989 and RCW 43.31.085;

(3) Section 4, chapter 348, Laws of 1987 and RCW 43.31.087; and

(4) Section 5, chapter 348, Laws of 1987 and RCW 43.31.089. [1993 c 280 § 81; 1990 c 297 § 10; 1987 c 348 § 17. Formerly RCW 43.131.344.]

Effective date—1993 c 280 §§ 80, 81: See note following RCW 43.31.091.

Severability—1993 c 280: See RCW 43.330.903.

Legislative findings—1987 c 348: See note following RCW 43.175.010.

43.31.0925 *Business assistance center—Minority and women business development office. There is established within the department's *business assistance center the minority and women business development office. This office shall provide business-related assistance to minorities and women as well as serve as an outreach program to increase minority and women-owned businesses' awareness and use of existing business assistance services. [1993 c 512 § 7.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.31.093 Minority and women-owned small businesses—Entrepreneurial training courses. The department of community, trade, and economic development shall contract with public and private agencies, institutions, and organizations to conduct entrepreneurial training courses for minority and women-owned small businesses. The instruction shall be intensive, practical training courses in financing, marketing, managing, accounting, and recordkeeping for a small business, with an emphasis on federal, state, local, or private programs available to assist small businesses. The *business assistance center may recommend professional instructors, with practical knowledge and experience on how to start and operate a business, to teach the courses. Instruction shall be offered in major population centers throughout the state at times and locations which are convenient for minority and women small business

owners and entrepreneurs. [1995 c 399 § 71; 1993 c 512 § 6.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.31.125 Advisory groups. The director may establish such advisory groups as in the director's discretion are necessary to carry out the purposes of this chapter. Members of and vacancies in such advisory groups shall be filled by appointment by the director. Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. [1985 c 466 § 16.]

Effective date—1985 c 466: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985." [1985 c 466 § 96.]

Severability—1985 c 466: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 466 § 95.]

Headings—1985 c 466: "As used in this act, section headings constitute no part of the law." [1985 c 466 § 77.]

Transfer of assets—1985 c 466: "All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce and economic development shall be delivered to the custody of the department of trade and economic development. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce and economic development shall be made available to the department of trade and economic development. All funds, credits, or other assets held by the department of commerce and economic development shall be assigned to the department of trade and economic development.

Any appropriations made to the department of commerce and economic development shall, June 30, 1985, be transferred and credited to the department of trade and economic development.

Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned." [1985 c 466 § 19.]

Transfer of employees—1985 c 466: "All classified employees of the department of commerce and economic development are transferred to the jurisdiction of the department of trade and economic development. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of trade and economic development to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service." [1985 c 466 § 20.]

Continuation of rules and business and existing contracts and obligations—1985 c 466: "All rules and all pending business before the department of commerce and economic development shall be continued and acted upon by the department of trade and economic development. All existing contracts and obligations shall remain in full force and shall be performed by the department of trade and economic development." [1985 c 466 § 21.]

Savings—1985 c 466: "The transfer of the powers, duties, functions, and personnel of the department of commerce and economic development shall not affect the validity of any act performed prior to June 30, 1985." [1985 c 466 § 22.]

Apportionment of funds—1985 c 466: "If apportionments of budgeted funds are required because of the transfers directed by sections 19 through 22, chapter 466, Laws of 1985, the director of financial management shall certify the apportionments to the agencies affected, the state

auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification." [1985 c 466 § 23.]

43.31.145 Foreign offices—Promotion of overseas trade and commerce. The department is charged with the primary role within state government for the establishment and operation of foreign offices created for the purpose of promoting overseas trade and commerce. [1991 c 24 § 7; 1985 c 466 § 18.]

Effective date—1991 c 24: See RCW 43.290.900.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

43.31.205 Hanford reservation—Promotion of sublease for nuclear-related industry. In an effort to enhance the economy of the Tri-Cities area, the department of community, trade, and economic development is directed to promote the existence of the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near Richland, Washington, and the opportunity of subleasing the land to entities for nuclear-related industry, in agreement with the terms of the lease. When promoting the existence of the lease, the department shall work in cooperation with any associate development organization located in or near the Tri-Cities area. [1993 c 280 § 41; 1992 c 228 § 2; 1990 c 281 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings—1992 c 228: "The legislature finds that the ninety-nine-year lease of one thousand acres of land by the state from the federal government requires that the state use any rent moneys from subleasing the land for the development of the leased land and nuclear-related industries in the Tri-Cities area. The legislature further finds that the new emphasis on waste cleanup at Hanford and the new technologies needed for environmental restoration warrant a renewed effort to promote development of the leased land and nuclear-related industries in the Tri-Cities area." [1992 c 228 § 1.]

Legislative findings—1990 c 281: "The legislature finds that the one thousand acres of land leased from the federal government to the state of Washington on the Hanford reservation constitutes an unmatched resource for development of high-technology industry, nuclear medicine research, and research into new waste immobilization and reduction techniques. The legislature further finds that continued diversification of the Tri-Cities economy will help stabilize and improve the Tri-Cities economy, and that this effort can be aided by emphasizing the resources of local expertise and nearby facilities." [1990 c 281 § 1.]

43.31.207 Hanford sublease rent account—Expiration of section. (1) The Hanford sublease rent account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation and only for the following purposes:

(a) To promote the existence of the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near Richland, Washington;

(b) To promote development of the leased land and nuclear-related industry in the Tri-Cities area, in accordance with the terms of the lease; and

(c) To execute any new sublease agreements that meet the terms of the lease.

(2) Sources for this account shall include:

- (a) Any rent payments from subleases of the site; and
- (b) Other funding from federal, state, and local agencies.

(3) Nothing in this section shall affect any agreements or contracts related to sublease rental payments in effect as of June 11, 1992.

(4) This section expires on June 30, 1999. [1992 c 228 § 3.]

Legislative findings—1992 c 228: See note following RCW 43.31.205.

43.31.215 Hanford reservation—Tri-cities area—Emphasize work force and facilities. When the department implements programs intended to attract or maintain industrial or high-technology investments in the state, the department shall, to the extent possible, emphasize the following:

(1) The highly skilled and trained work force in the Tri-Cities area;

(2) The world-class research facilities in the area, including the fast flux test facility and the Pacific Northwest laboratories;

(3) The existence of the one thousand acres leased by the state from the federal government for the purpose of nuclear-related industries; and

(4) The ability for high-technology and medical industries to safely dispose of low-level radioactive waste at the Hanford commercial low-level waste disposal facility. [1990 c 281 § 3.]

Legislative findings—1990 c 281: See note following RCW 43.31.205.

43.31.390 Information from environmental profile—Use in brochures and presentations—Availability to local economic development groups. The department shall incorporate information from the environmental profile developed by the department of ecology in accordance with RCW 43.21A.510 in preparing promotional brochures and in its presentations to businesses considering locating in Washington state. It shall also make the information available to local economic development groups for use in local economic development efforts. [1985 c 466 § 33; 1984 c 94 § 4.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

Findings—1984 c 94: See note following RCW 43.21A.510.

43.31.403 Investment opportunities office—Finding and purpose. The legislature finds that the growth of small and young businesses will have a favorable impact on the Washington economy by creating jobs, increasing competition in the market place, and expanding tax revenues. Access to financial markets by entrepreneurs is vital to this process. Without reasonable access to financing, talented and aggressive entrepreneurs are cut out of the economic system and the state's economy suffers. It is the purpose of RCW 43.31.403 through 43.31.414 to guarantee that entrepreneurs and investors have an institutionalized means of meeting their respective needs for access to capital resources and information about promising business investments in Washington state. [1989 c 312 § 1.]

Severability—1989 c 312: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of

the act or the application of the provision to other persons or circumstances is not affected." [1989 c 312 § 10.]

43.31.406 Investment opportunities office—Definitions. As used in RCW 43.31.403 through 43.31.414, the term:

(1) "Entrepreneur" means an individual, proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, cooperative, corporation, or any other organization operating in this state, engaged in manufacturing, wholesaling, transportation services, traded services, or the development of destination tourism resorts, with fewer than two hundred fifty employees and paying more than fifty percent of its contributions or payments for the purposes of unemployment insurance to this state.

(2) "Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and shall include the production or fabrication of specially made or custom made articles. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities performed by research and development laboratories and commercial testing laboratories.

(3) "Traded services" means those commercial and professional services that are developed for sale outside the state.

(4) "Wholesaling" means activities related to the sale or storage of commodities in large quantities.

(5) "Transportation services" means those services which involve the transport of passengers or goods.

(6) "Destination tourism resort" means a tourism and recreation complex that is developed primarily as a location for recreation and tourism activities that will be used primarily by nonresidents of the immediate area. [1989 c 312 § 2.]

Severability—1989 c 312: See note following RCW 43.31.403.

43.31.409 Investment opportunities office—Created. There is created in the *business assistance center of the department of community, trade, and economic development the Washington investment opportunities office. [1993 c 280 § 42; 1989 c 312 § 3.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1989 c 312: See note following RCW 43.31.403.

43.31.411 Investment opportunities office—Duties—Report to legislature. The Washington investment opportunities office shall:

(1) Maintain a list of all entrepreneurs engaged in manufacturing, wholesaling, transportation services, development of destination tourism resorts, or traded services throughout the state seeking capital resources and interested in the services of the investment opportunities office.

(2) Maintain a file on each entrepreneur which may include the entrepreneur's business plan and any other information which the entrepreneur offers for review by potential investors.

(3) Assist entrepreneurs in procuring the managerial and technical assistance necessary to attract potential investors. Such assistance shall include the automatic referral to the small business innovators opportunity program of any entrepreneur with a new product meriting the services of the program.

(4) Provide entrepreneurs with information about potential investors and provide investors with information about those entrepreneurs which meet the investment criteria of the investor.

(5) Promote small business securities financing.

(6) Remain informed about investment trends in capital markets and preferences of individual investors or investment firms throughout the nation through literature surveys, conferences, and private meetings.

(7) Publicize the services of the investment opportunities office through public meetings throughout the state, appropriately targeted media, and private meetings. Whenever practical, the office shall use the existing services of local associate development organizations in outreach and identification of entrepreneurs and investors.

(8) Report to the ways and means committees and appropriate economic development committees of the senate and the house of representatives by December 1, 1989, and each year thereafter, on the accomplishments of the office. Such reports shall include:

(a) The number of entrepreneurs on the list referred to in subsection (1) of this section, segregated by standard industrial classification codes;

(b) The number of investments made in entrepreneurs, segregated as required by (a) of this subsection, as a result of contact with the investment opportunities office, the dollar amount of each such investment, the source, by state or nation, of each investment, and the number of jobs created as a result of each investment;

(c) The number of entrepreneurs on the list referred to in subsection (1) of this section segregated by counties, the number of investments, the dollar amount of investments, and the number of jobs created through investments in each county as a result of contact with the investment opportunities office;

(d) A categorization of jobs created through investments made as a result of contact with the investment opportunities office, the number of jobs created in each such category, and the average pay scale for jobs created in each such category;

(e) The results of client satisfaction surveys distributed to entrepreneurs and investors using the services of the investment opportunities office; and

(f) Such other information as the managing director finds appropriate. [1993 c 280 § 43; 1989 c 312 § 4.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1989 c 312: See note following RCW 43.31.403.

43.31.414 Investment opportunities office—Service fees. The *business assistance center may charge reasonable fees or other appropriate charges to participants using the

services of the investment opportunities office for the purpose of defraying all or part of the costs of the *business assistance center in administering this program. [1989 c 312 § 5.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Severability—1989 c 312: See note following RCW 43.31.403.

43.31.417 Investment opportunities office—Contracting authority. The director of the *business assistance center may enter into contracts with nongovernmental agencies to provide any of the services under RCW 43.31.411. [1989 c 312 § 6.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Severability—1989 c 312: See note following RCW 43.31.403.

43.31.422 Hanford area economic investment fund. The Hanford area economic investment fund is established in the custody of the state treasurer. Moneys in the fund shall only be used pursuant to the recommendations of the committee created in RCW 43.31.425 and the approval of the director of community, trade, and economic development for Hanford area revolving loan funds, Hanford area infrastructure projects, or other Hanford area economic development and diversification projects, but may not be used for government or nonprofit organization operating expenses. Up to five percent of moneys in the fund may be used for program administration. For the purpose of this chapter "Hanford area" means Benton and Franklin counties. Disbursements from the fund shall be on the authorization of the director of community, trade, and economic development or the director's designee after an affirmative vote of at least six members of the committee created in RCW 43.31.425 on any recommendations by the committee created in RCW 43.31.425. The fund is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for disbursements. The legislature intends to establish similar economic investment funds for areas that develop low-level radioactive waste disposal facilities. [1993 c 280 § 44; 1991 c 272 § 19.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective dates—1991 c 272: See RCW 81.108.901.

Surcharge on waste generators: RCW 43.200.230, 43.200.233, and 43.200.235.

43.31.425 Hanford area economic investment fund committee. The Hanford area economic investment fund committee staffed by the local associate development organization is hereby established.

(1) The committee shall have eleven members. The governor shall appoint the members, in consultation with the Hanford area associate development organization and Hanford area elected officials, subject to the following requirements:

(a) All members shall either reside or be employed within the Hanford area.

(b) The committee shall have a balanced membership representing one member each from the elected leadership of Benton county, Franklin county, the city of Richland, the city of Kennewick, the city of Pasco, a Hanford area port district, the labor community, and four members from the Hanford area business and financial community.

(c) Careful consideration shall be given to assure minority representation on the committee.

(2) Each member appointed by the governor shall serve a term of three years, except that of the members first appointed, four shall serve two-year terms and four shall serve one-year terms. A person appointed to fill a vacancy of a member shall be appointed in a like manner and shall serve for only the unexpired term. A member is eligible for reappointment. A member may be removed by the governor for cause.

(3) The governor shall designate a member of the committee as its chairperson. The committee may elect such other officers as it deems appropriate. Six members of the committee constitute a quorum and six affirmative votes are necessary for the transaction of business or the exercise of any power or function of the committee.

(4) The members shall serve without compensation, but are entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties in accordance with RCW 43.03.050 and 43.03.060.

(5) Members shall not be liable to the state, to the fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violations of law. The department may purchase liability insurance for members and may indemnify these persons against the claims of others. [1991 c 272 § 20.]

Effective dates—1991 c 272: See RCW 81.108.901.

43.31.428 Hanford area economic investment fund committee—Powers. The Hanford area economic investment fund committee created under RCW 43.31.425 may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) Utilize the services of other governmental agencies;

(3) Accept from any federal or state agency loans or grants for the purposes of funding Hanford area revolving loan funds, Hanford area infrastructure projects, or Hanford area economic development projects;

(4) Recommend to the director rules for the administration of the program, including the terms and rates pertaining to its loans, and criteria for awarding grants, loans, and financial guarantees;

(5) Recommend to the director a spending strategy for the moneys in the fund created in RCW 43.31.422. The strategy shall include five and ten year goals for economic development and diversification for use of the moneys in the Hanford area; and

(6) Recommend to the director no more than two allocations eligible for funding per calendar year, with a first priority on Hanford area revolving loan allocations, and Hanford area infrastructure allocations followed by other Hanford area economic development and diversification projects if the committee finds that there are no suitable

allocations in the priority allocations described in this section. [1991 c 272 § 21.]

Effective dates—1991 c 272: See RCW 81.108.901.

43.31.502 Child care facility revolving fund—Purpose—Source of funds. (1) A child care facility revolving fund is created. Money in the fund shall be used solely for the purpose of starting or improving a child care facility pursuant to RCW *43.31.085 and 43.31.502 through 43.31.514. Only moneys from private or federal sources may be deposited into this fund.

(2) Funds provided under this section shall not be subject to reappropriation. The child care facility fund committee may use loan and grant repayments and income for the revolving fund program. [1991 c 248 § 1; 1989 c 430 § 3.]

***Reviser's note:** RCW 43.31.085 was repealed by 1993 c 280 § 81, effective June 30, 1996.

Legislative findings—1989 c 430: "The legislature finds that increasing the availability and affordability of quality child care will enhance the stability of the family and facilitate expanded economic prosperity in the state. The legislature finds that balancing work and family life is a critical concern for employers and employees. The dramatic increase in participation of women in the work force has resulted in a demand for affordable child care exceeding the supply. The future of the state's work force depends in part upon the availability of quality affordable child care. There are not enough child care services and facilities to meet the needs of working parents, the costs of care are often beyond the resources of working parents, and facilities are not located conveniently to work places and neighborhoods. The prospect for labor shortages resulting from the aging of the population and the importance of the quality of the work force to the competitiveness of Washington businesses make the availability of quality child care an important concern for the state's businesses.

The legislature further finds that a partnership between business and child care providers can help the market for child care adjust to the needs of businesses and working families and improve productivity, reduce absenteeism, improve recruitment, and improve morale among Washington's labor force. The legislature further finds that private and public partnerships and investments are necessary to increase the supply, affordability, and quality of child care in the state." [1989 c 430 § 1.]

Severability—1989 c 430: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 430 § 12.]

43.31.504 Child care facility fund committee—Generally. The child care facility fund committee is established within the *business assistance center of the department of community, trade, and economic development. The committee shall administer the child care facility fund, with review by the director of community, trade, and economic development.

(1) The committee shall have five members. The director of community, trade, and economic development shall appoint the members, who shall include:

(a) Two persons experienced in investment finance and having skills in providing capital to new businesses, in starting and operating businesses, and providing professional services to small or expanding businesses;

(b) One person representing a philanthropic organization with experience in evaluating funding requests;

(c) One child care services expert; and

(d) One early childhood development expert.

In making these appointments, the director shall give careful consideration to ensure that the various geographic

regions of the state are represented and that members will be available for meetings and are committed to working cooperatively to address child care needs in Washington state.

(2) The committee shall elect officers from among its membership and shall adopt policies and procedures specifying the lengths of terms, methods for filling vacancies, and other matters necessary to the ongoing functioning of the committee.

(3) Committee members shall serve without compensation, but may request reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) Committee members shall not be liable to the state, to the child care facility fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violation of the law. The department of community, trade, and economic development may purchase liability insurance for members and may indemnify these persons against the claims of others. [1993 c 280 § 45; 1989 c 430 § 4.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.506 Child care facility fund committee—Authority to award moneys from fund. The child care facility fund committee is authorized to solicit applications for and award grants and loans from the child care facility fund to assist persons, businesses, or organizations to start a licensed child care facility, or to make capital improvements in an existing licensed child care facility. Grants and loans shall be awarded on a one-time only basis, and shall not be awarded to cover operating expenses beyond the first three months of business. No grant shall exceed twenty-five thousand dollars. No loan shall exceed one hundred thousand dollars. [1991 c 248 § 2; 1989 c 430 § 5.]

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.508 Child care facility fund committee—Loans to child care facilities. The child care facility fund committee is authorized, upon application, to use the child care facility fund to guarantee loans made to persons, businesses, or organizations to start a licensed child care facility, or to make capital improvements in an existing licensed child care facility.

(1) Loan guarantees shall be awarded on a one-time only basis, and shall not be awarded for loans to cover operating expenses beyond the first three months of business.

(2) The total aggregate amount of the loan guarantee awarded to any applicant may not exceed twenty-five thousand dollars and may not exceed eighty percent of the loan.

(3) The total aggregate amount of guarantee from the child care facility fund, with respect to the guaranteed portions of loans, may not exceed at any time an amount

equal to five times the balance in the child care facility fund. [1989 c 430 § 6.]

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.512 Child care facility fund committee—Loans or grants to individuals, businesses, or organizations. The child care facility fund committee shall award loan guarantees, loans or grants to those persons, businesses, or organizations meeting the minimum standards set forth in this chapter who will best serve the intent of the chapter to increase the availability of high quality, affordable child care in Washington state. The committee shall promulgate rules regarding the application for and disbursement of loan guarantees, loans, or grants from the fund, including loan terms and repayment procedures. At a minimum, such rules shall require an applicant to submit a plan which includes a detailed description of:

(1) The need for a new or improved child care facility in the area served by the applicant;

(2) The steps the applicant will take to serve a reasonable number of handicapped children as defined in *chapter 72.40 RCW, sick children, infants, children requiring night time or weekend care, or children whose costs of care are subsidized by government;

(3) Why financial assistance from the state is needed to start or improve the child care facility;

(4) How the guaranteed loan, loan, or grant will be used, and how such uses will meet the described need;

(5) The child care services to be available at the facility and the capacity of the applicant to provide those services; and

(6) The financial status of the applicant, including other resources available to the applicant which will ensure the continued viability of the facility and the availability of its described services.

Recipients shall annually for two years following the receipt of the loan guarantee, loan, or grant, submit to the child care facility fund committee a report on the facility and how it is meeting the child care needs for which it was intended. [1989 c 430 § 7.]

***Reviser's note:** Chapter 72.40 RCW does not contain a definition of "handicapped children."

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.514 Child care facility fund committee—Grants, repayment requirements. Where the child care facility fund committee makes a grant to a person, organization, or business, the grant shall be repaid to the child care facility fund if the child care facility using the grant to start or expand ceases to provide child care earlier than the following time periods from the date the grant is made: (1) Twelve months for a grant up to five thousand dollars; (2) twenty-four months for a grant over five thousand dollars up to ten thousand dollars; (3) thirty-six months for a grant over ten thousand dollars up to fifteen thousand dollars; (4) forty-eight months for a grant over fifteen thousand dollars up to twenty thousand dollars; and (5) sixty months for a grant over twenty thousand dollars up to twenty-five thousand dollars. [1989 c 430 § 8.]

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.522 Marketplace program—Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.31.524 and 43.31.526:

(1) "Department" means the department of community, trade, and economic development.

(2) "Center" means the business assistance center established under *RCW 43.31.083.

(3) "Director" means the director of community, trade, and economic development.

(4) "Local nonprofit organization" means a local nonprofit organization organized to provide economic development or community development services, including but not limited to associate development organizations, economic development councils, and community development corporations. [1993 c 280 § 46; 1990 c 57 § 2; 1989 c 417 § 2.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding—1990 c 57; 1989 c 417: "The legislature finds and declares that substantial benefits in increased employment and business activity can be obtained by assisting businesses in identifying opportunities to purchase the goods and services they need from Washington state suppliers rather than from out-of-state suppliers and in identifying new markets for Washington state firms to provide goods and services. The replacement of out-of-state imports with services and manufactured goods produced in-state can be an important source of economic growth in a local community especially in rural areas. Businesses in the state are often unaware that goods and services they purchase from out-of-state suppliers are available from in-state firms with substantial advantages in responsiveness, service, and price. Increasing the economic partnerships between businesses in Washington state can build bridges between urban and rural communities and can result in the identification of additional opportunities for successful economic development initiatives. Providing additional information to businesses regarding in-state sources of goods and services can be a particularly valuable component of revitalization strategies in economically distressed areas. The legislature finds and declares that it is the policy of the state to strengthen the economies of local communities by increasing the economic partnerships between in-state businesses and creating programs to assist businesses in identifying in-state sources of goods and services, and in addition to identify new markets for Washington firms to provide goods and services." [1990 c 57 § 1; 1989 c 417 § 1.]

Severability—1989 c 417: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 417 § 15.]

43.31.524 Marketplace program—Generally. There is established a Washington marketplace program within the business assistance center established under *RCW 43.31.083. The program shall assist businesses to competitively meet their needs for goods and services within Washington state by providing information relating to the replacement of imports or the fulfillment of new requirements with Washington products produced in Washington state. The program shall place special emphasis on strengthening rural economies in economically distressed areas of the state meeting the criteria of an "eligible area" as defined in RCW 82.60.020(3). [1993 c 280 § 47; 1990 c 57 § 3; 1989 c 417 § 3.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding—1990 c 57; 1989 c 417: See note following RCW 43.31.522.

Severability—1989 c 417: See note following RCW 43.31.522.

43.31.526 Marketplace program—Contracts to foster linkages—Department duties.

(1) The department shall contract with governments, industry associations, or local nonprofit organizations to foster cooperation and linkages between distressed and nondistressed areas and between urban and rural areas, and between Washington and other Northwest states. The department may enter into joint contracts with multiple nonprofit organizations. Contracts with economic development organizations to foster cooperation and linkages between distressed and nondistressed areas and urban and rural areas shall be structured by the department and the distressed area marketplace programs. Contracts with economic development organizations shall:

(a) Award contracts based on a competitive bidding process, pursuant to chapter 43.19 RCW; and

(b) Ensure that each location contain sufficient business activity to permit effective program operation.

The department may require that contractors contribute at least twenty percent local funding.

(2) The contracts with governments, industry associations, or local nonprofit organizations shall be for, but not limited to, the performance of the following services for the Washington marketplace program:

(a) Contacting Washington state businesses to identify goods and services they are currently buying or are planning in the future to buy out-of-state and determine which of these goods and services could be purchased on competitive terms within the state;

(b) Identifying locally sold goods and services which are currently provided by out-of-state businesses;

(c) Determining, in consultation with local business, goods and services for which the business is willing to make contract agreements;

(d) Advertising market opportunities described in (c) of this subsection;

(e) Receiving bid responses from potential suppliers and sending them to that business for final selection; and

(f) Establish linkages with federal, regional, and Northwest governments, industry associations, and nonprofit organizations to foster buying leads and information benefiting Washington suppliers and industry and trade associations.

(3) Contracts may include provisions for charging service fees of businesses that participate in the program.

(4) The center shall also perform the following activities in order to promote the goals of the program:

(a) Prepare promotional materials or conduct seminars to inform communities and organizations about the Washington marketplace program;

(b) Provide technical assistance to communities and organizations interested in developing an import replacement program;

(c) Develop standardized procedures for operating the local component of the Washington marketplace program;

(d) Provide continuing management and technical assistance to local contractors; and

(e) Report by December 31 of each year to the appropriate economic development committees of the senate and the house of representatives describing the activities of the Washington marketplace program. [1994 c 47 § 2; 1993 c 280 § 48; 1990 c 57 § 4; 1989 c 417 § 4.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding—1990 c 57; 1989 c 417: See note following RCW 43.31.522.

Severability—1989 c 417: See note following RCW 43.31.522.

43.31.545 Recycled materials and products—Market development. The department is the lead state agency to assist in establishing and improving markets for recyclable materials generated in the state. [1991 c 319 § 210; 1989 c 431 § 64.]

Severability—Part headings not law—1991 c 319: See RCW 70.95F.900 and 70.95F.901.

Severability—Section captions not law—1989 c 431: See RCW 70.95.901 and 70.95.902.

Clean Washington center: Chapter 70.95H RCW.

43.31.601 Definitions. For the purposes of RCW 43.31.601 through *43.31.661:

(1) "Timber impact area" means a county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: (a) A lumber and wood products employment location quotient at or above the state average; (b) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or (c) an annual unemployment rate twenty percent or more above the state average.

(2)(a) "Rural natural resources impact area" means:

(i) A nonmetropolitan county, as defined by the 1990 decennial census, that meets two of the five criteria set forth in (b) of this subsection; or

(ii) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets two of the five criteria set forth in (b) of this subsection.

(b) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(i) A lumber and wood products employment location quotient at or above the state average;

(ii) A commercial salmon fishing employment location quotient at or above the state average;

(iii) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(iv) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(v) An unemployment rate twenty percent or more above the state average.

The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area that is located wholly or partially in an urbanized area or within two miles of an urbanized area is considered urbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter. [1995 c 226 § 1; 1992 c 21 § 2; 1991 c 314 § 2.]

***Reviser's note:** RCW 43.31.661 was repealed by 1995 c 226 § 33, effective July 1, 1995.

Reviser's note—Sunset Act application: The rural natural resources impact area programs are subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.385, RCW 28B.50.258, 28B.50.262, 28B.80.570, 28B.80.575, 28B.80.580, 28B.80.585, 43.17.065, 43.20A.750, 43.31.601, 43.31.641, 43.31.651, 43.63A.021, 43.63A.440, 43.63A.600, 43.160.200, 43.160.212, 43.168.140, 50.12.270, 50.22.090, 50.70.010, and 50.70.020 are scheduled for future repeal under RCW 43.131.386.

Severability—1995 c 226: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 226 § 37.]

Conflict with federal requirements—1995 c 226: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [1995 c 226 § 38.]

Effective date—1995 c 226: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 226 § 39.]

Findings—1991 c 314: "The legislature finds that:

(1) Cutbacks in allowable sales of old growth timber in Washington state pose a substantial threat to the region and the state with massive layoffs, loss of personal income, and declines in state revenues;

(2) The timber impact areas are of critical significance to the state because of their leading role in the overall economic well-being of the state and their importance to the quality of life to all residents of Washington, and that these regions require a special state effort to diversify the local economy;

(3) There are key opportunities to broaden the economic base in the timber impact areas including agriculture, high-technology, tourism, and regional exports; and

(4) A coordinated state, local, and private sector effort offers the greatest potential to promote economic diversification and to provide support for new projects within the region.

The legislature further finds that if a special state effort does not take place the decline in allowable timber sales may result in a loss of six thousand logging and milling jobs; two hundred million dollars in direct wages and benefits; twelve thousand indirect jobs; and three hundred million dollars in indirect wages and benefits.

It is the intent of the legislature to develop comprehensive programs to provide diversified economic development and promote job creation and employment opportunities for the citizens of the timber impact areas." [1991 c 314 § 1.]

43.31.611 Rural community assistance coordinator—Expiration of section. (1) The governor shall appoint

a rural community assistance coordinator. The coordinator shall coordinate the state and federal economic and social programs targeted to rural natural resources impact areas.

(2) The coordinator's responsibilities shall include but not be limited to:

(a) Chairing the agency rural community assistance task force and directing staff associated with the task force.

(b) Coordinating and maximizing the impact of state and federal assistance to rural natural resources impact areas.

(c) Coordinating and expediting programs to assist rural natural resources impact areas.

(d) Providing the legislature with a status and impact report on the rural community assistance program in January 1996.

(3) To assist in carrying out the duties set out under this section, the coordinator shall consult with the Washington state rural development council and may appoint an advisory body that has representation from local governments and natural resources interest groups representing impacted rural communities.

(4) This section shall expire June 30, 1997. [1995 c 226 § 2; 1993 c 316 § 1; 1991 c 314 § 3.]

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

Effective date—1993 c 316: "Sections 1 through 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 30, 1993." [1993 c 316 § 12.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.621 Agency rural community assistance task force—Expiration of section. (1) There is established the agency rural community assistance task force. The task force shall be chaired by the rural community assistance coordinator. It shall be the responsibility of the coordinator that all directives of chapter 314, Laws of 1991 are carried out expeditiously by the agencies represented in the task force. The task force shall consist of the directors, or representatives of the directors, of the following agencies: The department of community, trade, and economic development, employment security department, department of social and health services, state board for community and technical colleges, work force training and education coordinating board, department of natural resources, department of transportation, department of fish and wildlife, University of Washington center for international trade in forest products, department of agriculture, and department of ecology. The task force shall solicit and consider input from the rural development council in coordinating agency programs targeted to rural natural resources impacted communities. The task force may consult and enlist the assistance of the following: The higher education coordinating board, University of Washington college of forest resources, University of Washington school of fisheries, Washington State University school of forestry, Northwest policy center, state superintendent of public instruction, Washington state labor council, the Evergreen partnership, Washington state association of counties, and others as needed.

(2) The task force, in conjunction with the rural development council, shall undertake a study to determine whether additional communities and industries are impacted, or are likely to be impacted, by salmon preservation and recovery

efforts. The task force shall consider possible impacts in the following industries and associated communities: Barge transportation, irrigation dependent agriculture, food processing, aluminum, charter recreational fishing, boatbuilding, and other sectors suggested by the task force. The task force shall report its findings and recommendations to the legislature by January 1996.

(3) This section shall expire June 30, 1997. [1996 c 186 § 508; 1995 c 226 § 3; 1994 c 264 § 18. Prior: 1993 c 316 § 2; 1993 c 280 § 49; 1991 c 314 § 4.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

Effective date—1993 c 316: See note following RCW 43.31.611.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.641 Department duties—Extension programs—Value-added production—Industrial diversification. The department of community, trade, and economic development, as a member of the agency rural community assistance task force, shall:

(1) Implement an expanded value-added forest products development industrial extension program. The department shall provide technical assistance to small and medium-sized forest products companies to include:

(a) Secondary manufacturing product development;

(b) Plant and equipment maintenance;

(c) Identification and development of domestic market opportunities;

(d) Building products export development assistance;

(e) At-risk business development assistance;

(f) Business network development; and

(g) Timber impact area industrial diversification.

(2) Provide local contracts for small and medium-sized forest product companies, start-ups, and business organizations for business feasibility, market development, and business network contracts that will benefit value-added production efforts in the industry.

(3) Contract with local business organizations in timber impact areas for development of programs to promote industrial diversification. The department shall provide local capacity-building grants to local governments and community-based organizations in timber impact areas, which may include long-range planning and needs assessments.

For the 1991-93 biennium, the department of community, trade, and economic development shall use funds appropriated for this section for contracts and for no more than two additional staff positions. [1995 c 226 § 4; 1993 c 280 § 50; 1991 c 314 § 7.]

Sunset Act application: See note following RCW 43.31.601.

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.651 Sustainable economic development efforts—Community assistance. The department of community, trade, and economic development as a part of

the agency rural community assistance task force shall implement a community assistance program to enable communities to build local capacity for sustainable economic development efforts. The program shall provide resources and technical assistance to rural natural resources impact areas. [1995 c 226 § 10; 1993 c 280 § 51; 1991 c 314 § 9.]

Sunset Act application: See note following RCW 43.31.601.

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.800 State international trade fairs—"Director" defined. "Director" as used in RCW *43.31.790 through 43.31.850 and 67.16.100 means the director of community, trade, and economic development. [1993 c 280 § 52; 1987 c 195 § 4; 1965 c 148 § 2.]

***Reviser's note:** RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

43.31.810 State international trade fairs—State aid eligibility requirements. For the purposes of *RCW 43.31.790 through 43.31.850 and 67.16.100, as now or hereafter amended, state international trade fair organizations, to be eligible for state financial aid hereunder (1) must have had at least two or more years of experience in the presentation of or participation in state international trade fairs, whether held in this state, another state or territory of the United States or a foreign country, however these need not be consecutive years; (2) must be able to provide, from its own resources derived from general admission or otherwise, funds sufficient to match at least one-half the amount of state financial aid allotted. [1987 c 195 § 5; 1975 1st ex.s. c 292 § 3; 1965 c 148 § 3.]

***Reviser's note:** RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.820 State international trade fairs—Application for funds. The board of trustees of any state international trade fair sponsored by any public agency, qualifying under the provisions of *RCW 43.31.790 through 43.31.850 and 67.16.100, as now or hereafter amended, may apply to the director for moneys to carry on the continued development as well as the operation of said fair, said money to be appropriated from the state trade fair fund as provided for in RCW 67.16.100, as now or hereafter amended. [1987 c 195 § 6; 1975 1st ex.s. c 292 § 4; 1965 c 148 § 4.]

***Reviser's note:** RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.830 State international trade fairs—Certification of fairs—Allotments—Division and payment from state trade fair fund. (1) It shall be the duty of the director of community, trade, and economic development to certify, from the applications received, the state international trade fair or fairs qualified and entitled to receive funds

under RCW 67.16.100, and under rules established by the director.

(2) The director shall make annual allotments to state international trade fairs determined qualified to be entitled to participate in the state trade fair fund and shall fix times for the division of and payment from the state trade fair fund: PROVIDED, That total payment to any one state international trade fair shall not exceed sixty thousand dollars in any one year, where participation or presentation occurs within the United States, and eighty thousand dollars in any one year, where participation or presentation occurs outside the United States: PROVIDED FURTHER, That a state international trade fair may qualify for the full allotment of funds under either category. Upon certification of the allotment and division of fair funds by the director the treasurer shall proceed to pay the same to carry out the purposes of RCW 67.16.100. [1993 c 280 § 53; 1987 c 195 § 7; 1975 1st ex.s. c 292 § 5; 1965 c 148 § 5.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

43.31.832 State trade fairs—Transfer of surplus funds in state trade fair fund to general fund—Expenditure. Funds determined to be surplus funds by the director may be transferred from the state trade fair fund to the general fund upon the recommendation of the director and the state treasurer: PROVIDED, That the director may also elect to expend up to one million dollars of such surplus on foreign trade related activities, including, but not limited to, promotion of investment, tourism, and foreign trade. [1985 c 466 § 34; 1981 2nd ex.s. c 2 § 1; 1975 1st ex.s. c 292 § 8; 1972 ex.s. c 93 § 2.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

State trade fair fund: RCW 67.16.100.

43.31.833 State trade fairs—Transfer of surplus funds in state trade fair fund to general fund—Construction. RCW 43.31.832 through 43.31.834 shall not be construed to interfere with the state financial aid made available under the provisions of *RCW 43.31.790 through 43.31.850 regardless of whether such aid was made available before or after May 23, 1972. [1987 c 195 § 8; 1985 c 466 § 35; 1972 ex.s. c 93 § 3.]

***Reviser's note:** RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

43.31.834 State trade fairs—Transfer of surplus funds in state trade fair fund to general fund—Construction. RCW 43.31.832 through 43.31.834 shall be construed to supersede any provision of existing law to the contrary. [1985 c 466 § 36; 1972 ex.s. c 93 § 4.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

43.31.840 State international trade fairs—Post audit of participating fairs—Reports. The director of community, trade, and economic development shall at the end of each year for which an annual allotment has been made, conduct

a post audit of all of the books and records of each state international trade fair participating in the state trade fair fund. The purpose of such post audit shall be to determine how and to what extent each participating state international trade fair has expended all of its funds.

The audit required by this section shall be a condition to future allotments of money from the state international trade fair fund, and the director shall make a report of the findings of each post audit and shall use such report as a consideration in an application for any future allocations. [1993 c 280 § 54; 1975 1st ex.s. c 292 § 6; 1965 c 148 § 6.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

43.31.850 State international trade fairs—State international trade fair defined. State international trade fair as used in *RCW 43.31.790 through 43.31.840 and 67.16.100, as now or hereafter amended, shall mean a fair supported by public agencies basically for the purpose of introducing and promoting the sale of manufactured or cultural products and services of a given area, whether presented in this state, the United States or its territories, or in a foreign country. [1987 c 195 § 9; 1975 1st ex.s. c 292 § 7; 1965 c 148 § 8.]

***Reviser's note:** RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.942 Bond anticipation notes—Pacific Northwest festival facility construction account created—Deposit of proceeds from bonds and notes.

Reviser's note: RCW 43.31.942 was amended by 1985 c 57 § 30 without reference to its repeal by 1985 c 466 § 76, effective June 30, 1985. It has been decodified for publication purposes pursuant to RCW 1.12.025.

43.31.956 General obligation bonds—Authorized—Issuance, sale, terms, conditions, etc.—Appropriation required—Pledge and promise—Seal. For the purpose of providing matching funds for the planning, design, construction, renovation, furnishing, and landscaping of a regionally based performing arts facility, to be known as "the Washington center for the performing arts" facility located in Thurston county within the area of the city of Olympia, and for the purpose of providing matching funds for the restoration and renovation of "the Pantages theatre" facility located in Pierce county within the area of the city of Tacoma, the state finance committee is directed and authorized to issue general obligation bonds of the state of Washington in the sum of three million dollars, or so much thereof as may be required to finance that portion of the grant by the state for the projects as provided by law: PROVIDED, That one million five hundred thousand dollars shall be allocated for the Washington center for the performing arts, to be built or renovated on real estate provided by the city of Olympia as a performing arts recreational facility for the people of the state of Washington: AND PROVIDED FURTHER, That one million five hundred thousand dollars shall be allocated for the renovation and restoration of the "Pantages theatre" as a performing arts recreational facility for the people of the state of Washington.

No bonds may be issued for the Washington center for the performing arts unless matching funds are provided or secured from the federal government, private sources, or any [Title 43 RCW—page 192]

other sources available including funds available pursuant to chapter 67.28 RCW in the amount of one million five hundred thousand dollars for the Washington center for the performing arts and the city of Olympia provides real estate for the site of the facility.

No bonds may be issued for the Pantages theatre unless matching funds are provided or secured from the federal government, private sources, or any other sources available including funds available pursuant to chapter 67.28 RCW in the amount of one million five hundred thousand dollars for the Pantages theatre.

No bonds authorized by this section shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

The state finance committee is authorized to prescribe the form of the bonds, the time of sale of all or any portion or portions of the bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1981 c 244 § 1; 1979 ex.s. c 260 § 1.]

Severability—1979 ex.s. c 260: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 260 § 7.]

43.31.960 Administration of proceeds. The principal proceeds from the sale of the bonds authorized in RCW 43.31.956 shall be administered by the director of community, trade, and economic development. [1995 c 399 § 72; 1987 c 195 § 10; 1979 ex.s. c 260 § 3.]

Severability—1979 ex.s. c 260: See note following RCW 43.31.956.

43.31.962 Retirement of bonds from cultural facilities bond redemption fund of 1979—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders. The cultural facilities bond redemption fund of 1979, hereby created in the state treasury, shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.31.956 and *43.31.958. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury an amount equal to the amount certified by the state finance committee to be due on such payment date and deposit the same in the cultural facilities bond redemption fund of 1979.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess. and becomes effective by statute prior to the issuance of any of the bonds authorized by RCW 43.31.956

through 43.31.964, the state general obligation bond retirement fund shall be used for purposes of RCW 43.31.956 through 43.31.964 in lieu of the cultural facilities bond redemption fund of 1979, and the cultural facilities bond redemption fund of 1979 shall cease to exist.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed by this section. [1979 ex.s. c 260 § 4.]

***Reviser's note:** RCW 43.31.958 was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

Severability—1979 ex.s. c 260: See note following RCW 43.31.956. *State general obligation bond retirement fund:* RCW 43.83.160.

43.31.964 Bonds legal investment for public funds.

The bonds authorized by RCW 43.31.956 shall be a legal investment for all state funds under state control and all funds of municipal corporations. [1979 ex.s. c 260 § 5.]

Severability—1979 ex.s. c 260: See note following RCW 43.31.956.

Chapter 43.31A

ECONOMIC ASSISTANCE ACT OF 1972

Sections

43.31A.400 Economic assistance authority abolished—Transfer of duties to department of revenue.

43.31A.400 Economic assistance authority abolished—Transfer of duties to department of revenue. The economic assistance authority established by section 2, chapter 117, Laws of 1972 ex. sess. as amended by section 111, chapter 34, Laws of 1975-'76 2nd ex. sess. is abolished, effective June 30, 1982. Any remaining duties of the economic assistance authority are transferred to the department of revenue on that date. The public facilities construction loan and grant revolving account within the state treasury is continued to service the economic assistance authority's loans. [1991 sp.s. c 13 § 27; 1981 c 76 § 4.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Review—Report—1981 c 76: "The economic assistance authority shall be reviewed and analyzed during the interim between the 1981 and 1982 legislative sessions by the ways and means committees of the house of representatives and senate and a report shall be presented, with any recommendations, to the forty-seventh legislature which convenes in January 1, 1982." [1981 c 76 § 3.]

Savings—1981 c 76: "This act does not affect any duty owed by a taxpayer, political subdivision of the state, or Indian tribe under the statutes repealed under section 6 of this act. The duties owed shall be administered as if the laws in section 6 of this act were not repealed. New investment tax deferral certificates under chapter 43.31A RCW shall not be issued on or after June 30, 1982. The deferral of taxes and the repayment schedules under tax deferral certificates issued before June 30, 1982, are not affected." [1981 c 76 § 7.]

Reviser's note: "Section 6 of this act" repealed, effective June 30, 1982, the following sections: RCW 43.31A.010, 43.31A.020, 43.31A.030, 43.31A.040, 43.31A.050, 43.31A.060, 43.31A.070, 43.31A.080, 43.31A.090, 43.31A.100, 43.31A.140, 43.31A.150, 43.31A.200, 43.31A.210, 43.31A.220, 43.31A.230, 43.31A.240, 43.31A.250, 43.31A.260, 43.31A.270, 43.31A.280, 43.31A.290, 43.31A.300, 43.31A.310, 43.31A.330, 43.31A.900, and 43.31A.920.

Severability—1981 c 76: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of

the act or the application of the provision to other persons or circumstances is not affected." [1981 c 76 § 8.]

Effective dates—1981 c 76: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions. Sections 1 and 2 of this act shall take effect March 1, 1981. Section 3 of this act shall take effect May 1, 1981. Sections 4, 5, 6, and 7 of this act shall take effect June 30, 1982." [1981 c 76 § 9.] Sections 1, 2, and 5 consist of the 1981 c 76 amendments to RCW 43.31A.130, 43.31A.140, and 43.31A.110, respectively; sections 3 and 7 are noted above; section 4 consists of the enactment of RCW 43.31A.400; and section 6 is a repealer (see reviser's note above).

Chapter 43.32

COUNTY ROADS DESIGN STANDARDS

(Formerly: Design standards committee)

Sections

43.32.010 Composition of committee.
43.32.020 Duties of committee.

43.32.010 Composition of committee. There is created a state design standards committee of seven members, six of which shall be appointed by the executive committee of the Washington state association of counties to hold office at its pleasure and the seventh to be the state aid engineer for the department of transportation. The members to be appointed by the executive committee of the Washington state association of counties shall be restricted to the membership of such association or to those holding the office and/or performing the functions of county engineer in any of the several counties of the state. [1982 c 145 § 4; 1971 ex.s. c 85 § 6; 1965 c 8 § 43.32.010. Prior: 1949 c 165 § 2; RRS § 6450-8.]

Design standards committee for arterial streets: Chapter 35.78 RCW.

43.32.020 Duties of committee. On or before January 1, 1950, and from time to time thereafter the design standards committee shall adopt uniform design standards for the county primary road systems. [1965 c 8 § 43.32.020. Prior: 1949 c 165 § 3; RRS § 6450-8.]

Design standards for county roads and bridges: Chapter 36.86 RCW.

Chapter 43.33

STATE FINANCE COMMITTEE

Sections

43.33.010 Composition of committee.
43.33.022 Washington public deposit protection commission, state finance committee constitutes, powers, duties and functions.
43.33.030 Records—Administrative and clerical assistance.
43.33.040 Rules and regulations—Chairman.
43.33.130 Reports of debt management activities.

Acquisition of highway property in advance of programmed construction, committee duties relating to: Chapter 47.12 RCW.

Bonds, notes and other evidences of indebtedness, finance committee duties: Chapter 39.42 RCW.

Committee created: RCW 43.17.070.

County funds, surplus, investment: RCW 36.33.180.

County held United States bonds, disposal: RCW 36.33.190.

Fiscal agencies: Chapter 43.80 RCW.

Industrial insurance, investments: RCW 51.44.100.

Intoxicating liquor warehouses, acquisition: RCW 66.08.160.

State depositaries: Chapter 43.85 RCW.

State investment board: Chapter 43.33A RCW.

Washington State University Tree Fruit Research Center office-laboratory facility, financing, finance committee powers and duties: RCW 28B.30.600 through 28B.30.620.

43.33.010 Composition of committee. The state treasurer, the lieutenant governor, and the governor, ex officio, shall constitute the state finance committee. [1965 c 8 § 43.33.010. Prior: 1961 c 300 § 2; 1921 c 7 § 6, part; RRS § 10764, part.]

43.33.022 Washington public deposit protection commission, state finance committee constitutes, powers, duties and functions. See chapter 39.58 RCW.

43.33.030 Records—Administrative and clerical assistance. The state finance committee shall keep a full and complete public record of its proceedings in appropriate books of record.

The state treasurer shall provide administrative and clerical assistance for the state finance committee. [1981 c 3 § 24; 1965 c 8 § 43.33.030. Prior: 1961 c 300 § 4; 1907 c 12 § 2; RRS § 5537.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33.040 Rules and regulations—Chairman. The state finance committee may make appropriate rules and regulations for the performance of its duties. The state treasurer shall act as chairman of the committee. [1965 c 8 § 43.33.040. Prior: 1907 c 12 § 3; RRS § 5538.]

43.33.130 Reports of debt management activities. The state finance committee shall prepare written reports at least annually summarizing the debt management activities of the finance committee, which reports shall be sent to the governor, to the senate ways and means committee, the house appropriations committee, agencies having a direct financial interest in the issuance and sale of bonds by the committee, and to other persons on written request. [1981 c 3 § 25; 1977 ex.s. c 251 § 10.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Chapter 43.33A

STATE INVESTMENT BOARD

Sections

- 43.33A.010 General powers and duties.
- 43.33A.020 Board created—Membership—Terms—Vacancies—Removal.
- 43.33A.030 Trusteeship of funds—Contracts—Delegation of powers and duties.
- 43.33A.040 Quorum—Meetings—Chairperson—Vice chairperson.
- 43.33A.050 Compensation of members—Travel expenses.
- 43.33A.060 Employment restrictions.
- 43.33A.070 Liability of members.
- 43.33A.080 Investment of funds in farm, soil, water conservation loans and in Washington land bank.
- 43.33A.090 Records.
- 43.33A.100 Offices—Personnel—Officers—Compensation—Transfer of employees—Existing contracts and obligations.

- 43.33A.110 Rules and regulations—Investment policies and procedures.
- 43.33A.120 Examination of accounts, files, and other records.
- 43.33A.130 Securities—State treasurer may cause same to be registered in the name of the nominee.
- 43.33A.140 Investments—Standard of judgment and care.
- 43.33A.150 Reports of investment activities.
- 43.33A.160 Funding of board—State investment board expense account.
- 43.33A.170 State investment board commingled trust fund—Participation of funds in investments of board.
- 43.33A.180 Investment accounting—Transfer of functions and duties from state treasurer's office.
- 43.33A.190 Self-directed investment—Board may offer options.

43.33A.010 General powers and duties. The state investment board shall exercise all the powers and perform all duties prescribed by law with respect to the investment of public trust and retirement funds. [1981 c 3 § 1.]

Effective dates—1981 c 3: "Sections 2, 4, 5, 6, 7, 10, 11, 16, and 47 of this 1980 act shall take effect on July 1, 1980. The remaining sections of this 1980 act shall take effect on July 1, 1981." [1981 c 3 § 46.]

Reviser's note: Substitute House Bill No. 1610 was enacted during the 1980 legislative session, but was vetoed. The veto was overridden by the legislature as follows: Passed the House of Representatives on January 30, 1981; passed the Senate on February 6, 1981. The bill became chapter 3, Laws of 1981.

Severability—1981 c 3: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 3 § 49.]

43.33A.020 Board created—Membership—Terms—Vacancies—Removal. There is hereby created the state investment board to consist of fourteen members to be appointed as provided in this section.

(1) One member who is an active member of the public employees' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be one year.

(2) One member who is an active member of the law enforcement officers' and fire fighters' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be two years.

(3) One member who is an active member of the teachers' retirement system and has been an active member for at least five years. This member shall be appointed by the superintendent of public instruction subject to confirmation by the senate. The initial term of appointment shall be three years.

(4) The state treasurer or the assistant state treasurer if designated by the state treasurer.

(5) A member of the state house of representatives. This member shall be appointed by the speaker of the house of representatives.

(6) A member of the state senate. This member shall be appointed by the president of the senate.

(7) One member who is a retired member of a state retirement system shall be appointed by the governor, subject

to confirmation by the senate. The initial term of appointment shall be three years.

(8) The director of the department of labor and industries.

(9) The director of the department of retirement systems.

(10) Five nonvoting members appointed by the state investment board who are considered experienced and qualified in the field of investments.

The legislative members shall serve terms of two years. The initial legislative members appointed to the board shall be appointed no sooner than January 10, 1983. The position of a legislative member on the board shall become vacant at the end of that member's term on the board or whenever the member ceases to be a member of the senate or house of representatives from which the member was appointed.

After the initial term of appointment, all other members of the state investment board, except ex officio members, shall serve terms of three years and shall hold office until successors are appointed. Members' terms, except for ex officio members, shall commence on January 1 of the year in which the appointments are made.

Members may be reappointed for additional terms. Appointments for vacancies shall be made for the unexpired terms in the same manner as the original appointments. Any member may be removed from the board for cause by the member's respective appointing authority. [1985 c 195 § 1; 1981 c 219 § 1; 1981 c 3 § 2.]

Effective dates—1981 c 219: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [May 14, 1981], except sections 1 and 2 of this act shall take effect July 1, 1981." [1981 c 219 § 6.] Sections 1 and 2 of this act are the 1981 c 219 amendments to RCW 43.33A.020 and 43.33A.040, respectively.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.030 Trusteeship of funds—Contracts—Delegation of powers and duties. Trusteeship of those funds under the authority of the board is vested in the voting members of the board. The nonvoting members of the board shall advise the voting members on matters of investment policy and practices.

The board may enter into contracts necessary to carry out its powers and duties. The board may delegate any of its powers and duties to its executive director as deemed necessary for efficient administration and when consistent with the purposes of *this 1980 act. [1981 c 3 § 3.]

***Reviser's note:** "This 1980 act" consists of the enactment of this chapter; the 1981 c 3 amendments to RCW 2.10.080, 2.12.070, 41.24.030, 41.26.060, 41.26.070, 41.32.207, 41.40.072, 41.40.075, 41.40.080, 41.50.050, 41.50.080, 43.31.300, 43.33.030, 43.33.130, 43.43.170, 43.43.175, 43.84.031, 43.84.080, 43.84.140, 43.84.150, 43.84.170, 47.12.210, 47.58.070, 47.60.100, 51.44.100, 73.12.060, 77.12.323; the repeal of RCW 43.33.020, 43.33.025, 43.33.050, 43.33.060, 43.33.070, 43.33.080, 43.33.090, 43.33.110, 43.33.120; and effective dates and construction sections footnoted after RCW 2.10.080 and 43.33A.010.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.040 Quorum—Meetings—Chairperson—Vice chairperson. (1) A quorum to conduct the business of the state investment board consists of at least four voting

members of the board before January 10, 1983, and five voting members thereafter. No action may be taken by the board without the affirmative vote of four members before January 10, 1983, and five members thereafter.

(2) The state investment board shall meet at least quarterly at such times as it may fix. The board shall elect a chairperson and vice chairperson annually: PROVIDED, That the legislative members are not eligible to serve as chairperson. [1981 c 219 § 2; 1981 c 3 § 4.]

Effective dates—1981 c 219: See note following RCW 43.33A.020.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.050 Compensation of members—Travel expenses. Members of the state investment board who are public employees shall serve without compensation but shall suffer no loss because of absence from their regular employment. Members of the board who are not public employees shall be compensated in accordance with RCW 43.03.240. Members of the board who are not legislators shall be reimbursed for travel expenses incurred in the performance of their duties as provided in RCW 43.03.050 and 43.03.060. Legislative members shall receive allowances provided for in RCW 44.04.120. [1984 c 287 § 80; 1981 c 3 § 5.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.060 Employment restrictions. No member during the term of appointment may be employed by any investment brokerage or mortgage servicing firm doing business with the state investment board. A trust department of a commercial bank or trust company organized under federal or state law is not considered a mortgage servicing firm for purposes of this section. [1981 c 3 § 6.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.070 Liability of members. No member of the state investment board is liable for the negligence, default, or failure of any other person or other member of the board to perform the duties of the member's office and no member of the board shall be considered or held to be an insurer of the funds or assets of any of the trust and retirement funds nor is any nonvoting member liable for actions performed with the exercise of reasonable diligence within the scope of the member's authorized activities as a member of the board. [1981 c 3 § 7.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.080 Investment of funds in farm, soil, water conservation loans and in Washington land bank. The state investment board may invest those funds which are not under constitutional prohibition in: (1) Farm ownership and soil and water conservation loans fully guaranteed as to principal and interest under the Bankhead-Jones farm tenant act administered by the United States department of agriculture; and (2) the Washington land bank established by chapter 31.30 RCW. [1987 c 29 § 2; 1981 c 3 § 8.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.090 Records. The state investment board shall keep a full and complete public record of its proceedings in appropriate books of record. Within sixty days of July 1, 1981, the state investment board shall assume physical custody of all investment accounts, files, and other records of each fund placed under the investment authority of the board. [1981 c 3 § 9.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.100 Offices—Personnel—Officers—Compensation—Transfer of employees—Existing contracts and obligations. The state investment board shall maintain appropriate offices and employ such personnel as may be necessary to perform its duties. Employment by the investment board shall include but not be limited to an executive director, investment officers, and a confidential secretary, which positions are exempt from classified service under chapter 41.06 RCW. Employment of the executive director by the board shall be for a term of three years, and such employment shall be subject to confirmation of the state finance committee: PROVIDED, That nothing shall prevent the board from dismissing the director for cause before the expiration of the term nor shall anything prohibit the board, with the confirmation of the state finance committee, from employing the same individual as director in succeeding terms. Compensation levels for the investment officers employed by the investment board shall be established by the Washington personnel resources board.

As of July 1, 1981, all employees classified under chapter 41.06 RCW and engaged in duties assumed by the state investment board on July 1, 1981, are assigned to the state investment board. The transfer shall not diminish any rights granted these employees under chapter 41.06 RCW nor exempt the employees from any action which may occur thereafter in accordance with chapter 41.06 RCW.

All existing contracts and obligations pertaining to the functions transferred to the state investment board in *this 1980 act shall remain in full force and effect, and shall be performed by the board. None of the transfers directed by *this 1980 act shall affect the validity of any act performed by a state entity or by any official or employee thereof prior to July 1, 1981. [1993 c 281 § 50; 1981 c 219 § 3; 1981 c 3 § 10.]

***Reviser's note:** For "this 1980 act," see note following RCW 43.33A.030.

Effective date—1993 c 281: See note following RCW 41.06.022.

Effective dates—1981 c 219: See note following RCW 43.33A.020.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.110 Rules and regulations—Investment policies and procedures. The state investment board may make appropriate rules and regulations for the performance of its duties. The board shall establish investment policies and procedures designed exclusively to maximize return at a prudent level of risk. However, in the case of the department of labor and industries' accident, medical aid, and reserve funds, the board shall establish investment policies

and procedures designed to attempt to limit fluctuations in industrial insurance premiums and, subject to this purpose, to maximize return at a prudent level of risk. The board shall adopt rules to ensure that its members perform their functions in compliance with chapter 42.52 RCW. Rules adopted by the board shall be adopted pursuant to chapter 34.05 RCW. [1994 c 154 § 310; 1989 c 179 § 1; 1988 c 130 § 1; 1981 c 219 § 4; 1981 c 3 § 11.]

Parts and captions not law—Effective date—Severability—1994 c 154: See RCW 42.52.902, 42.52.904, and 42.52.905.

Effective dates—1981 c 219: See note following RCW 43.33A.020.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.120 Examination of accounts, files, and other records. All accounts, files, and other records of the state investment board which pertain to each retirement system are subject at any time or from time to time to such reasonable periodic, special, or other examinations by the department of retirement systems as the director of the department of retirement systems deems necessary or appropriate. [1981 c 3 § 12.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.130 Securities—State treasurer may cause same to be registered in the name of the nominee. The state treasurer may cause any securities in which the state investment board deals to be registered in the name of a nominee without mention of any fiduciary relationship, except that adequate records shall be maintained to identify the actual owner of the security so registered. The securities so registered shall be held in the physical custody of the state treasurer, the federal reserve system, the designee of the state treasurer, or, at the election of the designee and upon approval of the state treasurer, the Depository Trust Company of New York City or its designees.

With respect to the securities, the nominee shall act only upon the order of the state treasurer who shall act only on the direction of the state investment board. All rights to the dividends, interest, and sale proceeds from the securities and all voting rights of the securities are vested in the actual owners of the securities, and not in the nominee. [1981 c 3 § 13.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.140 Investments—Standard of judgment and care. Any investments made by the state investment board shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. [1981 c 3 § 14.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.150 Reports of investment activities. (1) The state investment board shall prepare written reports at least

quarterly summarizing the investment activities of the state investment board, which reports shall be sent to the governor, the senate ways and means committee, the house appropriations committee, the department of retirement systems, and other agencies having a direct financial interest in the investment of funds by the board, and to other persons on written request. The state investment board shall provide information to the department of retirement systems necessary for the preparation of monthly reports.

(2) At least annually, the board shall report on the board's investment activities for the department of labor and industries' accident, medical aid, and reserve funds to the senate financial institutions and insurance committee, the senate economic development and labor committee, and the house commerce and labor committee, or appropriate successor committees. [1989 c 179 § 2; 1981 c 3 § 15.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.160 Funding of board—State investment board expense account. (1) The state investment board shall be funded from the earnings of the funds managed by the state investment board, proportional to the value of the assets of each fund, subject to legislative appropriation.

(2) There is established in the state treasury a state investment board expense account from which shall be paid the operating expenses of the state investment board. Prior to November 1 of each even-numbered year, the state investment board shall determine and certify to the state treasurer and the office of financial management the value of the various funds managed by the investment board in order to determine the proportional liability of the funds for the operating expenses of the state investment board. Pursuant to appropriation, the state treasurer is authorized to transfer such moneys from the various funds managed by the investment board to the state investment board expense account as are necessary to pay the operating expenses of the investment board. [1991 sp.s. c 13 § 32; 1985 c 57 § 32; 1982 c 10 § 10. Prior: 1981 c 242 § 1; 1981 c 219 § 5; 1981 c 3 § 16.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1982 c 10: See note following RCW 6.13.080.

Effective dates—1981 c 242: See note following RCW 43.79.330.

Effective dates—1981 c 219: See note following RCW 43.33A.020.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.170 State investment board commingled trust fund—Participation of funds in investments of board. There is established in the state treasury the state investment board commingled trust fund. At the discretion of the state investment board, the funds under the jurisdiction of the board may participate in the investments made by the board through the state investment board commingled trust fund. The state investment board may establish accounts within the commingled trust fund as necessary for the implementation of specific investment programs. [1982 c 58 § 1.]

43.33A.180 Investment accounting—Transfer of functions and duties from state treasurer's office. The state investment board shall account for and report on the investments authorized by this chapter in the manner prescribed by the office of financial management under chapter 43.88 RCW.

After approval of the director of financial management, all positions, reports, documents, and office equipment along with any appropriation necessary for carrying out the functions and duties transferred shall, on July 1, 1992, be transferred from the state treasurer's office to the state investment board. All employees assigned to such classified positions to be transferred, are assigned, without any loss of rights, to the state investment board. [1992 c 232 § 905.]

Severability—1992 c 232: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 232 § 911.]

43.33A.190 Self-directed investment—Board may offer options. Pursuant to RCW 41.50.088, the state investment board, at the request of the employee retirement benefits board, is authorized to offer investment options for self-directed investment under plan III. [1995 c 239 § 321.]

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Effective date—Part and subchapter headings not law—1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until July 1, 1996: RCW 41.34.100.

Chapter 43.34 CAPITOL COMMITTEE

Sections

- 43.34.010 Composition of committee.
- 43.34.015 Secretary of committee—Committee records.
- 43.34.040 Buildings—Erection—Improvements.
- 43.34.080 Capitol campus design advisory committee—Generally.

Capitol building lands: Chapter 79.24 RCW.

Committee created: RCW 43.17.070.

East capitol site, powers and duties concerning: RCW 79.24.500.

Housing for state offices, duties: RCW 43.82.010.

43.34.010 Composition of committee. The governor or the governor's designee, the lieutenant governor, and the commissioner of public lands, ex officio, shall constitute the state capitol committee. [1979 ex.s. c 57 § 10; 1965 c 8 § 43.34.010. Prior: 1961 c 300 § 5; 1921 c 7 § 8; RRS § 10766.]

43.34.015 Secretary of committee—Committee records. The commissioner of public lands shall be the secretary of the state capitol committee, but the committee may appoint a suitable person as acting secretary thereof, and fix his compensation: PROVIDED, That all records of the committee shall be filed in the office of the commissioner of public lands. [1965 c 8 § 43.34.015. Prior: 1959 c 257 § 45; 1909 c 69 § 1; RRS § 7897. Formerly RCW 79.24.080.]

43.34.040 Buildings—Erection—Improvements. The state capitol committee may erect one or more perma-

ment buildings; one or more temporary buildings; excavate or partially excavate for any such building or buildings; partially erect any such building or buildings; make other temporary or permanent improvements wholly or in part; upon the capitol grounds belonging to the state and known as the "Sylvester site" or "Capitol place" in Olympia, Washington. [1965 c 8 § 43.34.040. Prior: 1933 ex.s. c 34 § 1; RRS § 7915-1.]

43.34.080 Capitol campus design advisory committee—Generally. (1) The capitol campus design advisory committee is established as an advisory group to the capitol committee and the director of general administration to review programs, planning, design, and landscaping of state capitol facilities and grounds and to make recommendations that will contribute to the attainment of architectural, aesthetic, functional, and environmental excellence in design and maintenance of capitol facilities on campus and located in neighboring communities.

(2) The advisory committee shall consist of the following persons who shall be appointed by and serve at the pleasure of the governor:

- (a) Two architects;
- (b) A landscape architect; and
- (c) An urban planner.

The governor shall appoint the chair and vice-chair and shall instruct the director of general administration to provide the staff and resources necessary for implementing this section. The advisory committee shall meet at least once every ninety days and at the call of the chair.

The members of the committee shall be reimbursed as provided in RCW 43.03.220 and 44.04.120.

(3) The advisory committee shall also consist of the secretary of state and two members of the house of representatives, one from each caucus, who shall be appointed by the speaker of the house of representatives, and two members of the senate, one from each caucus, who shall be appointed by the president of the senate.

(4) The advisory committee shall review plans and designs affecting state capitol facilities as they are developed. The advisory committee's review shall include:

- (a) The process of solicitation and selection of appropriate professional design services including design-build proposals;
- (b) Compliance with the capitol campus master plan and design concepts as adopted by the capitol committee;
- (c) The design, siting, and grouping of state capitol facilities relative to the service needs of state government and the impact upon the local community's economy, environment, traffic patterns, and other factors;
- (d) The relationship of overall state capitol facility planning to the respective comprehensive plans for long-range urban development of the cities of Olympia, Lacey, and Tumwater, and Thurston county; and
- (e) Landscaping plans and designs, including planting proposals, street furniture, sculpture, monuments, and access to the capitol campus and buildings. [1990 c 93 § 1.]

Chapter 43.37

WEATHER MODIFICATION

Sections

43.37.010	Definitions.
43.37.030	Powers and duties.
43.37.040	Promotion of research and development activities— Contracts and agreements.
43.37.050	Hearing procedure.
43.37.060	Acceptance of gifts, donations, etc.
43.37.080	License and permit required.
43.37.090	Exemptions.
43.37.100	Licenses—Requirements, duration, renewal, fees.
43.37.110	Permits—Requirements—Hearing as to issuance.
43.37.120	Separate permit for each operation—Filing and publishing notice of intention—Activities restricted by permit and notice.
43.37.130	Notice of intention—Contents.
43.37.140	Notice of intention—Publication.
43.37.150	Financial responsibility.
43.37.160	Fees—Sanctions for failure to pay.
43.37.170	Records and reports—Open to public examination.
43.37.180	Revocation, suspension, modification of license or permit.
43.37.190	Liability of state denied—Legal rights of private persons not affected.
43.37.200	Penalty.
43.37.210	Legislative declaration.
43.37.215	Program of emergency cloud seeding authorized.
43.37.220	Exemption of licensee from certain requirements.
43.37.910	Effective date—1973 c 64.

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

- (1) "Department" means the department of ecology;
- (2) "Operation" means the performance of weather modification and control activities pursuant to a single contract entered into for the purpose of producing or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding one year; or, in case the performance of weather modification and control activities is to be undertaken individually or jointly by a person or persons to be benefited and not undertaken pursuant to a contract, "operation" means the performance of weather modification and control activities entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding one year;
- (3) "Research and development" means theoretical analysis exploration and experimentation, and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes;
- (4) "Weather modification and control" means changing or controlling, or attempting to change or control, by artificial methods, the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere. [1973 c 64 § 1; 1965 c 8 § 43.37.010. Prior: 1957 c 245 § 1.]

43.37.030 Powers and duties. In the performance of its functions the department may, in addition to any other acts authorized by law:

(1) Establish advisory committees to advise with and make recommendations to the department concerning legislation, policies, administration, research, and other matters;

(2) Establish by regulation or order such standards and instructions to govern the carrying out of research or projects in weather modification and control as the department may deem necessary or desirable to minimize danger to health or property; and make such rules and regulations as are necessary in the performance of its powers and duties;

(3) Make such studies, investigations, obtain such information, and hold such hearings as the department may deem necessary or proper to assist it in exercising its authority or in the administration or enforcement of this chapter or any regulations or orders issued thereunder;

(4) Appoint and fix the compensation of such personnel, including specialists and consultants, as are necessary to perform its duties and functions;

(5) Acquire, in the manner provided by law, such materials, equipment, and facilities as are necessary to perform its duties and functions;

(6) Cooperate with public or private agencies in the performance of the department's functions or duties and in furtherance of the purposes of this chapter;

(7) Represent the state in any and all matters pertaining to plans, procedures, or negotiations for interstate compacts relating to weather modification and control. [1973 c 64 § 2; 1965 c 8 § 43.37.030. Prior: 1957 c 245 § 3.]

43.37.040 Promotion of research and development activities—Contracts and agreements. The department shall exercise its powers in such manner as to promote the continued conduct of research and development activities in the fields specified below by private or public institutions or persons and to assist in the acquisition of an expanding fund of theoretical and practical knowledge in such fields. To this end the department may conduct, and make arrangements, including contracts and agreements, for the conduct of, research and development activities relating to:

(1) The theory and development of methods of weather modification and control, including processes, materials, and devices related thereto;

(2) Utilization of weather modification and control for agricultural, industrial, commercial, and other purposes;

(3) The protection of life and property during research and operational activities. [1973 c 64 § 3; 1965 c 8 § 43.37.040. Prior: 1957 c 245 § 4.]

43.37.050 Hearing procedure. In the case of hearings pursuant to RCW 43.37.180 the department shall, and in other cases may, cause a record of the proceedings to be taken and filed with the department, together with its findings and conclusions. For any hearing, the director of the department or a representative designated by him is authorized to administer oaths and affirmations, examine witnesses, and issue, in the name of the department, notice of the hearing or subpoenas requiring any person to appear and testify, or to appear and produce documents, or both, at any designated place. [1973 c 64 § 4; 1965 c 8 § 43.37.050. Prior: 1957 c 245 § 5.]

43.37.060 Acceptance of gifts, donations, etc. (1) The department may, subject to any limitations otherwise imposed by law, receive and accept for and in the name of the state any funds which may be offered or become available from federal grants or appropriations, private gifts, donations, or bequests, or any other source, and may expend such funds, subject to any limitations otherwise provided by law, for the encouragement of research and development by a state, public, or private agency, either by direct grant, by contract or other cooperative means.

(2) All license and permit fees paid to the department shall be deposited in the state general fund. [1973 c 64 § 5; 1965 c 8 § 43.37.060. Prior: 1957 c 245 § 6.]

43.37.080 License and permit required. Except as provided in RCW 43.37.090, no person shall engage in activities for weather modification and control except under and in accordance with a license and a permit issued by the department authorizing such activities. [1973 c 64 § 6; 1965 c 8 § 43.37.080. Prior: 1957 c 245 § 8.]

43.37.090 Exemptions. The department, to the extent it deems practical, shall provide by regulation for exempting from license, permit, and liability requirements, (1) research and development and experiments by state and federal agencies, institutions of higher learning, and bona fide nonprofit research organizations; (2) laboratory research and experiments; (3) activities of an emergent character for protection against fire, frost, sleet, or fog; and (4) activities normally engaged in for purposes other than those of inducing, increasing, decreasing, or preventing precipitation or hail. [1973 c 64 § 7; 1965 c 8 § 43.37.090. Prior: 1957 c 245 § 9.]

43.37.100 Licenses—Requirements, duration, renewal, fees. (1) Licenses to engage in activities for weather modification and control shall be issued to applicants therefor who pay the license fee required and who demonstrate competence in the field of meteorology to the satisfaction of the department, reasonably necessary to engage in activities for weather modification and control. If the applicant is an organization, these requirements must be met by the individual or individuals who will be in control and in charge of the operation for the applicant.

(2) The department shall issue licenses in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this chapter. Each license shall be issued for a period to expire at the end of the calendar year in which it is issued and, if the licensee possesses the qualifications necessary for the issuance of a new license, shall upon application be renewed at the expiration of such period. A license shall be issued or renewed only upon the payment to the department of one hundred dollars for the license or renewal thereof. [1973 c 64 § 8; 1965 c 8 § 43.37.100. Prior: 1957 c 245 § 10.]

43.37.110 Permits—Requirements—Hearing as to issuance. The department shall issue permits in accordance with such procedures and subject to such conditions as it

may by regulation establish to effectuate the provisions of this chapter only:

- (1) If the applicant is licensed pursuant to this chapter;
- (2) If a sufficient notice of intention is published and proof of publication is filed as required by RCW 43.37.140;
- (3) If the applicant furnishes proof of financial responsibility, as provided in RCW 43.37.150, in an amount to be determined by the department but not to exceed twenty thousand dollars;
- (4) If the fee for a permit is paid as required by RCW 43.37.160;
- (5) If the weather modification and control activities to be conducted under authority of the permit are determined by the department to be for the general welfare and public good;
- (6) If the department has held an open public hearing in Olympia as to such issuance. [1973 c 64 § 9; 1965 c 8 § 43.37.110. Prior: 1961 c 154 § 2; 1957 c 245 § 11.]

43.37.120 Separate permit for each operation—Filing and publishing notice of intention—Activities restricted by permit and notice. A separate permit shall be issued for each operation. Prior to undertaking any weather modification and control activities the licensee shall file with the department and also cause to be published a notice of intention. The licensee, if a permit is issued, shall confine his activities for the permitted operation within the time and area limits set forth in the notice of intention, unless modified by the department; and his activities shall also conform to any conditions imposed by the department upon the issuance of the permit or to the terms of the permit as modified after issuance. [1973 c 64 § 10; 1965 c 8 § 43.37.120. Prior: 1961 c 154 § 3; 1957 c 245 § 12.]

43.37.130 Notice of intention—Contents. The notice of intention shall set forth at least all the following:

- (1) The name and address of the licensee;
- (2) The nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;
- (3) The area in which and the approximate time during which the operation will be conducted;
- (4) The area which is intended to be affected by the operation;
- (5) The materials and methods to be used in conducting the operation. [1965 c 8 § 43.37.130. Prior: 1957 c 245 § 13.]

43.37.140 Notice of intention—Publication. (1) The applicant shall cause the notice of intention, or that portion thereof including the items specified in RCW 43.37.130, to be published at least once a week for three consecutive weeks in a legal newspaper having a general circulation and published within any county in which the operation is to be conducted and in which the affected area is located, or, if the operation is to be conducted in more than one county or if the affected area is located in more than one county or is located in a county other than the one in which the operation is to be conducted, then in a legal newspaper having a general circulation and published within each of such counties. In case there is no legal newspaper published within the

appropriate county, publication shall be made in a legal newspaper having a general circulation within the county;

(2) Proof of publication, made in the manner provided by law, shall be filed by the licensee with the department within fifteen days from the date of the last publication of the notice. [1973 c 64 § 11; 1965 c 8 § 43.37.140. Prior: 1961 c 154 § 4; 1957 c 245 § 14.]

43.37.150 Financial responsibility. Proof of financial responsibility may be furnished by an applicant by his showing, to the satisfaction of the department, his ability to respond in damages for liability which might reasonably be attached to or result from his weather modification and control activities in connection with the operation for which he seeks a permit. [1973 c 64 § 12; 1965 c 8 § 43.37.150. Prior: 1957 c 245 § 15.]

43.37.160 Fees—Sanctions for failure to pay. The fee to be paid by each applicant for a permit shall be equivalent to one and one-half percent of the estimated cost of such operation, the estimated cost to be computed by the department from the evidence available to it. The fee is due and payable to the department as of the date of the issuance of the permit; however, if the applicant is able to give to the department satisfactory security for the payment of the balance, he may be permitted to commence the operation, and a permit may be issued therefor, upon the payment of not less than fifty percent of the fee. The balance due shall be paid within three months from the date of the termination of the operation as prescribed in the permit. Failure to pay a permit fee as required shall be grounds for suspension or revocation of the license of the delinquent permit holder and grounds for refusal to renew his license or to issue any further permits to such person. [1973 c 64 § 13; 1965 c 8 § 43.37.160. Prior: 1957 c 245 § 16.]

43.37.170 Records and reports—Open to public examination. (1) Every licensee shall keep and maintain a record of all operations conducted by him pursuant to his license and each permit, showing the method employed, the type of equipment used, materials and amounts thereof used, the times and places of operation of the equipment, the name and post office address of each individual participating or assisting in the operation other than the licensee, and such other general information as may be required by the department and shall report the same to the department at the time and in the manner required.

(2) The department shall require written reports in such manner as it provides but not inconsistent with the provisions of this chapter, covering each operation for which a permit is issued. Further, the department shall require written reports from such organizations as are exempted from license, permit, and liability requirements as provided in RCW 43.37.090.

(3) The reports and records in the custody of the department shall be open for public examination. [1973 c 64 § 14; 1965 c 8 § 43.37.170. Prior: 1957 c 245 § 17.]

43.37.180 Revocation, suspension, modification of license or permit. (1) The department may suspend or revoke any license or permit issued if it appears that the

licensee no longer possesses the qualifications necessary for the issuance of a new license or permit. The department may suspend or revoke any license or permit if it appears that the licensee has violated any of the provisions of this chapter. Such suspension or revocation shall occur only after notice to the licensee and a reasonable opportunity granted such licensee to be heard respecting the grounds of the proposed suspension or revocation. The department may refuse to renew the license of, or to issue another permit to, any applicant who has failed to comply with any provision of this chapter.

(2) The department may modify the terms of a permit after issuance thereof if the licensee is first given notice and a reasonable opportunity for a hearing respecting the grounds for the proposed modification and if it appears to the department that it is necessary for the protection of the health or the property of any person to make the modification proposed. [1973 c 64 § 15; 1965 c 8 § 43.37.180. Prior: 1957 c 245 § 18.]

43.37.190 Liability of state denied—Legal rights of private persons not affected. Nothing in this chapter shall be construed to impose or accept any liability or responsibility on the part of the state, the department, or any state officials or employees for any weather modification and control activities of any private person or group, nor to affect in any way any contractual, tortious, or other legal rights, duties, or liabilities between any private persons or groups. [1973 c 64 § 16; 1965 c 8 § 43.37.190. Prior: 1957 c 245 § 19.]

43.37.200 Penalty. Any person violating any of the provisions of this chapter or any lawful regulation or order issued pursuant thereto, shall be guilty of a misdemeanor; and a continuing violation is punishable as a separate offense for each day during which it occurs. [1965 c 8 § 43.37.200. Prior: 1957 c 245 § 20.]

43.37.210 Legislative declaration. The legislature finds and declares that when prolonged lack of precipitation or shortages of water supply in the state cause severe hardships affecting the health, safety, and welfare of the people of the state, a program to increase precipitation is occasionally needed for the generation of hydroelectric power, for domestic purposes, and to alleviate hardships created by the threat of forest fires and shortages of water for agriculture. Cloud seeding has been demonstrated to be such a program of weather modification with increasing scientific certainty. [1981 c 278 § 1.]

43.37.215 Program of emergency cloud seeding authorized. The director of ecology may establish by rule under chapter 34.05 RCW a program of emergency cloud seeding. The director may include in these rules standards and guidelines for determining the situations which warrant cloud seeding and the means to be used for cloud seeding. [1981 c 278 § 2.]

Actions during state of emergency exempt from chapter 43.21C RCW: RCW 43.21C.210.

43.37.220 Exemption of licensee from certain requirements. Upon a proclamation of a state of emergency, related to a lack of precipitation or a shortage of water supply, by the governor under RCW 43.06.210, the department shall exempt a licensee from the requirements of RCW 43.37.110 (2) and (6) and RCW 43.37.140. [1981 c 278 § 3.]

Actions during state of emergency exempt from chapter 43.21C RCW: RCW 43.21C.210.

43.37.910 Effective date—1973 c 64. The effective date of this 1973 amendatory act shall be July 1, 1973. [1973 c 64 § 18.]

Chapter 43.38

TAX ADVISORY COUNCIL

Sections

- 43.38.010 Tax advisory council created—Appointment, travel expenses.
- 43.38.020 Powers and duties.
- 43.38.030 Examination of records.
- 43.38.040 Officers—Meetings—Executive secretary.

43.38.010 Tax advisory council created—Appointment, travel expenses. There is hereby created a tax advisory council to consist of twelve members to be appointed by the governor. Members shall be chosen who represent the major segments of the state's economy, and at least one member shall be chosen from each congressional district of the state now or hereafter existing. In addition, the president of the senate and the speaker of the house of representatives shall each appoint two members, one from each caucus of the respective house. Members shall serve without pay at the pleasure of the governor but shall be paid travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended incurred in their travel to and from meetings of the council and while attending all meetings of the council. Legislative members shall be reimbursed for travel expenses as provided in RCW 44.04.120.

The council shall not be deemed to be unlawfully constituted and a member of the council shall not be deemed ineligible to serve on the board solely by reason of the establishment of new or revised boundaries for congressional districts. However, appointments made after the effective date of such establishment shall be from congressional districts which are not represented on the council. [1983 c 2 § 11. Prior: 1982 1st ex.s. c 41 § 1; 1982 1st ex.s. c 30 § 12; 1975-'76 2nd ex.s. c 34 § 113; 1965 c 8 § 43.38.010; prior: 1957 c 291 § 1.]

Severability—1983 c 2: See note following RCW 18.71.030.

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

43.38.020 Powers and duties. The council shall survey and analyze all aspects of state tax statutes and policies, including but not limited to: Improved efficiency in the administration and collection of state taxes, elasticity, equity of burden, adequacy of the state's tax structure, and the desirability of existing tax exemptions. Recommenda-

tions of the council shall be submitted to the governor and the committees on ways and means of the senate and house of representatives at least one month prior to the convening of each regular session of the legislature. If the recommendations adopted by the council do not receive the unanimous approval of its members, the dissenting members shall have the privilege of submitting minority recommendations. [1982 1st ex.s. c 41 § 2; 1965 c 8 § 43.38.020. Prior: 1957 c 291 § 2.]

Biennial listing of reduction in revenues from tax exemptions to be submitted to legislature by department of revenue—Periodic review and submission of recommendations to legislature by governor: RCW 43.06.400.

Tax exemption impact report: RCW 82.01.110.

Termination of tax preferences: Chapter 43.136 RCW.

43.38.030 Examination of records. Any member of the council or its staff designated by the chairman shall have the authority to examine, for official purposes, any records maintained by or in the possession of any official or agency which relate to matters of taxation. [1965 c 8 § 43.38.030. Prior: 1957 c 291 § 3.]

43.38.040 Officers—Meetings—Executive secretary. The governor shall designate one member to be chairman of the council. The council at its first meeting shall elect a vice chairman. Meetings shall be held at times and places determined by the chairman. The chairman shall appoint from the staff of the state department of revenue, an executive secretary, whose salary shall be paid by the department of revenue, who shall attend all meetings of the council and perform such duties as it shall direct. [1975 1st ex.s. c 278 § 24; 1965 c 8 § 43.38.040. Prior: 1957 c 291 § 4.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 43.41

OFFICE OF FINANCIAL MANAGEMENT

Sections

- 43.41.030 Purpose.
- 43.41.035 Office of program planning and fiscal management redesignated office of financial management.
- 43.41.040 Definitions.
- 43.41.050 Office of financial management created—Transfer of powers, duties, and functions.
- 43.41.060 Director—Appointment—Salary—Vacancy—Delegation of powers and duties.
- 43.41.070 Personnel.
- 43.41.080 Deputy and assistant directors.
- 43.41.090 State civil service law—Certain personnel of office of financial management exempted.
- 43.41.100 Director's powers and duties.
- 43.41.102 Director—Contract for collection and tabulation of census block statistics.
- 43.41.104 Settlement and payment of accounts—Duty to require.
- 43.41.106 Settlement and payment of accounts—Authority to require testimony and evidence.
- 43.41.110 Powers and duties of office of financial management.
- 43.41.120 Advisory or coordinating councils.
- 43.41.130 Passenger motor vehicles owned or operated by state agencies—Duty to establish policies as to acquisition, operation, authorized use, etc.—Use of gasohol and alternative fuels.
- 43.41.140 Employee commuting in state-owned or leased vehicle—Policies and regulations.

- 43.41.150 Inventory of state land resources—Developing and maintaining—Summaries.
- 43.41.160 State health care cost containment policies.
- 43.41.170 Budgeting process—Agencies implementing energy conservation to retain cost savings.
- 43.41.180 Electronic funds and information transfer—State agency use.
- 43.41.190 Community network programs—Recommended legislation.
- 43.41.195 Community networks—Fund distribution formula.
- 43.41.220 Review of boards and commissions by governor—Report—Termination—Transfers.
- 43.41.230 Boards and commissions reviewed—Exceptions.
- 43.41.240 Approval of board or commission not established or required by statute.
- 43.41.250 Criteria for new board or commission not established or required by statute.
- 43.41.260 Monitoring enrollee level in basic health plan and medicaid caseload of children—Funding levels adjustment.
- 43.41.940 Central budget agency abolished.
- 43.41.950 Saving—1969 ex.s. c 239.
- 43.41.970 Federal requirements for receipt of federal funds.
- 43.41.980 Severability—1969 ex.s. c 239.

Reviser's note: Throughout this chapter the phrase "this 1969 amendatory act" or "this act" has been changed to "this chapter". The phrase also includes RCW 43.88.020, 43.88.025 and 41.06.075.

Assessments and charges against state lands: Chapter 79.44 RCW.

Budgeting, accounting, and reporting system, powers and duties: Chapter 43.88 RCW.

Checks and drafts, form prescribed by: RCW 43.88.160.

Classes and number of positions for agencies fixed by: RCW 43.88.160.

Corrective measures by agencies, duties to enforce: RCW 43.88.160.

Development of definitions, criteria, and procedures for the operating cost of instruction—Educational cost study: RCW 28B.15.070.

Efficiency surveys and analyses of agencies: RCW 43.88.160.

Employee training authorized: RCW 43.88.160.

Inventory of state-owned or leased facilities: RCW 43.82.150.

Motor vehicle fund, distribution of amount to counties, office to furnish information: RCW 46.68.124.

Moving expenses of state officers and employees, approval by: RCW 43.03.110.

Pay and classification plans, review of: RCW 43.88.160.

Personal service contracts, filing with office of financial management, duties: Chapter 39.29 RCW.

Public printing, duties concerning: Chapter 43.78 RCW.

Regulations, duty to promulgate: RCW 43.88.160.

Regulatory fairness act, office of financial management participation: Chapter 19.85 RCW.

Reports of agencies, authority to require: RCW 43.88.160.

Reports to governor, duplication of effort or lack of coordination between agencies: RCW 43.88.160.

Requirements to seek federal waivers and state law changes to medical assistance programs: RCW 43.20A.860.

State employees' retirement system, duties: RCW 41.40.048.

State occupational forecast—Other agencies consulted prior to: RCW 50.38.030.

Subsistence allowance for officials and employees, director to prescribe: RCW 43.03.050.

Tort claims against state, duties: Chapter 4.92 RCW.

Warrants or checks, form prescribed by: RCW 43.88.160.

43.41.030 Purpose. The legislature finds that the need for long-range state program planning and for the short-range planning carried on through the budget process, complement each other. The biennial budget submitted to the legislature must be considered in the light of the longer-range plans and goals of the state. The effectiveness of the short-range plan presented as budget proposals, cannot be measured without

being aware of these longer-range goals. Thus efficient management requires that the planning and fiscal activities of state government be integrated into a unified process. It is the purpose of this chapter to bring these functions together in a new division of the office of the governor to be called the office of financial management. [1979 c 151 § 109; 1969 ex.s. c 239 § 1.]

43.41.035 Office of program planning and fiscal management redesignated office of financial management. From and after September 21, 1977, the office of program planning and fiscal management shall be known and designated as the office of financial management. [1977 ex.s. c 114 § 1.]

43.41.040 Definitions. As used in this chapter, unless the context indicates otherwise:

- (1) "Office" means the office of financial management.
- (2) "Director" means the director of financial management.
- (3) "Agency" means and includes every state agency, office, officer, board, commission, department, state institution, or state institution of higher education, which includes all state universities, regional universities, The Evergreen State College, and community and technical colleges. [1993 c 500 § 4; 1979 c 151 § 110; 1969 ex.s. c 239 § 2.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.41.050 Office of financial management created—Transfer of powers, duties, and functions. There is created in the office of the governor, the office of financial management which shall be composed of the present central budget agency and the state planning, program management, and population and research divisions of the present *planning and community affairs agency. Any powers, duties and functions assigned to the central budget agency, or any state planning, program management, or population and research functions assigned to the present *planning and community affairs agency by the 1969 legislature, shall be transferred to the office of financial management. [1979 c 151 § 111; 1969 ex.s. c 239 § 3.]

***Reviser's note:** "Planning and community affairs agency" means "department of community development." See RCW 43.63A.045.

43.41.060 Director—Appointment—Salary—Vacancy—Delegation of powers and duties. The executive head of the office of financial management shall be the director, who shall be appointed by the governor with the consent of the senate, and who shall serve at the pleasure of the governor. He shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in his position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he shall present to that body his nomination for the office. The director may delegate such of his powers, duties and functions to other officers and employees of the department as he may deem necessary to the fulfillment of the purposes of this chapter. [1979 c 151 § 112; 1969 ex.s. c 239 § 4.]

43.41.070 Personnel. The director shall have the power to employ such personnel as may be necessary for the general administration of the office: PROVIDED, That, except as elsewhere specified in this chapter, such employment is in accordance with the rules of the state civil service law, chapter 41.06 RCW. [1969 ex.s. c 239 § 5.]

43.41.080 Deputy and assistant directors. The director may appoint such deputy directors and assistant directors as shall be needed to administer the office of financial management. The officers appointed under this section and exempt from the provisions of the state civil service law by the terms of RCW 41.06.075, shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. [1979 c 151 § 113; 1969 ex.s. c 239 § 6.]

43.41.090 State civil service law—Certain personnel of office of financial management exempted. See RCW 41.06.075.

43.41.100 Director's powers and duties. The director of financial management shall:

- (1) Supervise and administer the activities of the office of financial management.
- (2) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of the state budget and accounting system.
- (3) Advise the governor and the legislature with respect to matters affecting program management and planning.
- (4) Make efficiency surveys of all state departments and institutions, and the administrative and business methods pursued therein, examine into the physical needs and industrial activities thereof, and make confidential reports to the governor, recommending necessary betterments, repairs, and the installation of improved and more economical administrative methods, and advising such action as will result in a greater measure of self-support and remedies for inefficient functioning.

The director may enter into contracts on behalf of the state to carry out the purposes of this chapter; he may act for the state in the initiation of or participation in any multi-governmental agency program relative to the purposes of this chapter; and he may accept gifts and grants, whether such grants be of federal or other funds. [1979 c 151 § 114; 1969 ex.s. c 239 § 8.]

43.41.102 Director—Contract for collection and tabulation of census block statistics. Subject to a specific appropriation for that purpose, the director of financial management is hereby authorized and directed to contract with the United States bureau of census for collection and tabulation of block statistics in any or all cities and towns. [1979 c 151 § 115; 1977 ex.s. c 128 § 5.]

Severability—1977 ex.s. c 128: See note following RCW 29.04.040.

43.41.104 Settlement and payment of accounts—Duty to require. Upon receipt of information from the state auditor as provided in *RCW 43.09.050(5) as now or

hereafter amended, the director of financial management shall require all persons who have received any moneys belonging to the state and have not accounted therefor, to settle their accounts and make payment thereof. [1979 c 151 § 116; 1977 ex.s. c 144 § 10.]

***Reviser's note:** RCW 43.09.050 was amended by 1992 c 118 § 6, changing subsection (5) to subsection (6).

43.41.106 Settlement and payment of accounts— Authority to require testimony and evidence. The director of financial management may, in his discretion, require any person presenting an account for settlement to be sworn before him, and to answer, orally or in writing, as to any facts relating to it. [1979 c 151 § 117; 1977 ex.s. c 144 § 11.]

43.41.110 Powers and duties of office of financial management. The office of financial management shall:

(1) Provide technical assistance to the governor and the legislature in identifying needs and in planning to meet those needs through state programs and a plan for expenditures.

(2) Perform the comprehensive planning functions and processes necessary or advisable for state program planning and development, preparation of the budget, inter-departmental and inter-governmental coordination and cooperation, and determination of state capital improvement requirements.

(3) Provide assistance and coordination to state agencies and departments in their preparation of plans and programs.

(4) Provide general coordination and review of plans in functional areas of state government as may be necessary for receipt of federal or state funds.

(5) Participate with other states or subdivisions thereof in interstate planning.

(6) Encourage educational and research programs that further planning and provide administrative and technical services therefor.

(7) Carry out the provisions of RCW 43.62.010 through 43.62.050 relating to the state census.

(8) Be the official state participant in the federal-state cooperative program for local population estimates and as such certify all city and county special censuses to be considered in the allocation of state and federal revenues.

(9) Be the official state center for processing and dissemination of federal decennial or quinquennial census data in cooperation with other state agencies.

(10) Be the official state agency certifying annexations, incorporations, or disincorporations to the United States bureau of the census.

(11) Review all United States bureau of the census population estimates used for federal revenue sharing purposes and provide a liaison for local governments with the United States bureau of the census in adjusting or correcting revenue sharing population estimates.

(12) Provide fiscal notes depicting the expected fiscal impact of proposed legislation in accordance with chapter 43.88A RCW.

(13) Be the official state agency to estimate and manage the cash flow of all public funds as provided in chapter 43.88 RCW. To this end, the office shall adopt such rules as are necessary to manage the cash flow of public funds.

[1981 2nd ex.s. c 4 § 13; 1979 c 10 § 3. Prior: 1977 ex.s. c 110 § 4; 1977 ex.s. c 25 § 6; 1969 ex.s. c 239 § 11.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

43.41.120 Advisory or coordinating councils. The director or the governor may establish such additional advisory or coordinating councils as may be necessary to carry out the purposes of this chapter. Members of such councils shall serve at the pleasure of the governor. They shall receive no compensation for their services, but shall be reimbursed for travel expenses while engaged in business of the councils in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 114; 1969 ex.s. c 239 § 12.]

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

43.41.130 Passenger motor vehicles owned or operated by state agencies—Duty to establish policies as to acquisition, operation, authorized use, etc.—Use of gasohol and alternative fuels. The director of financial management, after consultation with other interested or affected state agencies, shall establish overall policies governing the acquisition, operation, management, maintenance, repair, and disposal of, all passenger motor vehicles owned or operated by any state agency. Such policies shall include but not be limited to a definition of what constitutes authorized use of a state owned or controlled passenger motor vehicle and other motor vehicles on official state business. The definition shall include, but not be limited to, the use of state-owned motor vehicles for commuter ride sharing so long as the entire capital depreciation and operational expense of the commuter ride-sharing arrangement is paid by the commuters. Any use other than such defined use shall be considered as personal use.

Such policies shall also include the widest possible use of gasohol and cost-effective alternative fuels in all motor vehicles owned or operated by any state agency. As used in this section, "gasohol" means motor vehicle fuel which contains more than nine and one-half percent alcohol by volume. [1982 c 163 § 13; 1980 c 169 § 1; 1979 c 111 § 12; 1975 1st ex.s. c 167 § 5.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Severability—1979 c 111: See note following RCW 46.74.010.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

Commuter ride sharing: Chapter 46.74 RCW.

Motor vehicle management and transportation: RCW 43.19.500 through 43.19.635.

43.41.140 Employee commuting in state-owned or leased vehicle—Policies and regulations. Pursuant to policies and regulations promulgated by the office of financial management, an elected state officer or delegate or a state agency director or delegate may permit an employee to commute in a state-owned or leased vehicle if such travel is on official business, as determined in accordance with RCW 43.41.130, and is determined to be economical and advantageous to the state, or as part of a commute trip

reduction program as required by RCW 70.94.551. [1993 c 394 § 3; 1979 c 151 § 119; 1975 1st ex.s. c 167 § 15.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.41.150 Inventory of state land resources—Developing and maintaining—Summaries. The office of financial management shall provide by administrative regulation for the maintenance of an inventory of all state owned or controlled land resources by all state agencies owning or controlling land. That office shall cooperate with the state departments and agencies charged with administering state owned or controlled land resources to assist them in developing and maintaining land resources inventories that will permit their respective inventories to be summarized into meaningful reports for the purposes of providing executive agencies with information for planning, budgeting, and managing state owned or administered land resources and to provide the legislature, its members, committees, and staff with data needed for formulation of public policy.

Such departments or agencies shall maintain and make available such summary inventory information as may be prescribed by the rules of the office of financial management. That office shall give each affected department or agency specific written notice of hearings for consideration, adoption, or modification of such rules. All information submitted to that office under this section are a matter of public record and shall be available from said agency upon request. [1981 c 157 § 5.]

43.41.160 State health care cost containment policies. (1) It is the purpose of this section to ensure implementation and coordination of chapter 70.14 RCW as well as other legislative and executive policies designed to contain the cost of health care that is purchased or provided by the state. In order to achieve that purpose, the director may:

(a) Establish within the office of financial management a health care cost containment program in cooperation with all state agencies;

(b) Implement lawful health care cost containment policies that have been adopted by the legislature or the governor, including appropriation provisos;

(c) Coordinate the activities of all state agencies with respect to health care cost containment policies;

(d) Study and make recommendations on health care cost containment policies;

(e) Monitor and report on the implementation of health care cost containment policies;

(f) Appoint a health care cost containment technical advisory committee that represents state agencies that are involved in the direct purchase, funding, or provision of health care; and

(g) Engage in other activities necessary to achieve the purposes of this section.

(2) All state agencies shall cooperate with the director in carrying out the purpose of this section. [1986 c 303 § 11.]

Health care authority: Chapter 41.05 RCW.

43.41.170 Budgeting process—Agencies implementing energy conservation to retain cost savings. The office of financial management shall ensure that to the extent possible the budget process shall allow state agencies implementing energy conservation to retain the resulting cost savings for other purposes, including further energy conservation. [1989 c 11 § 15; 1986 c 325 § 3.]

Severability—1989 c 11: See note following RCW 9A.56.220.

Findings—1986 c 325: "The legislature finds that:

(1) Capital investments in energy conservation in buildings can produce significant reductions in energy use, reducing the need to import or extract fossil fuels and lowering the cost of operating buildings.

(2) The state of Washington has an obligation to operate state buildings efficiently and to implement all cost-effective energy conservation measures so that citizens are assured that public funds are spent wisely and so that citizens have an example of the savings possible from energy conservation.

(3) The state has completed energy consumption and walk-through surveys of its buildings and other facilities and has established a schedule for technical assistance studies which is the basis for implementing energy conservation measure installations to meet the milestones in RCW 43.19.680. However, there is uncertainty that the milestones will be met.

(4) The potential savings from energy conservation can be more readily realized by explicitly considering conservation measures and procedures in the state's budgeting and long-range planning process." [1986 c 325 § 1.]

43.41.180 Electronic funds and information transfer—State agency use. (1) The office of financial management is authorized to approve the use of electronic and other technological means to transfer both funds and information whenever economically feasible, to eliminate paper documentation wherever possible, and to provide greater fiscal responsibility. This authorization includes but is not limited to the authority to approve use of electronic means to transfer payroll, vendor payments, and benefit payments and acceptance of credit cards, debit cards, and other consumer debt instruments for payment of taxes, licenses, and fees. The office of financial management shall adopt rules under RCW 43.41.110(13) to specify the manner in which electronic and other technological means, including credit cards, are available to state agencies.

(2) No state agency may use electronic or other technological means, including credit cards, without specific continuing authorization from the office of financial management. [1993 c 500 § 2.]

Finding—1993 c 500: "The legislature finds that:

(1) Effective and efficient management of the state's cash resources requires expeditious revenue collection, aggregation, and investment of available balances and timely payments;

(2) The use of credit cards, debit cards, and electronic transfers of funds and information are customary and economical business practices to improve cash management that the state should consider and use when appropriate;

(3) Statutory changes are necessary to aid the state in complying with the federal cash management improvement act of 1990; and

(4) The policies, procedures, and practices of cash management should be reviewed and revised as required to ensure that the state achieves the most effective cash management possible." [1993 c 500 § 1.]

Severability—1993 c 500: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 500 § 12.]

Effective date—1993 c 500: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 500 § 13.]

43.41.190 Community network programs—Recommended legislation. The office of financial management shall review the administration of funds for programs identified under RCW 70.190.110 and propose legislation to complete interdepartmental transfers of funds or programs as necessary. The office of financial management shall review statutes that authorize the programs identified under RCW 70.190.110 and suggest legislation to eliminate statutory requirements that may interfere with the administration of that policy. [1994 sp.s. c 7 § 318.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.41.195 Community networks—Fund distribution formula. (1) The office of financial management, in consultation with affected parties, shall establish a fund distribution formula for determining allocations to the community networks authorized under RCW 70.190.130. The formula shall reflect the local needs assessment for at-risk children and consider:

- (a) The number of arrests and convictions for juvenile violent offenses;
- (b) The number of arrests and convictions for crimes relating to juvenile drug offenses and alcohol-related offenses;
- (c) The number of teen pregnancies and parents;
- (d) The number of child and teenage suicides and attempted suicides; and
- (e) The high school graduation rate.

(2) In developing the formula, the office of financial management shall reserve five percent of the funds for the purpose of rewarding community networks.

(3) The reserve fund shall be used by the council to reward community networks that show exceptional reductions in: State-funded out-of-home placements, violent criminal acts by juveniles, substance abuse, teen pregnancy and male parentage, teen suicide attempts, or school dropout rates.

(4) The office of financial management shall submit the distribution formula to the family policy council and to the appropriate committees of the legislature by December 20, 1994. [1994 sp.s. c 7 § 319.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.41.220 Review of boards and commissions by governor—Report—Termination—Transfers. (1) The governor shall conduct a review of all of the boards and commissions identified under RCW 43.41.230 and, by January 8th of every odd-numbered year, submit to the legislature a report recommending which boards and commissions should be terminated or consolidated based upon the criteria set forth in subsection (3) of this section. The report must state which of the criteria were relied upon with respect to each recommendation. The governor shall submit an executive request bill by January 8th of every odd-numbered year to implement the recommendations by expressly terminating the appropriate boards and commissions and by providing for the transfer of duties and obligations under this section. The governor shall accept and review with special attention recommendations made, not later than

June 1st of each even-numbered year, by the standing committees of the legislature in determining whether to include any board or commission in the report and bill required by this section.

(2) In addition to terminations and consolidations under subsection (1) of this section, the governor may recommend the transfer of duties and obligations from a board or commission to another existing state entity.

(3) In preparing his or her report and legislation, the governor shall make an evaluation based upon answers to the questions set forth in this subsection. The governor shall give these criteria priority in the order listed.

(a) Has the mission of the board or commission been completed or ceased to be critical to effective state government?

(b) Does the work of the board or commission directly affect public safety, welfare, or health?

(c) Can the work of the board or commission be effectively done by another state agency without adverse impact on public safety, welfare, or health?

(d) Will termination of the board or commission have a significant adverse impact on state revenue because of loss of federal funds?

(e) Will termination of the board or commission save revenues, be cost neutral, or result in greater expenditures?

(f) Is the work of the board or commission being done by another board, commission, or state agency?

(g) Could the work of the board or commission be effectively done by a nonpublic entity?

(h) Will termination of the board or commission result in a significant loss of expertise to state government?

(i) Will termination of the board or commission result in operational efficiencies that are other than fiscal in nature?

(j) Could the work of the board or commission be done by an ad hoc committee? [1994 sp.s. c 9 § 873.]

Declaration—Purpose—1994 sp.s. c 9: "The legislature declares there has been an excessive proliferation of boards and commissions within state government. These boards and commissions are often created without legislative review or input and without an assessment of whether there is a resulting duplication of purpose or process. Once created, they frequently duplicate the duties of existing governmental entities, create additional expense, and obscure responsibility. It has been difficult to control the growth of boards and commissions because of the many special interests involved. Accordingly, the legislature establishes the process in this chapter to eliminate redundant and obsolete boards and commissions and to restrict the establishment of new boards and commissions." [1994 sp.s. c 9 § 872.]

Effective date—1994 sp.s. c 9 §§ 872-876: "Sections 872 through 876 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 6, 1994]." [1994 sp.s. c 9 § 877.]

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

43.41.230 Boards and commissions reviewed—Exceptions. The boards and commissions to be reviewed by the governor must be all entities that are required to be included in the list prepared by the office of financial management under RCW 43.88.505, other than entities established under: (1) Constitutional mandate; (2) court order or rule; (3) requirement of federal law; or (4) requirement as a condition of the state or a local government receiving federal financial assistance if, in the judgment of

the governor, no other state agency, board, or commission would satisfy the requirement. [1994 sp.s. c 9 § 874.]

Declaration—Purpose—Effective date—1994 sp.s. c 9 §§ 872-876: See notes following RCW 43.41.220.

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

43.41.240 Approval of board or commission not established or required by statute. A new board or commission not established or required in statute that must be included in the report required by RCW 43.88.505 may not be established without the express approval of the director of financial management. The director shall, by January 8th of each year, submit to the legislature a list of those boards and commissions that were requested for approval and those that were approved during the preceding calendar year. [1994 sp.s. c 9 § 875.]

Declaration—Purpose—Effective date—1994 sp.s. c 9 §§ 872-876: See notes following RCW 43.41.220.

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

43.41.250 Criteria for new board or commission not established or required by statute. When acting on a request to establish a new board or commission under RCW 43.41.240, the director of the office of financial management shall consider the following criteria giving priority in the order listed:

- (1) If approval is critical to public safety, health, or welfare or to the effectiveness of state government;
- (2) If approval will not result in duplication of the work or responsibilities of another governmental agency;
- (3) If approval will not have a significant impact on state revenues;
- (4) If approval is for a limited duration or on an ad hoc basis;
- (5) If the work of the board or commission could be effectively done by a nonpublic entity;
- (6) If approval will result in significant enhancement of expertise in state government; and
- (7) If approval will result in operational efficiencies other than fiscal savings. [1994 sp.s. c 9 § 876.]

Declaration—Purpose—Effective date—1994 sp.s. c 9 §§ 872-876: See notes following RCW 43.41.220.

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

43.41.260 Monitoring enrollee level in basic health plan and medicaid caseload of children—Funding levels adjustment. The health care authority, the office of financial management, and the department of social and health services shall together monitor the enrollee level in the basic health plan and the medicaid caseload of children funded from the health services account. The office of financial management shall adjust the funding levels by interagency reimbursement of funds between the basic health plan and medicaid and adjust the funding levels between the health care authority and the medical assistance administration of the department of social and health services to maximize combined enrollment. [1995 c 265 § 21.]

Captions not law—Effective dates—Savings—Severability—1995 c 265: See notes following RCW 70.47.015.

43.41.940 Central budget agency abolished. On August 11, 1969, the central budget agency is abolished. [1969 ex.s. c 239 § 17.]

43.41.950 Saving—1969 ex.s. c 239. Nothing in this chapter shall be construed as affecting any existing rights acquired under the sections amended or repealed herein except as to the governmental agencies referred to and their officials and employees, nor as affecting any actions, activities or proceedings validated thereunder, nor as affecting any civil or criminal proceedings instituted thereunder, nor any rule, regulation, resolution or order promulgated thereunder, nor any administrative action taken thereunder; nor shall the transfer of powers, duties and functions provided for herein affect the validity of any act performed by such agency or any officer thereof prior to August 11, 1969. [1969 ex.s. c 239 § 18.]

43.41.970 Federal requirements for receipt of federal funds. If any part of this chapter is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, such conflicting part of this chapter is declared to be inoperative solely to the extent of the conflict. No such ruling shall affect the operation of the remainder of this chapter. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1969 ex.s. c 239 § 20.]

43.41.980 Severability—1969 ex.s. c 239. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances shall not be affected. [1969 ex.s. c 239 § 21.]

Chapter 43.43

WASHINGTON STATE PATROL

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43.43.010 Patrol created. There shall be a department of state government known as the "Washington state patrol." The chief thereof shall be known as the chief of the Washington state patrol, and members thereof shall be known as Washington state patrol officers. [1965 c 8 § 43.43.010. Prior: 1933 c 25 § 1; RRS § 6362-59.]

43.43.015 Affirmative action. For the purposes of this chapter, "affirmative action" means a procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system. [1985 c 365 § 4.]

43.43.020 Appointment of personnel. The governor, with the advice and consent of the senate, shall appoint the chief of the Washington state patrol, determine his compensation, and may remove him at will.

The chief shall appoint a sufficient number of competent persons to act as Washington state patrol officers, may remove them for cause, as provided in this chapter, and shall make promotional appointments, determine their compensation, and define their rank and duties, as hereinafter provided.

The chief may appoint employees of the Washington state patrol to serve as special deputies, with such restricted police authority as the chief shall designate as being necessary and consistent with their assignment to duty. Such appointment and conferral of authority shall not qualify said employees for membership in the Washington state patrol retirement system, nor shall it grant tenure of office as a regular officer of the Washington state patrol.

The chief may personally appoint, with the consent of the state treasurer, employees of the office of the state treasurer who are qualified under the standards of the criminal justice training commission, or who have comparable training and experience, to serve as special deputies. The law enforcement powers of any special deputies appointed in the office of the state treasurer shall be designated by the chief and shall be restricted to those powers necessary to provide for state-wide security of the holdings or property of or under the custody of the office of the state treasurer. These appointments may be revoked by the chief at any time and shall be revoked upon the written request of the state treasurer or by operation of law upon termination of the special deputy's employment with the office of the state treasurer or thirty days after the chief who made the appointment leaves office. The chief shall be civilly immune for the acts of such special deputies. Such appointment and

conferral of authority shall not qualify such employees for membership in the Washington state patrol retirement system, nor shall it grant tenure of office as a regular officer of the Washington state patrol. [1983 c 144 § 1; 1981 c 338 § 4; 1973 1st ex.s. c 80 § 1; 1965 c 8 § 43.43.020. Prior: 1949 c 192 § 1; 1933 c 25 § 3; Rem. Supp. 1949 § 6362-61.]

Civil service exemptions: RCW 41.06.070.

43.43.030 Powers and duties—Peace officers. The chief and other officers of the Washington state patrol shall have and exercise, throughout the state, such police powers and duties as are vested in sheriffs and peace officers generally, and such other powers and duties as are prescribed by law. [1965 c 8 § 43.43.030. Prior: 1933 c 25 § 2; RRS § 6362-60.]

General authority law enforcement agency: RCW 10.93.020.

43.43.035 Governor, lieutenant governor, and governor-elect—Security and protection—Duty to provide. The chief of the Washington state patrol is directed to provide security and protection for the governor, the governor's family, and the lieutenant governor to the extent and in the manner the governor and the chief of the Washington state patrol deem adequate and appropriate.

In the same manner the chief of the Washington state patrol is directed to provide security and protection for the governor-elect from the time of the November election. [1991 c 63 § 1; 1965 ex.s. c 96 § 1.]

43.43.037 Legislature—Security and protection—Duty to provide. The chief of the Washington state patrol is directed to provide such security and protection for both houses of the legislative building while in session as in the opinion of the speaker of the house and the president of the senate may be necessary therefor upon the advice of the respective sergeant-at-arms of each legislative body. [1965 ex.s. c 96 § 2.]

43.43.040 Disability of patrol officers. (1) The chief of the Washington state patrol shall relieve from active duty Washington state patrol officers who, while in the performance of their official duties, or while on standby or available for duty, have been or hereafter may be injured or incapacitated to such an extent as to be mentally or physically incapable of active service: **PROVIDED, That:**

(a) Any officer disabled while performing line duty who is found by the chief to be physically incapacitated shall be placed on disability leave for a period not to exceed six months from the date of injury or the date incapacitated. During this period, the officer shall be entitled to all pay, benefits, insurance, leave, and retirement contributions awarded to an officer on active status, less any compensation received through the department of labor and industries. No such disability leave shall be approved until an officer has been unavailable for duty for more than five consecutive work days. Prior to the end of the six-month period, the chief shall either place the officer on disability status or return the officer to active status.

For the purposes of this section, "line duty" is active service which encompasses the traffic law enforcement

duties and/or other law enforcement responsibilities of the state patrol. These activities encompass all enforcement practices of the laws, accident and criminal investigations, or actions requiring physical exertion or exposure to hazardous elements.

The chief shall define by rule the situations where a disability has occurred during line duty;

(b) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the officer receives or is entitled to receive from workers' compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability;

(c) An officer injured while engaged in wilfully tortious or criminal conduct shall not be entitled to disability benefits under this section; and

(d) Should a disability beneficiary whose disability was not incurred in line of duty, prior to attaining age fifty, engage in a gainful occupation, the chief shall reduce the amount of his retirement allowance to an amount which when added to the compensation earned by him in such occupation shall not exceed the basic salary currently being paid for the rank the retired officer held at the time he was disabled. All such disability beneficiaries under age fifty shall file with the chief every six months a signed and sworn statement of earnings and any person who shall knowingly swear falsely on such statement shall be subject to prosecution for perjury. Should the earning capacity of such beneficiary be further altered, the chief may further alter his disability retirement allowance as indicated above. The failure of any officer to file the required statement of earnings shall be cause for cancellation of retirement benefits.

(2) Officers on disability status shall receive one-half of their compensation at the existing wage, during the time the disability continues in effect, less any compensation received through the department of labor and industries. They shall be subject to mental or physical examination at any state institution or otherwise under the direction of the chief of the patrol at any time during such relief from duty to ascertain whether or not they are able to resume active duty. [1987 c 185 § 17; 1981 c 165 § 1; 1973 2nd ex.s. c 20 § 1; 1965 c 8 § 43.43.040. Prior: 1947 c 174 § 1; 1943 c 215 § 1; RRS § 6362-65.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Severability—1981 c 165: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 165 § 2.]

Effective date—1981 c 165: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect January 1, 1981." [1981 c 165 § 3.]

43.43.050 Tenure of patrol officers. Washington state patrol officers shall be entitled to retain their ranks and positions until death or resignation, or until suspended, demoted, or discharged in the manner hereinafter provided. [1965 c 8 § 43.43.050. Prior: 1943 c 205 § 1; Rem. Supp. 1943 § 6362-66.]

43.43.060 Suspension or demotion of probationary officers. The chief of the Washington state patrol may suspend or demote any officer with probationary status, without preferring charges against the officer, and without a hearing. [1984 c 141 § 1; 1965 c 8 § 43.43.060. Prior: 1943 c 205 § 2; Rem. Supp. 1943 § 6362-67.]

43.43.070 Discharge of probationary officers—Discharge, demotion, or suspension of nonprobationary officers—Complaint—Hearing. Discharge of any officer with probationary status and discharge, demotion, or suspension of any officer with nonprobationary status shall be only for cause, which shall be clearly stated in a written complaint, sworn to by the person preferring the charges, and served upon the officer complained of.

Upon being so served, any such officer shall be entitled to a public hearing before a trial board consisting of two Washington state patrol officers of the rank of captain, and one officer of equal rank with the officer complained of, who shall be selected by the chief of the Washington state patrol by lot from the roster of the patrol. In the case of complaint by an officer, such officer shall not be a member of the trial board. [1984 c 141 § 2; 1965 c 8 § 43.43.070. Prior: 1943 c 205 § 3; Rem. Supp. 1943 § 6362-68.]

43.43.080 Criminal complaint—Authority to suspend officer—Hearing. When the complaint served upon an officer is of a criminal nature calling for the discharge of the officer, the chief of the patrol may immediately suspend the officer without pay pending a trial board hearing. The board shall be convened no later than forty-five days from the date of suspension. However, this does not preclude the granting of a mutually agreed upon extension; in such cases the officer shall remain on suspension without pay.

An officer complained of may waive a hearing and accept the proposed discipline by written notice to the chief of the patrol. [1989 c 28 § 1; 1965 c 8 § 43.43.080. Prior: 1943 c 205 § 4; Rem. Supp. 1943 § 6362-69.]

43.43.090 Procedure at hearing. At the hearing, an administrative law judge appointed under chapter 34.12 RCW shall be the presiding officer, and shall make all necessary rulings in the course of the hearing, but shall not be entitled to vote.

The complainant and the officer complained of may submit evidence, and be represented by counsel, and a full and complete record of the proceedings, and all testimony, shall be taken down by a stenographer.

After hearing, the findings of the trial board shall be submitted to the chief. Such findings shall be final if the charges are not sustained. In the event the charges are sustained the chief may determine the proper disciplinary action and declare it by written order served upon the officer complained of. [1989 c 28 § 2; 1984 c 141 § 3; 1965 c 8 § 43.43.090. Prior: 1943 c 205 § 5; Rem. Supp. 1943 § 6362-70.]

43.43.100 Review of order. Any officer subjected to disciplinary action may, within ten days after the service of the order upon the officer, apply to the superior court of

Thurston county for a writ of review to have the reasonableness and lawfulness of the order inquired into and determined.

The superior court shall review the determination of the chief of the Washington state patrol in a summary manner, based upon the record of the hearing before the trial board, and shall render its decision within ninety days, either affirming or reversing the order of the chief, or remanding the matter to the chief for further action. A transcript of the trial board hearing shall be provided to the court by the state patrol after being paid for by the officer subjected to disciplinary action. However, if the officer prevails before the court, the state patrol shall reimburse the officer for the cost of the transcript. [1984 c 141 § 4; 1965 c 8 § 43.43.100. Prior: 1943 c 205 § 6; Rem. Supp. 1943 § 6362-71.]

43.43.110 Reinstatement on acquittal. If as a result of any trial board hearing, or review proceeding, an officer complained of is found not guilty of the charges against him, he shall be immediately reinstated to his former position, and be reimbursed for any loss of salary suffered by reason of the previous disciplinary action. [1965 c 8 § 43.43.110. Prior: 1943 c 205 § 7; Rem. Supp. 1943 § 6362-72.]

43.43.115 Real property—Sale of surplus at fair market value—Distribution of proceeds. Whenever real property owned by the state of Washington and under the jurisdiction of the Washington state patrol is no longer required, it may be sold at fair market value. All proceeds received from the sale of real property, less any real estate broker commissions, shall be deposited into the state patrol highway account: PROVIDED, That if accounts or funds other than the state patrol highway account have contributed to the purchase or improvement of the real property, the office of financial management shall determine the proportional equity of each account or fund in the property and improvements, and shall direct the proceeds to be deposited proportionally therein. [1993 c 438 § 1.]

43.43.120 Patrol retirement system—Definitions. As used in the following sections, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the Washington state patrol retirement system.

(2) "Retirement fund" means the Washington state patrol retirement fund.

(3) "State treasurer" means the treasurer of the state of Washington.

(4) "Member" means any person included in the membership of the retirement fund.

(5) "Employee" means any commissioned employee of the Washington state patrol.

(6)(a) "Cadet," for a person who became a member of the retirement system after June 12, 1980, is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(b) "Cadet," for a person who became a member of the retirement system before June 12, 1980, is a trooper cadet,

patrol cadet, or employee of like classification, employed for the express purpose of receiving the on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper. "Like classification" includes: Radio operators or dispatchers; persons providing security for the governor or legislature; patrolmen; drivers' license examiners; weighmasters; vehicle safety inspectors; central wireless operators; and warehousemen.

(7) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(8) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(9) "Retirement board" means the board provided for in this chapter.

(10) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(11) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(12) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy or more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(13) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(14) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

(15) "Average final salary" shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol; or if the member has less than two years of service, then the average monthly salary received by the member during the member's total years of service.

(16) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

(17) Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender.

(18) "Director" means the director of the department of retirement systems.

(19) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(20) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(21) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under RCW 43.43.300. [1983 c 81 § 1; 1982 1st ex.s. c 52 § 24; 1980 c 77 § 1; 1973 1st ex.s. c 180 § 1; 1969 c 12 § 1; 1965 c 8 § 43.43.120. Prior: 1955 c 244 § 1; 1953 c 262 § 1; 1951 c 140 § 1; 1947 c 250 § 1; Rem. Supp. 1947 § 6362-81.]

Effective date—1983 c 81: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1983." [1983 c 81 § 4.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction—1969 c 12: "The provisions of this 1969 amendatory act are intended to be remedial and procedural and any benefits heretofore paid to recipients hereunder pursuant to any previous act are retroactively included and authorized as a part of this act." [1969 c 12 § 8.]

43.43.130 Retirement fund created—Membership.

(1) A Washington state patrol retirement fund is hereby established for members of the Washington state patrol which shall include funds created and placed under the management of a retirement board for the payment of retirement allowances and other benefits under the provisions hereof.

(2) Any employee of the Washington state patrol, upon date of commissioning, shall be eligible to participate in the retirement plan and shall start contributing to the fund immediately. Any employee of the Washington state patrol employed by the state of Washington or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington shall receive full credit for such prior service but after that date each new commissioned employee must automatically participate in the fund. If a member shall terminate service in the patrol and later reenter, he shall be treated in all respects as a new employee.

(3)(a) A member who reenters or has reentered service within ten years from the date of his termination, shall upon completion of six months of continuous service and upon the restoration of all withdrawn contributions, plus interest as determined by the director, which restoration must be completed within five years after resumption of service, be returned to the status of membership he earned at the time of termination.

(b) A member who does not meet the time limitations for restoration under (a) of this subsection, may restore the service credit destroyed by the withdrawn contributions by paying the amount required under RCW 41.50.165(2) prior to retirement.

(4)(a) An employee of the Washington state patrol who becomes a member of the retirement system after June 12, 1980, and who has service as a cadet in the patrol training program may make an irrevocable election to transfer the service to the retirement system. Any member upon making such election shall have transferred all existing service credited in a prior public retirement system in this state for periods of employment as a cadet. Transfer of credit under this subsection is contingent on completion of the transfer of funds specified in (b) of this subsection.

(b) Within sixty days of notification of a member's cadet service transfer as provided in (a) of this subsection,

the department of retirement systems shall transfer the employee's accumulated contributions attributable to the periods of service as a cadet, including accumulated interest.

(5) A member of the retirement system who has served or shall serve on active federal service in the armed forces of the United States pursuant to and by reason of orders by competent federal authority, who left or shall leave the Washington state patrol to enter such service, and who within one year from termination of such active federal service, resumes employment as a state employee, shall have his service in such armed forces credited to him as a member of the retirement system: PROVIDED, That no such service in excess of five years shall be credited unless such service was actually rendered during time of war or emergency.

(6) An active employee of the Washington state patrol who either became a member of the retirement system prior to June 12, 1980, and who has prior service as a cadet in the public employees' retirement system may make an irrevocable election to transfer such service to the retirement system within a period ending June 30, 1985, or, if not an active employee on July 1, 1983, within one year of returning to commissioned service, whichever date is later. Any member upon making such election shall have transferred all existing service credited in the public employees' retirement system which constituted service as a cadet together with the employee's contributions plus credited interest. If the employee has withdrawn the employee's contributions, the contributions must be restored to the public employees' retirement system before the transfer of credit can occur and such restoration must be completed within the time limits specified in this subsection for making the elective transfer.

(7) An active employee of the Washington state patrol who either became a member of the retirement system prior to June 12, 1980, or who has prior service as a cadet in the public employees' retirement system may make an irrevocable election to transfer such service to the retirement system if they have not met the time limitations of subsection (6) of this section by paying the amount required under RCW 41.50.165(2) less the contributions transferred. Any member upon making such election shall have transferred all existing service credited in the public employees' retirement system that constituted service as a cadet together with the employee's contributions plus credited interest. If the employee has withdrawn the employee's contributions, the contributions must be restored to the public employees' retirement system before the transfer of credit can occur and such restoration must be completed within the time limits specified in subsection (6) of this section for making the elective transfer.

(8) An active employee of the Washington state patrol may establish up to six months' retirement service credit in the state patrol retirement system for any period of employment by the Washington state patrol as a cadet if service credit for such employment was not previously established in the public employees' retirement system, subject to the following:

(a) Certification by the patrol that such employment as a cadet was for the express purpose of receiving on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper.

(b) Payment by the member of employee contributions in the amount of seven percent of the total salary paid for each month of service to be established, plus interest at seven percent from the date of the probationary service to the date of payment. This payment shall be made by the member no later than July 1, 1988.

(c) If the payment required under (b) of this subsection was not made by July 1, 1988, the member may establish the probationary service by paying the amount required under RCW 41.50.165(2).

(d) A written waiver by the member of the member's right to ever establish the same service in the public employees' retirement system at any time in the future.

(9) The department of retirement systems shall make the requested transfer subject to the conditions specified in subsections (6) and (7) of this section or establish additional credit as provided in subsection (8) of this section. Employee contributions and credited interest transferred shall be credited to the employee's account in the Washington state patrol retirement system. [1994 c 197 § 33; 1987 c 215 § 1; 1986 c 154 § 1; 1983 c 81 § 2; 1980 c 77 § 2; 1965 c 8 § 43.43.130. Prior: 1953 c 262 § 2; 1951 c 140 § 2; 1947 c 250 § 2; Rem. Supp. 1947 § 6362-82.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Effective date—1987 c 215: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 215 § 3.]

Effective date—1983 c 81: See note following RCW 43.43.120.

43.43.135 Membership in more than one retirement system. In any case where the Washington state patrol retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, an employee holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who is by reason of his current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan, shall be allowed membership rights should the agreement so provide. [1965 c 8 § 43.43.135. Prior: 1951 c 140 § 10.]

43.43.137 Reestablishment of service credit by former members who are members of the public employees' retirement system—Conditions. Former members of the retirement system established under this chapter who are currently members of the retirement system governed by chapter 41.40 RCW are permitted to reestablish service credit with the system subject to the following:

(1) The former member must have separated and withdrawn contributions from the system prior to January 1, 1966, and not returned to membership since that date;

(2) The former member must have been employed by the department of licensing, or its predecessor agency, in a capacity related to drivers' license examining within thirty days after leaving commissioned status with the state patrol; and

(3) The former member must make payment to the system of the contributions withdrawn with interest at the rate set by the director from the date of withdrawal to the date of repayment. Such payment must be made no later than June 30, 1986. [1986 c 154 § 2.]

43.43.142 Retirement board abolished—Transfer of powers, duties, and functions. The retirement board established by this chapter is abolished. All powers, duties, and functions of the board are transferred to the director of retirement systems. [1982 c 163 § 18.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

43.43.165 Board may receive contributions from any source. Contributions may be received by the Washington state patrol retirement board from any public or private source for deposit into the Washington state patrol retirement fund, and said contributions shall be dealt with in the same manner as other state patrol retirement funds and subject to the terms of the contribution. [1965 c 8 § 43.43.165. Prior: 1955 c 244 § 4.]

43.43.220 Retirement fund—Expenses. The Washington state patrol retirement fund shall be the fund from which shall be paid all retirement allowances or benefits in lieu thereof which are payable as provided herein. The expenses of operating the retirement system shall be paid from appropriations made for the operation of the Washington state patrol. [1989 c 273 § 25; 1973 1st ex.s. c 180 § 2; 1965 c 8 § 43.43.220. Prior: 1961 c 93 § 1; 1957 c 162 § 2; 1951 c 140 § 3; 1947 c 250 § 11; Rem. Supp. 1947 § 6362-91.]

Severability—1989 c 273: See RCW 41.45.900.

43.43.230 Total service credit. Subject to the provisions of RCW 43.43.260, at retirement, the total service credited to a member shall consist of all the member's current service and accredited prior service. [1982 1st ex.s. c 52 § 25; 1965 c 8 § 43.43.230. Prior: 1953 c 262 § 3; 1947 c 250 § 12; Rem. Supp. 1947 § 6362-92.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

43.43.240 Legal adviser. The attorney general shall be the legal adviser of the retirement board. [1965 c 8 § 43.43.240. Prior: 1947 c 250 § 13; Rem. Supp. 1947 § 6362-93.]

43.43.250 Retirement of members. (1) Any member who has attained the age of sixty years shall be retired on the first day of the calendar month next succeeding that in which said member shall have attained the age of sixty: PROVIDED, That the requirement to retire at age sixty shall not apply to a member serving as chief of the Washington state patrol.

(2) Any member who has completed twenty-five years of credited service or has attained the age of fifty-five may apply to retire as provided in RCW 43.43.260, by completing and submitting an application form to the department, setting forth at what time the member desires to be retired. [1982

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1st ex.s. c 52 § 26; 1975-'76 2nd ex.s. c 116 § 1; 1969 c 12 § 3; 1965 c 8 § 43.43.250. Prior: 1963 c 175 § 1; 1957 c 162 § 3; 1951 c 140 § 4; 1947 c 250 § 14; Rem. Supp. 1947 § 6362-94.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction—1969 c 12: See note following RCW 43.43.120.

43.43.260 Benefits. Upon retirement from service as provided in RCW 43.43.250, a member shall be granted a retirement allowance which shall consist of:

(1) A prior service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of prior service rendered by the member.

(2) A current service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of service rendered while a member of the retirement system.

(3) Any member with twenty-five years service in the Washington state patrol may have the member's service in the armed forces credited as a member whether or not the individual left the employ of the Washington state patrol to enter such armed forces: PROVIDED, That in no instance shall military service in excess of five years be credited: AND PROVIDED FURTHER, That in each instance, a member must restore all withdrawn accumulated contributions, which restoration must be completed on the date of the member's retirement, or as provided under RCW 43.43.130, whichever occurs first: AND PROVIDED FURTHER, That this section shall not apply to any individual, not a veteran within the meaning of RCW 41.06.150, as now or hereafter amended: AND PROVIDED FURTHER, That in no instance shall military service be credited to any member who is receiving full military retirement benefits pursuant to Title 10 United States Code, as now or hereafter amended.

(4) In no event shall the total retirement benefits from subsections (1), (2), and (3) of this section, of any member exceed seventy-five percent of the member's average final salary.

(5) A yearly increase in retirement allowance which shall amount to two percent of the retirement allowance computed at the time of retirement. This yearly increase shall be added to the retirement allowance on July 1st of each calendar year.

The provisions of this section shall apply to all members presently retired and to all members who shall retire in the future. [1994 c 197 § 34; 1982 1st ex.s. c 52 § 27; 1973 1st ex.s. c 180 § 3; 1971 ex.s. c 278 § 1; 1969 c 12 § 4; 1965 c 8 § 43.43.260. Prior: 1963 c 175 § 2; 1957 c 162 § 4; 1955 c 244 § 2; 1951 c 140 § 5; 1947 c 250 § 15; Rem. Supp. 1947 § 6362-95.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Effective date—1971 ex.s. c 278: "This 1971 amendatory act shall have an effective date of July 1, 1971." [1971 ex.s. c 278 § 2.]

Construction—1969 c 12: See note following RCW 43.43.120.

43.43.263 Effect of certain accumulated vacation leave on retirement benefits. RCW 43.01.044 shall not

result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter. [1983 c 283 § 5.]

43.43.264 Benefit calculation—Limitation. (1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section. [1995 c 145 § 4.]

43.43.270 Retirement allowances. (1) The normal form of retirement allowance shall be an allowance which shall continue as long as the member lives.

(2) If a member should die while in service the member's lawful spouse shall be paid an allowance which shall be equal to fifty percent of the average final salary of the member. If the member should die after retirement the member's lawful spouse shall be paid an allowance which shall be equal to the retirement allowance then payable to the member or fifty percent of the final average salary used in computing the member's retirement allowance, whichever is less. The allowance paid to the lawful spouse shall continue as long as the spouse lives: PROVIDED, That if a surviving spouse who is receiving benefits under this subsection marries another member of this retirement system who subsequently predeceases such spouse, the spouse shall then be entitled to receive the higher of the two survivors' allowances for which eligibility requirements were met, but a surviving spouse shall not receive more than one survivor's allowance from this system at the same time under this subsection. To be eligible for an allowance the lawful surviving spouse of a retired member shall have been married to the member prior to the member's retirement and continuously thereafter until the date of the member's death or shall have been married to the retired member at least two years prior to the member's death.

(3) If a member should die, either while in service or after retirement, the member's surviving unmarried children under the age of eighteen years shall be provided for in the following manner:

(a) If there is a surviving spouse, each child shall be entitled to a benefit equal to five percent of the final average salary of the member or retired member. The combined benefits to the surviving spouse and all children shall not exceed sixty percent of the final average salary of the member or retired member; and

(b) If there is no surviving spouse or the spouse should die, the child or children shall be entitled to a benefit equal to thirty percent of the final average salary of the member or retired member for one child and an additional ten percent for each additional child. The combined benefits to the children under this subsection shall not exceed sixty percent of the final average salary of the member or retired member. Payments under this subsection shall be prorated equally among the children, if more than one.

(4) If a member should die in the line of duty while employed by the Washington state patrol, the member's surviving children under the age of twenty years and eleven

months if attending any high school, college, university, or vocational or other educational institution accredited or approved by the state of Washington shall be provided for in the following manner:

(a) If there is a surviving spouse, each child shall be entitled to a benefit equal to five percent of the final average salary of the member. The combined benefits to the surviving spouse and all children shall not exceed sixty percent of the final average salary of the member;

(b) If there is no surviving spouse or the spouse should die, the unmarried child or children shall be entitled to receive a benefit equal to thirty percent of the final average salary of the member or retired member for one child and an additional ten percent for each additional child. The combined benefits to the children under this subsection shall not exceed sixty percent of the final average salary. Payments under this subsection shall be prorated equally among the children, if more than one; and

(c) If a beneficiary under this subsection reaches the age of twenty-one years during the middle of a term of enrollment the benefit shall continue until the end of that term.

(5) The provisions of this section shall apply to members who have been retired on disability as provided in RCW 43.43.040 if the officer was a member of the Washington state patrol retirement system at the time of such disability retirement. [1989 c 108 § 1; 1984 c 206 § 1; 1982 1st ex.s. c 52 § 28; 1973 2nd ex.s. c 14 § 3; 1973 1st ex.s. c 180 § 4. Prior: 1969 c 12 § 6; 1965 c 8 § 43.43.270; prior: 1963 c 175 § 3; 1961 c 93 § 2; 1951 c 140 § 6; 1947 c 250 § 16; Rem. Supp. 1947 § 6362-96.]

Effective date—1989 c 108: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 108 § 2.]

Applicability—1984 c 206: "This act shall apply only to surviving spouses receiving benefits under RCW 43.43.270(2) on or after March 27, 1984. No surviving spouse whose benefits under RCW 43.43.270(2) were terminated before March 27, 1984, due to remarriage shall be governed by this act, and this act shall neither retroactively nor prospectively restore such terminated benefits. This act shall apply only to surviving unmarried children receiving benefits under RCW 43.43.270 (3) or (4) on or after March 27, 1984. No benefits shall be paid under RCW 43.43.270 (3)(b) or (4)(b) for any period before March 27, 1984." [1984 c 206 § 2.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction—1969 c 12: See note following RCW 43.43.120.

43.43.275 Minimum retirement allowance—Post-retirement adjustment—Computation. (1) Notwithstanding any provision of law to the contrary, effective July 1, 1987, no beneficiary receiving a retirement allowance pursuant to this chapter shall receive less than thirteen dollars per month for each year of service creditable to the person whose service is the basis of the retirement allowance. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by thirteen dollars. Where the retirement allowance was adjusted at the time benefit payments to the beneficiary commenced, the minimum retirement allowance provided in this subsection shall be adjusted in a manner consistent with that adjustment. The minimum retirement allowance provided in this subsection shall not be applicable to those

receiving benefits pursuant to RCW 43.43.040 or 43.43.270 (3) or (4).

(2) Notwithstanding any provision of law to the contrary, effective July 1, 1979, the retirement allowance of each beneficiary who either is receiving benefits pursuant to RCW 43.43.270 as of December 31, 1978, or commenced receiving a monthly retirement allowance under this chapter as of a date no later than July 1, 1974, shall be permanently increased by a post-retirement adjustment. This adjustment shall be in lieu of any adjustments provided under RCW 43.43.260(5) as of July 1, 1979, or July 1, 1980, for the affected beneficiaries, except that in no case shall such adjustment be less than the total of those which would be provided under RCW 43.43.260(5) as of July 1, 1979, and July 1, 1980. Such adjustment shall be calculated as follows:

(a) Retirement allowances to which this subsection and subsection (1) of this section are both applicable shall be determined by first applying subsection (1) and then applying this subsection. The department shall determine the total years of creditable service and the total dollar benefit base accrued as of December 31, 1978, except that this determination shall take into account only those beneficiaries to whom this subsection applies;

(b) The department shall multiply the total benefits determined in (a) of this subsection by six percent and divide the dollar value thus determined by the total service determined in (a) of this subsection. The resultant figure shall then be a post-retirement increase factor which shall be applied as specified in (c) of this subsection;

(c) Each beneficiary to whom this subsection applies shall receive an increase which is the product of the factor determined in (b) of this subsection multiplied by the years of creditable service. [1987 c 173 § 1; 1979 ex.s. c 96 § 3.]

Effective date—1987 c 173: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 173 § 4.]

43.43.276 Retirement and beneficiary allowances—Post-retirement adjustment—Minimum adjustment. Notwithstanding any provision of law to the contrary, effective July 1, 1983, all retirement allowances that commenced on a date no later than July 1, 1978, and all beneficiary allowances that commenced on a date no later than December 31, 1982, shall be permanently increased by a post-retirement adjustment of \$.74 per month for each year of creditable service the member established with the retirement system. This adjustment shall be in lieu of any adjustment provided under RCW 43.43.260(5) as of July 1, 1983, and July 1, 1984, for the affected persons, except that in no case shall such adjustment be less than the total of those which would be provided under RCW 43.43.260(5) as of July 1, 1983, and July 1, 1984. [1983 1st ex.s. c 56 § 5.]

Effective date—1983 1st ex.s. c 56: See note following RCW 2.12.046.

43.43.277 Minimum retirement allowance for surviving spouses not eligible for federal benefits. (1) The benefits provided under subsection (2) of this section shall be available only to surviving spouses whose allowances commenced before January 1, 1970, and who are not

receiving and are not eligible for federal old age, survivors, or disability benefits.

(2) Effective July 1, 1987, the minimum retirement benefit provided pursuant to RCW 43.43.275(1) to surviving spouses who meet the qualifications in subsection (1) of this section shall be twenty-three dollars per month per year of service. However, the minimum benefit for the surviving spouse of a member who died in service who meets the qualifications in subsection (1) of this section shall be calculated using twenty years of service or the member's actual years of service, whichever is greater.

(3) Effective July 1, 1996, the minimum benefit under RCW 43.43.260 and 43.43.270(1) for the member or RCW 43.43.275(1) for the surviving spouse shall not be less than five hundred dollars per month if the member has completed at least twenty-five years of service in this system. [1996 c 185 § 1; 1987 c 173 § 2.]

Effective date—1987 c 173: See note following RCW 43.43.275.

43.43.280 Repayment of contributions on death or termination of employment—Election to receive reduced retirement allowance at age fifty-five. (1) If a member dies before retirement, and has no surviving spouse or children under the age of eighteen years, all contributions made by the member, including any amount paid under RCW 41.50.165(2), with interest as determined by the director, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to such person or persons as the member shall have nominated by written designation duly executed and filed with the department, or if there be no such designated person or persons, then to the member's legal representative.

(2) If a member should cease to be an employee before attaining age sixty for reasons other than the member's death, or retirement, the individual shall thereupon cease to be a member except as provided under *RCW 43.43.130 (2) and (3) and, the individual may withdraw the member's contributions to the retirement fund, including any amount paid under RCW 41.50.165(2), with interest as determined by the director, by making application therefor to the department, except that: A member who ceases to be an employee after having completed at least five years of service shall remain a member during the period of the member's absence from employment for the exclusive purpose only of receiving a retirement allowance to begin at attainment of age sixty, however such a member may upon written notice to the department elect to receive a reduced retirement allowance on or after age fifty-five which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions, the individual shall thereupon cease to be a member and this subsection shall not apply. [1994 c 197 § 35; 1991 c 365 § 32; 1987 c 215 § 2; 1982 1st ex.s. c 52 § 29; 1973 1st ex.s. c 180 § 5; 1969 c 12 § 7; 1965 c 8 § 43.43.280. Prior: 1961 c 93 § 3; 1951 c 140 § 7; 1947 c 250 § 17; Rem. Supp. 1947 § 6363-97.]

***Reviser's note:** RCW 43.43.130 was amended by 1994 c 197 § 33 changing subsections (2) and (3) to subsections (2), (3), and (4).

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

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

Effective date—1987 c 215: See note following RCW 43.43.130.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction—1969 c 12: See note following RCW 43.43.120.

43.43.285 Special death benefit—Death in the course of employment. (1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050. [1996 c 226 § 2.]

Effective date—1996 c 226: See note following RCW 41.26.048.

43.43.290 Status in case of disablement. A person receiving benefits under RCW 43.43.040 will be a nonactive member. If any person who is or has been receiving benefits under RCW 43.43.040 returns or has returned to active duty with the Washington state patrol, the person shall become an active member of the retirement system on the first day of reemployment. The person may acquire service credit for the period of disablement by paying into the retirement fund all contributions required based on the compensation which would have been received had the person not been disabled. To acquire service credit, the person shall complete the required payment within five years of return to active service or prior to retirement, whichever occurs first. Persons who return to active service prior to July 1, 1982, shall complete the required payment within five years of July 1, 1982, or prior to retirement, whichever occurs first. No service credit for the disability period may be allowed unless full payment is made. Interest shall be charged at the rate set by the director of retirement systems from the date of return to active duty or from July 1, 1982, whichever is later, until the date of payment. The Washington state patrol shall pay into the retirement system the amount which it would have contributed had the person not been disabled. The payment shall become due and payable, in total, when the person makes the first payment. If the person fails to complete the full payment required within the time period specified, any payments made to the retirement fund under this section shall be refunded with interest and any payment by the Washington state patrol to the retirement fund for this purpose shall be refunded. [1982 1st ex.s. c 52 § 30; 1965 c 8 § 43.43.290. Prior: 1947 c 250 § 18; Rem. Supp. 1947 § 6362-98.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

43.43.300 Contributions by members—State contributions remain in fund if member leaves patrol. Beginning on July 1, 1963, every Washington state patrol employee who is a member of the retirement fund shall contribute seven percent of his monthly salary, which shall be deducted from the compensation of each member on each and every payroll.

In event a member severs his connection with the Washington state patrol or is dismissed, the amount paid by the state of Washington shall remain in the retirement fund. [1965 c 8 § 43.43.300. Prior: 1963 c 175 § 4; 1961 c 93 § 4; 1955 c 244 § 3; 1951 c 140 § 9; 1947 c 250 § 19; Rem. Supp. 1947 § 6362-99.]

Members' retirement contributions—Payment by employer: RCW 41.04.445.

43.43.310 Benefits exempt from taxation and legal process—Assignability—Exceptions—Deductions for group insurance premiums or for state patrol memorial foundation contributions. (1) Except as provided in subsections (2) and (3) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions hereof and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of members of the Washington state patrol or other public employees of the state of Washington, or for contributions to the Washington state patrol memorial foundation. [1991 c 365 § 23; 1989 c 360 § 29. Prior: 1987 c 326 § 25; 1987 c 63 § 1; 1982 1st ex.s. c 52 § 31; 1979 ex.s. c 205 § 8; 1977 ex.s. c 256 § 1; 1965 c 8 § 43.43.310; prior: 1951 c 140 § 8; 1947 c 250 § 20; Rem. Supp. 1947 § 6362-100.]

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

Effective date—1987 c 326: See RCW 41.50.901.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

43.43.320 Penalty for falsification. Any person who knowingly makes any false statement or falsifies or permits

to be falsified any record or records of the Washington state patrol retirement fund in any attempt to defraud such fund shall be guilty of a gross misdemeanor. [1965 c 8 § 43.43.320. Prior: 1947 c 250 § 21; Rem. Supp. 1947 § 6362-101.]

43.43.330 Examinations for promotion. Appropriate examinations shall be conducted for the promotion of commissioned patrol officers to the rank of sergeant and lieutenant. The examinations shall be prepared and conducted under the supervision of the chief of the Washington state patrol, who shall cause at least thirty days written notice thereof to be given to all patrol officers eligible for such examinations. The written notice shall specify the expected type of examination and relative weights to be assigned if a combination of tests is to be used. Examinations shall be given once every two years, or whenever the eligible list becomes exhausted as the case may be. After the giving of each such examination a new eligible list shall be compiled replacing any existing eligible list for such rank. Only grades attained in the last examination given for a particular rank shall be used in compiling each eligible list therefor. The chief, or in his discretion a committee of three individuals appointed by him, shall prepare and conduct the examinations, and thereafter grade and evaluate them in accordance with the following provisions, or factors: For promotion to the rank of sergeant or lieutenant, the examination shall consist of one or more of the following components: (1) Oral examination; (2) written examination; (3) service rating; (4) personnel record; (5) assessment center or other valid tests that measures the skills, knowledge, and qualities needed to perform these jobs. A cutoff score may be set for each testing component that allows only those scoring above the cutoff on one component to proceed to take a subsequent component. [1993 c 155 § 1; 1985 c 4 § 1; 1969 ex.s. c 20 § 1; 1965 c 8 § 43.43.330. Prior: 1959 c 115 § 1; 1949 c 192 § 2; Rem. Supp. 1949 § 6362-61a.]

43.43.340 Eligible list, and promotions therefrom—Affirmative action. (1) The names of all officers who have passed examinations satisfactorily shall be placed on an eligible list in the order of the grade attained in the examinations. The chief, or the committee mentioned in RCW 43.43.330 at the chief's request, may determine the lowest examination grade which will qualify an officer for inclusion of his or her name on an eligible list. Examination papers shall be graded promptly and an eligible list shall be made up immediately thereafter. All officers taking an examination shall be informed of the grade earned.

(2) After an eligible list is made up all promotions shall be made from the five top names on the applicable list, and if needed to comply with affirmative action goals three additional names referred under subsection (3) of this section. Not all three additional names need be promoted at the time they are referred and they may be referred more than once. Each officer shall be informed in writing as his or her name is included in the top five on an eligible list or referred under subsection (3) of this section. No officer whose name appears within the top five on any eligible list shall be passed over for promotion more than three times.

(3) If the vacancy to be filled is identified as part of the state patrol's affirmative action goals as established under its affirmative action plan, the chief may refer for consideration up to three additional names per vacancy of individuals who are on the eligible list and who are members of one or more of the protected groups under Title VII of the 1964 Civil Rights Act and chapter 49.60 RCW, or for federal contract compliance purposes, veterans and disabled veterans as defined in the Vietnam Era Veterans Readjustment Act of 1974, Title 41 C.F.R., chapter 60, part 60-250.

The three additional names referred for each vacancy shall be the top three members of the protected groups designated by the chief for referral for that vacancy in accordance with the state patrol's affirmative action goals. These names shall be drawn in rank order from the remaining names of protected group members on the eligible list, after ranking by examination grade. For each vacancy, a total of three supplementary names may be referred.

(4) After having qualified for promotion hereunder an officer must pass a medical examination and must be certified as to physical fitness to perform the duties of the advanced position by one of three doctors designated by the chief of the Washington state patrol.

(5) The state patrol shall consult with the human rights commission in the development of rules pertaining to affirmative action. The state patrol shall transmit a report annually to the human rights commission which states the progress the state patrol has made in meeting affirmative action goals and timetables. [1985 c 365 § 6; 1965 c 8 § 43.43.340. Prior: 1949 c 192 § 3; Rem. Supp. 1949 § 6362-61b.]

43.43.350 Determination of eligibility for examination or promotion. Eligibility for examination or promotion shall be determined as follows:

Patrol officers with one year of probationary experience, in addition to three years experience as a regular patrolman, shall be eligible for examination for the rank of sergeant; patrol officers with one year of probationary experience in the rank of sergeant, in addition to two years as a regular sergeant, shall be eligible for examination for the rank of lieutenant. [1969 ex.s. c 20 § 2; 1965 c 8 § 43.43.350. Prior: 1949 c 192 § 4, part; Rem. Supp. 1949 § 6362-61c, part.]

43.43.360 Probationary period. All newly appointed or promoted officers shall serve a probationary period of one year after appointment or promotion, whereupon their probationary status shall terminate, and they shall acquire regular status in the particular grade, unless given notice in writing to the contrary by the chief prior to the expiration of the probationary period. [1984 c 141 § 5; 1965 c 8 § 43.43.360. Prior: 1949 c 192 § 4, part; Rem. Supp. 1949 § 6362-61c, part.]

43.43.370 Staff or technical officers. The chief of the Washington state patrol may appoint such staff or technical officers as he deems necessary for the efficient operation of the patrol, and he may assign whatever rank he deems necessary to such staff or technical officers for the duration of their service as such.

Staff or technical officers may be returned to their line rank or position whenever the chief so desires. Staff or technical officers without line command assignment and whose duties are of a special or technical nature shall hold their staff or technical rank on a continuing probationary basis; however, such staff or technical officers, if otherwise eligible, shall not be prevented from taking the line promotion examinations, and qualifying for promotion whenever the examinations may be held.

If a staff or technical officer returns to line operations he shall return in the rank that he holds in the line command, unless promoted to a higher rank through examination and appointment as herein provided: PROVIDED, Nothing contained herein shall be construed as giving the chief the right to demote or to reduce the rank of any officer of the patrol who was holding such office on April 1, 1949. [1965 c 8 § 43.43.370. Prior: 1949 c 192 § 5; Rem. Supp. 1949 § 6362-61d.]

43.43.380 Minimum salaries. The minimum monthly salary paid to state patrol officers shall be as follows: Officers, three hundred dollars; staff or technical sergeants, three hundred twenty-five dollars; line sergeants, three hundred fifty dollars; lieutenants, three hundred seventy-five dollars; captains, four hundred twenty-five dollars. [1965 c 8 § 43.43.380. Prior: 1949 c 192 § 6; Rem. Supp. 1949 § 6362-61e.]

43.43.390 Bicycle awareness program—Generally. Bicycling is increasing in popularity as a form of recreation and as an alternative mode of transportation. To make bicycling safer, the various law enforcement agencies should enforce traffic regulations for bicyclists. By enforcing bicycle regulations, law enforcement officers are reinforcing educational programs. Bicycling takes more skill than most people realize. Since bicyclists have a low profile in traffic and are unprotected, they need more defensive riding skills than motorists do.

A bicycle awareness program is created within the Washington state patrol. In developing the curriculum for the bicycle awareness program the patrol shall consult with the traffic safety commission and with bicycling groups providing bicycle safety education. The patrol shall conduct the program in conjunction with the safety education officer program and may use other law enforcement personnel and volunteers to implement the program for children in grades kindergarten through six. The patrol shall ensure that each safety educator presenting the bicycle awareness program has received specialized training in bicycle safety education and has been trained in effective defensive bicycle riding skills. [1991 c 214 § 1.]

Bicycle transportation management program: RCW 47.04.190.

43.43.500 Crime information center—Established—Purpose—Functions. There is established the Washington state crime information center to be located in the records division of the Washington state patrol and to function under the direction of the chief of the Washington state patrol. The center shall serve to coordinate crime information, by means of data processing, for all law enforcement agencies in the state. It shall make such use of the facilities of the

law enforcement teletype system as is practical. It shall provide access to the national crime information center, to motor vehicle and driver license information and to such other public records as may be accessed by data processing and which are pertinent to law enforcement. [1967 ex.s. c 27 § 1.]

43.43.510 Crime information center—Files listing stolen vehicles, outstanding warrants, runaway children, etc., to be established. As soon as is practical and feasible there shall be established, by means of data processing, files listing stolen and wanted vehicles, outstanding warrants, identifying children whose parents, custodians, or legal guardians have reported as having run away from home or the custodial residence, identifiable stolen property, and such other files as may be of general assistance to law enforcement agencies. [1995 c 312 § 45; 1967 ex.s. c 27 § 2.]

Short title—1995 c 312: See note following RCW 13.32A.010.

43.43.530 Crime information center—Cost of terminal facilities. The cost of additional terminal facilities necessary to gain access to the Washington state crime information center shall be borne by the respective agencies operating the terminal facilities. [1967 ex.s. c 27 § 4.]

43.43.540 Sex offenders—Central registry—Reimbursement to counties. The county sheriff shall forward the information and fingerprints obtained pursuant to RCW 9A.44.130 to the Washington state patrol within five working days. The state patrol shall maintain a central registry of sex offenders required to register under RCW 9A.44.130 and shall adopt rules consistent with chapters 10.97, 10.98, and 43.43 RCW as are necessary to carry out the purposes of RCW 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The Washington state patrol shall reimburse the counties for the costs of processing the sex offender registration, including taking the fingerprints and the photographs. [1990 c 3 § 403.]

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Sex offense defined: RCW 9A.44.130.

43.43.550 Traffic safety education officers—Powers—Pay and reimbursement. (1) The chief of the Washington state patrol shall designate twenty-four or more officers as traffic safety education officers. The chief of the Washington state patrol shall make the designations in a manner designed to ensure that the programs under subsection (2) of this section are reasonably available in all areas of the state.

(2) The chief of the Washington state patrol may permit these traffic safety education officers to appear in their off-duty hours in uniform to give programs in schools or the community on the duties of the state patrol, traffic safety, or crime prevention.

(3) The traffic safety education officers may accept such pay and reimbursement of expenses as are approved by the state patrol from the sponsoring organization.

(4) The state patrol is encouraged to work with community organizations to set up these programs state-wide. [1984 c 217 § 1.]

43.43.560 Automatic fingerprint information system—Report. (1) To support criminal justice services in the local communities throughout this state, the state patrol shall develop a plan for and implement an automatic fingerprint information system. In implementing the automatic fingerprint information system, the state patrol shall either purchase or lease the appropriate computer systems. If the state patrol leases a system, the lease agreement shall include purchase options. The state patrol shall procure the most efficient system available.

(2) The state patrol shall report on the automatic fingerprint information system to the legislature no later than January 1, 1987. The report shall include a time line for implementing each stage, a local agency financial participation analysis, a system analysis, a full cost/purchase analysis, a vendor bid evaluation, and a space location analysis that includes a site determination. The state patrol shall coordinate the preparation of this report with the office of financial management. [1986 c 196 § 1.]

43.43.565 Automatic fingerprint information system account. (1) The automatic fingerprint information system account is established in the custody of the state treasurer. Moneys in the account may be spent only for the purposes of purchasing or leasing automatic fingerprint information systems after appropriation by the legislature.

(2) Any moneys received by the state from bureau of justice assistance grants shall be deposited in the automatic fingerprint information system account if not inconsistent with the terms of the grant. [1986 c 196 § 2.]

43.43.570 Automatic fingerprint identification system—Conditions for local establishment or operation—Exemption—Rules. (1) No local law enforcement agency may establish or operate an automatic fingerprint identification system unless:

(a) Both the hardware and software of the local system are compatible with the state system under RCW 43.43.560; and

(b) The local system is equipped to receive and answer inquiries from the Washington state patrol automatic fingerprint identification system and transmit data to the Washington state patrol automatic fingerprint identification system.

(2) A local law enforcement agency operating an automatic fingerprint identification system shall transmit data on fingerprint entries to the Washington state patrol electronically by computer. This requirement shall be in addition to those under RCW 10.98.050 and 43.43.740.

(3) Counties or local agencies that purchased or signed a contract to purchase an automatic fingerprint identification system prior to January 1, 1987, are exempt from the requirements of this section. The Washington state patrol shall charge fees for processing latent fingerprints submitted to the patrol by counties or local jurisdictions exempted from the requirements of this section. The fees shall cover, as nearly as practicable, the direct and indirect costs to the patrol of processing such fingerprints.

(4) The Washington state patrol shall adopt rules to implement this section. [1987 c 450 § 1.]

43.43.600 Drug control assistance unit—Created. There is hereby created in the Washington state patrol a drug control assistance unit. [1970 ex.s. c 63 § 1.]

43.43.610 Drug control assistance unit—Duties. The drug control assistance unit shall provide investigative assistance for the purpose of enforcement of the provisions of chapter 69.40 RCW. [1983 c 3 § 107; 1980 c 69 § 1; 1970 ex.s. c 63 § 2.]

43.43.620 Drug control assistance unit—Additional duties—Information system on violations—Inter-unit communications network. The drug control assistance unit shall:

(1) Establish a record system to coordinate with all law enforcement agencies in the state a comprehensive system of information concerning violations of the narcotic and drug laws.

(2) Provide a communications network capable of interconnecting all offices and investigators of the unit. [1970 ex.s. c 63 § 3.]

43.43.630 Drug control assistance unit—Use of existing facilities and systems. In order to maximize the efficiency and effectiveness of state resources, the drug control assistance unit shall, where feasible, use existing facilities and systems. [1970 ex.s. c 63 § 4.]

43.43.640 Drug control assistance unit—Certain investigators exempt from state civil service act. Any investigators employed pursuant to RCW 43.43.610 shall be exempt from the state civil service act, chapter 41.06 RCW. [1980 c 69 § 3; 1970 ex.s. c 63 § 5.]

43.43.650 Drug control assistance unit—Employment of necessary personnel. The chief of the Washington state patrol may employ such criminalists, chemists, clerical and other personnel as are necessary for the conduct of the affairs of the drug control assistance unit. [1970 ex.s. c 63 § 6.]

43.43.655 Drug control assistance unit—Special narcotics enforcement unit. A special narcotics enforcement unit is established within the Washington state patrol drug control assistance unit. The unit shall be coordinated between the Washington state patrol, the attorney general, and the Washington association of sheriffs and police chiefs. The initial unit shall consist of attorneys, investigators, and the necessary accountants and support staff. It is the responsibility of the unit to: (1) Conduct criminal narcotic profiteering investigations and assist with prosecutions, (2) train local undercover narcotic agents, and (3) coordinate federal, state, and local interjurisdictional narcotic investigations. [1989 c 271 § 235.]

Reviser's note: 1989 c 271 § 235 directed that this section be added to chapter 9A.82 RCW. Since this placement appears inappropriate, this section has been codified in chapter 43.43 RCW.

Severability—1989 c 271: See note following RCW 9.94A.310.

43.43.670 Crime laboratory created—Powers—Priorities. There is created in the Washington state patrol a crime laboratory system which is authorized to:

(1) Provide laboratory services for the purpose of analyzing and scientifically handling any physical evidence relating to any crime.

(2) Provide training assistance for local law enforcement personnel.

The crime laboratory system shall assign priority to a request for services with due regard to whether the case involves criminal activity against persons. The Washington state forensic investigations council shall assist the crime laboratory system in devising policies to promote the most efficient use of laboratory resources consistent with this section. The forensic investigations council shall be actively involved in the preparation of the crime laboratory budget and shall approve the crime laboratory budget prior to its formal submission by the state patrol to the office of financial management pursuant to RCW 43.88.030. [1995 c 398 § 1; 1980 c 69 § 2.]

43.43.680 Controlled substance, simulator solution analysis—Prima facie evidence. (1) In all prosecutions involving the analysis of a controlled substance or a sample of a controlled substance by the crime laboratory system of the state patrol, a certified copy of the analytical report signed by the supervisor of the state patrol's crime laboratory or the forensic scientist conducting the analysis is prima facie evidence of the results of the analytical findings.

(2) The defendant or a prosecutor may subpoena the forensic scientist who conducted the analysis of the substance to testify at the preliminary hearing and trial of the issue at no cost to the defendant, if the subpoena is issued at least ten days prior to the trial date.

(3) In all prosecutions involving the analysis of a certified simulator solution by the Washington state toxicology laboratory of the University of Washington, a certified copy of the analytical report signed by the state toxicologist or the toxicologist conducting the analysis is prima facie evidence of the results of the analytical findings, and of certification of the simulator solution used in the BAC verifier datamaster or any other alcohol/breath-testing equipment subsequently adopted by rule.

(4) The defendant of a prosecution may subpoena the toxicologist who conducted the analysis of the simulator solution to testify at the preliminary hearing and trial of the issue at no cost to the defendant, if thirty days prior to issuing the subpoena the defendant gives the state toxicologist notice of the defendant's intention to require the toxicologist's appearance. [1994 c 271 § 501; 1992 c 129 § 1.]

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

43.43.690 Crime laboratory analysis—Guilty persons to pay fee. (1) When a person has been adjudged guilty of violating any criminal statute of this state and a crime laboratory analysis was performed by a state crime laboratory, in addition to any other disposition, penalty, or

fine imposed, the court shall levy a crime laboratory analysis fee of one hundred dollars for each offense for which the person was convicted. Upon a verified petition by the person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay the fee.

(2) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of any criminal statute of this state and a crime laboratory analysis was performed, in addition to any other disposition imposed, the court shall assess a crime laboratory analysis fee of one hundred dollars for each adjudication. Upon a verified petition by a minor assessed the fee, the court may suspend payment of all or part of the fee [if] it finds that the minor does not have the ability to pay the fee.

(3) All crime laboratory analysis fees assessed under this section shall be collected by the clerk of the court and forwarded to the state general fund, to be used only for crime laboratories. The clerk may retain five dollars to defray the costs of collecting the fees. [1992 c 129 § 2.]

43.43.700 Identification, child abuse, vulnerable adult abuse, and criminal history section—Generally. There is hereby established within the Washington state patrol a section on identification, child abuse, vulnerable adult abuse, and criminal history hereafter referred to as the section.

In order to aid the administration of justice the section shall install systems for the identification of individuals, including the fingerprint system and such other systems as the chief deems necessary. The section shall keep a complete record and index of all information received in convenient form for consultation and comparison.

The section shall obtain from whatever source available and file for record the fingerprints, palmprints, photographs, or such other identification data as it deems necessary, of persons who have been or shall hereafter be lawfully arrested and charged with, or convicted of any criminal offense. The section may obtain like information concerning persons arrested for or convicted of crimes under the laws of another state or government.

The section shall also contain like information concerning persons, over the age of eighteen years, who have been found, pursuant to a dependency proceeding under *RCW 13.34.030(2)(b) to have physically abused or sexually abused or exploited a child or, pursuant to a protection proceeding under chapter 74.34 RCW, to have abused or financially exploited a vulnerable adult. [1989 c 334 § 6; 1987 c 486 § 9; 1985 c 201 § 7; 1984 c 17 § 17; 1972 ex.s. c 152 § 1.]

*Reviser's note: RCW 13.34.030 was amended by 1994 c 288 § 1, changing subsection (2)(b) to subsection (4)(b).

43.43.705 Identification data—Processing procedure—Definitions. Upon the receipt of identification data from criminal justice agencies within this state, the section shall immediately cause the files to be examined and upon request shall promptly return to the contributor of such data a transcript of the record of previous arrests and dispositions of the persons described in the data submitted.

Upon application, the section shall furnish to criminal justice agencies, or to the department of social and health services, hereinafter referred to as the "department", a transcript of the criminal offender record information, dependency record information, or protection proceeding record information available pertaining to any person of whom the section has a record.

For the purposes of RCW 43.43.700 through 43.43.800 the following words and phrases shall have the following meanings:

"Criminal offender record information" includes, and shall be restricted to identifying data and public record information recorded as the result of an arrest or other initiation of criminal proceedings and the consequent proceedings related thereto. "Criminal offender record information" shall not include intelligence, analytical, or investigative reports and files.

"Criminal justice agencies" are those public agencies within or outside the state which perform, as a principal function, activities directly relating to the apprehension, prosecution, adjudication or rehabilitation of criminal offenders.

"Dependency record information" includes and shall be restricted to identifying data regarding a person, over the age of eighteen, who was a party to a dependency proceeding brought under chapter 13.34 RCW and who has been found, pursuant to such dependency proceeding, to have sexually abused or exploited or physically abused a child.

"Protection proceeding record information" includes and shall be restricted to identifying data regarding a person, over eighteen, who was a respondent to a protection proceeding brought under chapter 74.34 RCW and who has been found pursuant to such a proceeding to have abused or financially exploited a vulnerable adult.

The section may refuse to furnish any information pertaining to the identification or history of any person or persons of whom it has a record, or other information in its files and records, to any applicant if the chief determines that the applicant has previously misused information furnished to such applicant by the section or the chief believes that the applicant will not use the information requested solely for the purpose of due administration of the criminal laws or for the purposes enumerated in RCW 43.43.760(3). The applicant may appeal such determination and denial of information to the advisory council created in *RCW 43.43.785 and the council may direct that the section furnish such information to the applicant. [1989 c 334 § 7; 1987 c 486 § 10; 1985 c 201 § 8; 1977 ex.s. c 314 § 14; 1972 ex.s. c 152 § 2.]

*Reviser's note: RCW 43.43.790 created the advisory council on criminal justice services.

43.43.710 Availability of information. Information contained in the files and records of the section relative to the commission of any crime by any person shall be considered privileged and shall not be made public or disclosed for any personal purpose or in any civil court proceedings except upon a written order of the judge of a court wherein such civil proceedings are had. All information contained in the files of the section relative to criminal records and personal histories of persons arrested for the commission of a crime shall be available to all criminal justice agencies

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upon the filing of an application as provided in RCW 43.43.705.

Although no application for information has been made to the section as provided in RCW 43.43.705, the section may transmit such information in the chief's discretion, to such agencies as are authorized by RCW 43.43.705 to make application for it. [1995 c 369 § 13; 1987 c 486 § 11; 1986 c 266 § 87; 1985 c 201 § 9; 1979 ex.s. c 36 § 7. Prior: 1977 ex.s. c 314 § 15; 1977 ex.s. c 30 § 1; 1972 ex.s. c 152 § 3.]

Effective date—1995 c 369: See note following RCW 43.43.930.

Severability—1986 c 266: See note following RCW 38.52.005.

43.43.715 Identification—Cooperation with other criminal justice agencies. The section shall, consistent with the procedures set forth in *this 1972 act, cooperate with all other criminal justice agencies, and the department, within or without the state, in an exchange of information regarding convicted criminals and those suspected of or wanted for the commission of crimes, and persons who are the subject of dependency record information or protection proceeding record information, to the end that proper identification may rapidly be made and the ends of justice served. [1989 c 334 § 8; 1985 c 201 § 10; 1972 ex.s. c 152 § 4.]

*Reviser's note: For "this 1972 act" [1972 ex.s. c 152], see note following RCW 43.43.810.

43.43.720 Local identification and records systems—Assistance. At the request of any criminal justice agency within this state, the section may assist such agency in the establishment of local identification and records systems. [1972 ex.s. c 152 § 5.]

43.43.725 Records as evidence. Any copy of a criminal offender record, photograph, fingerprint, or other paper or document in the files of the section, including dependency record information, certified by the chief or his designee to be a true and complete copy of the original or of information on file with the section, shall be admissible in evidence in any court of this state pursuant to the provisions of RCW 5.44.040. [1985 c 201 § 11; 1972 ex.s. c 152 § 6.]

43.43.730 Records—Inspection—Requests for purge or modification—Appeals. (1) Any individual shall have the right to inspect criminal offender record information, or dependency record information, on file with the section which refers to him. If an individual believes such information to be inaccurate or incomplete, he may request the section to purge, modify or supplement it and to advise such persons or agencies who have received his record and whom the individual designates to modify it accordingly. Should the section decline to so act, or should the individual believe the section's decision to be otherwise unsatisfactory, the individual may appeal such decision to the superior court in the county in which he is resident, or the county from which the disputed record emanated or Thurston county. The court shall in such case conduct a de novo hearing, and may order such relief as it finds to be just and equitable.

(2) The section may prescribe reasonable hours and a place for inspection, and may impose such additional restrictions, including fingerprinting, as are reasonably

necessary both to assure the record's security and to verify the identities of those who seek to inspect them: PROVIDED, That the section may charge a reasonable fee for fingerprinting. [1985 c 201 § 12; 1977 ex.s. c 314 § 16; 1972 ex.s. c 152 § 7.]

43.43.735 Photographing and fingerprinting—Powers and duties of law enforcement agencies, department of licensing, and courts—Other data. (1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state, to cause the photographing and fingerprinting of all adults and juveniles lawfully arrested for the commission of any criminal offense constituting a felony or gross misdemeanor. (a) When such juveniles are brought directly to a juvenile detention facility, the juvenile court administrator is also authorized, but not required, to cause the photographing, fingerprinting, and record transmittal to the appropriate law enforcement agency; and (b) a further exception may be made when the arrest is for a violation punishable as a gross misdemeanor and the arrested person is not taken into custody.

(2) It shall be the right, but not the duty, of the sheriff or director of public safety of every county, and the chief of police of every city or town, and every chief officer of other law enforcement agencies operating within this state to photograph and record the fingerprints of all adults lawfully arrested, all persons who are the subject of dependency record information, or all persons who are the subject of protection proceeding record information.

(3) Such sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may record, in addition to photographs and fingerprints, the palmprints, soleprints, toeprints, or any other identification data of all persons whose photograph and fingerprints are required or allowed to be taken under this section, all persons who are the subject of dependency record information, or all persons who are the subject of protection proceeding record information, when in the discretion of such law enforcement officers it is necessary for proper identification of the arrested person or the investigation of the crime with which he is charged.

(4) It shall be the duty of the department of health or the court having jurisdiction over the dependency action and protection proceedings under chapter 74.34 RCW to cause the fingerprinting of all persons who are the subject of a disciplinary board final decision, dependency record information, protection proceeding record information, or to obtain other necessary identifying information, as specified by the section in rules adopted under chapter 34.05 RCW to carry out the provisions of this subsection.

(5) The court having jurisdiction over the dependency or protection proceeding action may obtain and record, in addition to fingerprints, the photographs, palmprints, soleprints, toeprints, or any other identification data of all persons who are the subject of dependency record information or protection proceeding record information, when in the discretion of the court it is necessary for proper identification of the person. [1991 c 3 § 297. Prior: 1989 c 334 § 9; 1989 c 6 § 2; prior: 1987 c 486 § 12; 1987 c 450 § 2; 1985 c 201 § 13; 1972 ex.s. c 152 § 8.]

43.43.740 Photographing and fingerprinting—Transmittal of data—Compliance audits. (1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state to furnish within seventy-two hours from the time of arrest to the section the required sets of fingerprints together with other identifying data as may be prescribed by the chief, of any person lawfully arrested, fingerprinted, and photographed pursuant to RCW 43.43.735.

(2) Law enforcement agencies may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. Said records shall remain in the possession of the law enforcement agency as part of the identification record and are not returnable to the subjects thereof.

(3) It shall be the duty of the court having jurisdiction over the dependency action to furnish dependency record information, obtained pursuant to RCW 43.43.735, to the section within seven days, excluding Saturdays, Sundays, and holidays, from the date that the court enters a finding, pursuant to a dependency action brought under chapter 13.34 RCW, that a person over the age of eighteen, who is a party to the dependency action, has sexually abused or exploited or physically abused a child.

(4) The court having jurisdiction over the dependency or protection proceeding action may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. These records shall remain in the possession of the court as part of the identification record and are not returnable to the subjects thereof.

(5) It shall be the duty of a court having jurisdiction over the protection proceeding to furnish protection proceeding record information, obtained under RCW 43.43.735 to the section within seven days, excluding Saturdays, Sundays, and holidays, from the date that the court enters a final order pursuant to a protection proceeding brought under chapter 74.34 RCW, that a person over the age of eighteen, who is the respondent to the protection proceeding, has abused or financially exploited a vulnerable adult as that term is defined in RCW 43.43.830.

(6) The section shall administer periodic compliance audits for the department of licensing and each court having jurisdiction over dependency and protection proceeding actions as defined in chapters 13.34 and 74.34 RCW, respectively. Such audits shall ensure that all dependency record information regarding persons over the age of eighteen years has been furnished to the section as required in subsection (3) of this section. [1989 c 334 § 10. Prior: 1987 c 486 § 13; 1987 c 450 § 3; 1985 c 201 § 14; 1972 ex.s. c 152 § 9.]

43.43.742 Submission of fingerprints taken from persons for noncriminal purposes—Fees. The Washington state patrol shall adopt rules concerning submission of fingerprints taken by local agencies after July 26, 1987, from persons for license application or other noncriminal purposes. The Washington state patrol may charge fees for submission of fingerprints which will cover as nearly as practicable the direct and indirect costs to the Washington

state patrol of processing such submission. [1987 c 450 § 4.]

43.43.745 Convicted persons, fingerprinting required, records—Furloughs, information to section, notice to local agencies—Arrests, disposition information—Convicts, information to section, notice to local agencies—Registration of sex offenders. (1) It shall be the duty of the sheriff or director of public safety of every county, of the chief of police of each city or town, or of every chief officer of other law enforcement agencies operating within this state, to record the fingerprints of all persons held in or remanded to their custody when convicted of any crime as provided for in RCW 43.43.735 for which the penalty of imprisonment might be imposed and to disseminate and file such fingerprints in the same manner as those recorded upon arrest pursuant to RCW 43.43.735 and 43.43.740.

(2) Every time the secretary authorizes a furlough as provided for in RCW 72.66.012 the department of corrections shall notify, thirty days prior to the beginning of such furlough, the sheriff or director of public safety of the county to which the prisoner is being furloughed, the nearest Washington state patrol district facility in the county wherein the furloughed prisoner is to be residing, and other similar criminal justice agencies that the named prisoner has been granted a furlough, the place to which furloughed, and the dates and times during which the prisoner will be on furlough status. In the case of an emergency furlough the thirty-day time period shall not be required but notification shall be made as promptly as possible and before the prisoner is released on furlough.

(3) Disposition of the charge for which the arrest was made shall be reported to the section at whatever stage in the proceedings a final disposition occurs by the arresting law enforcement agency, county prosecutor, city attorney, or court having jurisdiction over the offense: PROVIDED, That the chief shall promulgate rules pursuant to chapter 34.05 RCW to carry out the provisions of this subsection.

(4) Whenever a person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, is released on an order of the state indeterminate sentence review board, or is discharged from custody on expiration of sentence, the department of corrections shall promptly notify the sheriff or director of public safety, the nearest Washington state patrol district facility, and other similar criminal justice agencies that the named person has been released or discharged, the place to which such person has been released or discharged, and the conditions of his or her release or discharge.

Local law enforcement agencies shall require persons convicted of sex offenses to register pursuant to RCW 9A.44.130. In addition, nothing in this section shall be construed to prevent any local law enforcement authority from recording the residency and other information concerning any convicted felon or other person convicted of a criminal offense when such information is obtained from a source other than from registration pursuant to RCW 9A.44.130 which source may include any officer or other agency or subdivision of the state.

(5) The existence of the notice requirement in subsection (2) of this section will not require any extension of the release date in the event the release plan changes after notification. [1994 c 129 § 7; 1993 c 24 § 1; 1990 c 3 § 409; 1985 c 346 § 6; 1973 c 20 § 1; 1972 ex.s. c 152 § 10.]

Findings—Intent—1994 c 129: See note following RCW 4.24.550.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Construction—Prior rules and regulations—1973 c 20: See note following RCW 72.66.010.

43.43.750 Use of force to obtain identification information—Liability. In exercising their duties and authority under RCW 43.43.735 and 43.43.740, the sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may, consistent with constitutional and legal requirements, use such reasonable force as is necessary to compel an unwilling person to submit to being photographed, or fingerprinted, or to submit to any other identification procedure, except interrogation, which will result in obtaining physical evidence serving to identify such person. No one having the custody of any person subject to the identification procedures provided for in *this act, and no one acting in his aid or under his direction, and no one concerned in such publication as is provided for in RCW 43.43.740, shall incur any liability, civil or criminal, for anything lawfully done in the exercise of the provisions of *this act. [1972 ex.s. c 152 § 11.]

***Reviser's note:** For "this act" [1972 ex.s. c 152], see note following RCW 43.43.810.

43.43.752 DNA identification system—Plan—Report. (1) To support criminal justice services in the local communities throughout this state, the state patrol in consultation with the University of Washington school of medicine shall develop a plan for and establish a DNA identification system. In implementing the plan, the state patrol shall purchase the appropriate equipment and supplies. The state patrol shall procure the most efficient equipment available.

(2) The DNA identification system as established shall be compatible with that utilized by the federal bureau of investigation.

(3) The state patrol and the University of Washington school of medicine shall report on the DNA identification system to the legislature no later than November 1, 1989. The report shall include a timeline for implementing each stage, a local agency financial participation analysis, a system analysis, a full cost/purchase analysis, a vendor bid evaluation, and a space location analysis that includes a site determination. The state patrol shall coordinate the preparation of this report with the office of financial management. [1989 c 350 § 2.]

Finding—1989 c 350: "The legislature finds that recent developments in molecular biology and genetics have important applications for forensic science. It has been scientifically established that there is a unique pattern to the chemical structure of the deoxyribonucleic acid (DNA) contained in each cell of the human body. The process for identifying this pattern is called "DNA identification."

The legislature further finds that the accuracy of identification provided by this method is superior to that of any presently existing technique and recognizes the importance of this scientific breakthrough in providing a reliable and accurate tool for the investigation and prosecution of sex offenses as defined in *RCW 9.94A.030(26) and violent offenses as defined in **RCW 9.94A.030(29)." [1989 c 350 § 1.]

Reviser's note: *(1) RCW 9.94A.030 was amended by 1989 c 252 § 2, changing subsection (26) to subsection (29); and subsequently was amended by 1994 c 1 § 3, changing subsection (29) to subsection (31); and subsequently was amended by 1995 c 108 § 1, changing subsection (31) to subsection (33).

** (2) RCW 9.94A.030 was amended by 1989 c 252 § 2, changing subsection (29) to subsection (32); and subsequently was amended by 1993 c 338 § 2 and 1994 c 1 § 3, changing subsection (32) to subsection (36); and subsequently was amended by 1995 c 108 § 1, changing subsection (36) to subsection (38).

Funding limitations—1989 c 350: "Any moneys received by the state from the federal bureau of justice assistance shall be used to conserve state funds if not inconsistent with the terms of the grant. To the extent that federal funds are available for the purposes of this act, state funds appropriated in this section shall lapse and revert to the general fund." [1989 c 350 § 8.] For codification of "this act" [1989 c 350], see Codification Tables, Volume 0.

43.43.754 DNA identification system—Sex offenders, blood analysis. Every adult or juvenile individual convicted of a felony or adjudicated guilty of an equivalent juvenile offense defined as a sex offense under *RCW 9.94A.030(31)(a) or a violent offense as defined in RCW 9.94A.030 shall have a blood sample drawn for purposes of DNA identification analysis. For persons convicted of such offenses or adjudicated guilty of an equivalent juvenile offense who are serving a term of confinement in a county jail or detention facility, the county shall be responsible for obtaining blood samples prior to release from the county jail or detention facility. For persons convicted of such offenses or adjudicated guilty of an equivalent juvenile offense, who are serving a term of confinement in a department of corrections facility or a division of juvenile rehabilitation facility, the facility holding the person shall be responsible for obtaining blood samples prior to release from such facility. Any blood sample taken pursuant to RCW 43.43.752 through 43.43.758 shall be used solely for the purpose of providing DNA or other blood grouping tests for identification analysis and prosecution of a sex offense or a violent offense.

This section applies to all adults who are convicted after July 1, 1990. This section applies to all juveniles who are adjudicated guilty after July 1, 1994. [1994 c 271 § 402; 1990 c 230 § 3; 1989 c 350 § 4.]

***Reviser's note:** RCW 9.94A.030 was amended by 1995 c 108 § 1, changing subsection (31) to subsection (33).

Finding—1994 c 271: "The legislature finds that DNA identification analysis is an accurate and useful law enforcement tool for identifying and prosecuting sexual and violent offenders. The legislature further finds no compelling reason to exclude juvenile sexual and juvenile violent offenders from DNA identification analysis." [1994 c 271 § 401.]

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

Finding—Funding limitations—1989 c 350: See notes following RCW 43.43.752.

43.43.756 DNA identification system—Analysis, assistance, and testimony services. The state patrol in consultation with the University of Washington school of medicine may:

(1) Provide DNA analysis services to law enforcement agencies throughout the state after July 1, 1990;

(2) Provide assistance to law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court; and

(3) Provide expert testimony in court on DNA evidentiary issues. [1989 c 350 § 5.]

Finding—Funding limitations—1989 c 350: See notes following RCW 43.43.752.

43.43.758 DNA identification system—Local law enforcement systems—Limitations. (1) Except as provided in subsection (2) of this section, no local law enforcement agency may establish or operate a DNA identification system before July 1, 1990, and unless:

(a) The equipment of the local system is compatible with that of the state system under RCW 43.43.752;

(b) The local system is equipped to receive and answer inquiries from the Washington state patrol DNA identification system and transmit data to the Washington state patrol DNA identification system; and

(c) The procedure and rules for the collection, analysis, storage, expungement, and use of DNA identification data do not conflict with procedures and rules applicable to the state patrol DNA identification system.

(2) Nothing in this section shall prohibit a local law enforcement agency from performing DNA identification analysis in individual cases to assist law enforcement officials and prosecutors in the preparation and use of DNA evidence for presentation in court. [1990 c 230 § 2; 1989 c 350 § 6.]

Finding—Funding limitations—1989 c 350: See notes following RCW 43.43.752.

43.43.759 DNA identification system—Rule-making requirements. The Washington state patrol shall adopt rules to implement RCW 43.43.752 through 43.43.758. The rules shall prohibit the use of DNA identification data for any research or other purpose that is not related to a criminal investigation or to improving the operation of the system authorized by RCW 43.43.752 through 43.43.758. [1990 c 230 § 1.]

43.43.760 Personal identification—Requests—Purpose—Applicants—Fee. (1) Whenever a resident of this state appears before any law enforcement agency and requests an impression of his fingerprints to be made, such agency may comply with his request and make the required copies of the impressions on forms marked "Personal Identification". The required copies shall be forwarded to the section and marked "for personal identification only".

The section shall accept and file such fingerprints submitted voluntarily by such resident, for the purpose of securing a more certain and easy identification in case of death, injury, loss of memory, or other similar circumstances. Upon the request of such person, the section shall return his identification data.

(2) Whenever any person is an applicant for appointment to any position or is an applicant for employment or is an applicant for a license to be issued by any governmental agency, and the law or a regulation of such governmental agency requires that the applicant be of good moral character or not have been convicted of a crime, or is an applicant for appointment to or employment with a criminal justice agency, or the department, the applicant may request any law enforcement agency to make an impression of his finger-

prints to be submitted to the section. The law enforcement agency may comply with such request and make copies of the impressions on forms marked "applicant", and submit such copies to the section.

The section shall accept such fingerprints and shall cause its files to be examined and shall promptly send to the appointing authority, employer, or licensing authority indicated on the form of application, a transcript of the record of previous crimes committed by the person described on the data submitted, or a transcript of the dependency record information regarding the person described on the data submitted, or if there is no record of his commission of any crimes, or if there is no dependency record information, a statement to that effect.

(3) The Washington state patrol shall charge fees for processing of noncriminal justice system requests for criminal history record information pursuant to this section which will cover, as nearly as practicable, the direct and indirect costs to the patrol of processing such requests.

Any law enforcement agency may charge a fee not to exceed five dollars for the purpose of taking fingerprint impressions or searching its files of identification for noncriminal purposes. [1985 c 201 § 15; 1983 c 184 § 1; 1972 ex.s. c 152 § 13.]

Dissemination of information—Limitations—Disclaimer of liability: RCW 43.43.815.

43.43.765 Reports of transfer, release or changes as to committed or imprisoned persons—Records. The principal officers of the jails, correctional institutions, state mental institutions and all places of detention to which a person is committed under chapter 10.77 RCW, chapter 71.06 RCW, or chapter 71.09 RCW for treatment or under a sentence of imprisonment for any crime as provided for in RCW 43.43.735 shall within seventy-two hours, report to the section, any interinstitutional transfer, release or change of release status of any person held in custody pursuant to the rules promulgated by the chief.

The principal officers of all state mental institutions to which a person has been committed under chapter 10.77 RCW, chapter 71.06 RCW, or chapter 71.09 RCW shall keep a record of the photographs, description, fingerprints, and other identification data as may be obtainable from the appropriate criminal justice agency. [1990 c 3 § 131; 1983 c 3 § 108; 1972 ex.s. c 152 § 14.]

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

43.43.770 Unidentified deceased persons. It shall be the duty of the sheriff or director of public safety of every county, or the chief of police of every city or town, or the chief officer of other law enforcement agencies operating within this state, coroners or medical examiners, to record whenever possible the fingerprints and such other identification data as may be useful to establish identity, of all unidentified dead bodies found within their respective jurisdictions, and to furnish to the section all data so obtained. The section shall search its files and otherwise make a reasonable effort to determine the identity of the deceased and notify the contributing agency of the finding.

In all cases where there is found to exist a criminal record for the deceased, the section shall notify the federal bureau of investigation and each criminal justice agency, within or outside the state in whose jurisdiction the decedent has been arrested, of the date and place of death of decedent. [1972 ex.s. c 152 § 15.]

43.43.775 Interagency contracts. The legislative authority of any county, city or town may authorize its sheriff, director of public safety or chief of police to enter into any contract with another public agency which is necessary to carry out the provisions of *this act. [1972 ex.s. c 152 § 16.]

*Reviser's note: For "this act" [1972 ex.s. c 152], see note following RCW 43.43.810.

43.43.780 Transfer of records, data, equipment to section. All fingerprint cards, photographs, file cabinets, equipment, and other records collected and filed by the bureau of criminal identification, and now in the department of social and health services shall be transferred to the Washington state patrol for use by the section on identification created by *this act. [1972 ex.s. c 152 § 17.]

*Reviser's note: For "this act" [1972 ex.s. c 152], see note following RCW 43.43.810.

43.43.785 Criminal justice services—Consolidation—Establishment of program. The legislature finds that there is a need for the Washington state patrol to establish a program which will consolidate existing programs of criminal justice services within its jurisdiction so that such services may be more effectively utilized by the criminal justice agencies of this state. The chief, with the advice of the state advisory council on criminal justice services created in RCW 43.43.790, shall establish such a program which shall include but not be limited to the identification section, all auxiliary systems including the Washington crime information center and the teletypewriter communications network, the drug control assistance unit, and any other services the chief deems necessary which are not directly related to traffic control. [1972 ex.s. c 152 § 18.]

43.43.790 Criminal justice services—Advisory council—Created—Membership—Terms—Vacancies. There is hereby created the Washington state advisory council on criminal justice services. The advisory council shall consist of eleven members, nine to be appointed by the governor. The chief of the Washington state patrol shall be a member and shall act as chairman and the secretary of the department of social and health services or his designee shall be an ex officio member.

The members of the initial council shall be appointed within thirty days of the *effective date of this act. Of the members of the initial council, three shall be appointed for terms ending June 30, 1976, three shall be appointed for terms ending June 30, 1975 and three shall be appointed for terms ending June 30, 1973. Thereafter, each member of the council shall be appointed for a term of four years. Vacancies shall be filled within ninety days for the remainder of the unexpired term by appointment of the governor in the

same manner as the original appointments. Each member of the council shall continue in office until his successor is appointed. [1972 ex.s. c 152 § 19.]

***Reviser's note:** The "effective date of this act" [1972 ex.s. c 152] was February 25, 1972.

43.43.795 Criminal justice services—Advisory council—Meetings. The council shall meet not less than quarterly at a date and place of its choice, and at such other times as shall be designated by the chairman or upon the written request of a majority of the council. [1972 ex.s. c 152 § 20.]

43.43.800 Criminal justice services—Advisory council—Duties—Technical advisory committees. The advisory council shall review the provisions of RCW 43.43.700 through 43.43.785 and the administration thereof and shall consult with and advise the chief of the state patrol on matters pertaining to the policies of criminal justice services program.

The council shall appoint technical advisory committees comprised of members of criminal justice agencies having demonstrated technical expertise in the various fields of specialty within the program. [1972 ex.s. c 152 § 21.]

43.43.810 Obtaining information by false pretenses—Unauthorized use of information—Falsifying records—Penalty. Any person who wilfully requests, obtains or seeks to obtain criminal offender record information under false pretenses, or who wilfully communicates or seeks to communicate criminal offender record information to any agency or person except in accordance with *this act, or any member, officer, employee or agent of the section, the council or any participating agency, who wilfully falsifies criminal offender record information, or any records relating thereto, shall for each such offense be guilty of a misdemeanor. [1977 ex.s. c 314 § 17; 1972 ex.s. c 152 § 23.]

***Reviser's note:** "This act" [1972 ex.s. c 152] consists of the enactment of RCW 43.43.700 through 43.43.820 and 43.43.910 and the repeal of RCW 43.43.520, 43.43.660, 43.89.020, and 72.50.120 through 72.50.170.

43.43.815 Conviction record furnished to employer—Purposes—Notification to subject of record—Fees—Limitations—Injunctive relief, damages, attorneys' fees—Disclaimer of liability—Rules. (1) Notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the Washington state patrol shall furnish a conviction record, as defined in RCW 10.97.030, pertaining to any person of whom the Washington state patrol has a record upon the written or electronic request of any employer for the purpose of:

- (a) Securing a bond required for any employment;
- (b) Conducting preemployment and postemployment evaluations of employees and prospective employees who, in the course of employment, may have access to information affecting national security, trade secrets, confidential or proprietary business information, money, or items of value; or
- (c) Assisting an investigation of suspected employee misconduct where such misconduct may also constitute a

penal offense under the laws of the United States or any state.

(2) When an employer has received a conviction record under subsection (1) of this section, the employer shall notify the subject of the record of such receipt within thirty days after receipt of the record, or upon completion of an investigation under subsection (1)(c) of this section. The employer shall make the record available for examination by its subject and shall notify the subject of such availability.

(3) The Washington state patrol shall charge fees for disseminating records pursuant to this section which will cover, as nearly as practicable, the direct and indirect costs to the Washington state patrol of disseminating such records.

(4) Information disseminated pursuant to this section or RCW 43.43.760 shall be available only to persons involved in the hiring, background investigation, or job assignment of the person whose record is disseminated and shall be used only as necessary for those purposes enumerated in subsection (1) of this section.

(5) Any person may maintain an action to enjoin a continuance of any act or acts in violation of any of the provisions of this section, and if injured thereby, for the recovery of damages and for the recovery of reasonable attorneys' fees. If, in such action, the court finds that the defendant is violating or has violated any of the provisions of this section, it shall enjoin the defendant from a continuance thereof, and it shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in the action is entitled to recover from the defendant the amount of the actual damages, if any, sustained by him if actual damages to the plaintiff are alleged and proved. In any suit brought to enjoin a violation of this chapter, the prevailing party may be awarded reasonable attorneys' fees, including fees incurred upon appeal. Commencement, pendency, or conclusion of a civil action for injunction or damages shall not affect the liability of a person or agency to criminal prosecution for a violation of chapter 10.97 RCW.

(6) Neither the section, its employees, nor any other agency or employee of the state is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of information pursuant to this section or RCW 43.43.760.

(7) The Washington state patrol may adopt rules and forms to implement this section and to provide for security and privacy of information disseminated pursuant hereto, giving first priority to the criminal justice requirements of chapter 43.43 RCW. Such rules may include requirements for users, audits of users, and other procedures to prevent use of criminal history record information inconsistent with this section.

(8) Nothing in this section shall authorize an employer to make an inquiry not otherwise authorized by law, or be construed to affect the policy of the state declared in RCW 9.96A.010, encouraging the employment of ex-offenders. [1995 c 169 § 1; 1982 c 202 § 1.]

43.43.820 Stale records. Stale records shall be destroyed in a manner to be prescribed by the chief. [1972 ex.s. c 152 § 25.]

43.43.830 Background checks—Access to children or vulnerable persons—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.840.

(1) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults; or

(c) Any prospective adoptive parent, as defined in RCW 26.33.020.

(2) "Business or organization" means a business or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, including but not limited to public housing authorities, school districts, and educational service districts.

(3) "Civil adjudication" means a specific court finding of sexual abuse or exploitation or physical abuse in a dependency action under RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In the case of vulnerable adults, civil adjudication means a specific court finding of abuse or financial exploitation in a protection proceeding under chapter 74.34 RCW. It does not include administrative proceedings. The term "civil adjudication" is further limited to court findings that identify as the perpetrator of the abuse a named individual, over the age of eighteen years, who was a party to the dependency or dissolution proceeding or was a respondent in a protection proceeding in which the finding was made and who contested the allegation of abuse or exploitation.

(4) "Conviction record" means "conviction record" information as defined in RCW 10.97.030(3) relating to a crime against children or other persons committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(5) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnaping; first, second, or third degree assault; first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child;

first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; first or second degree rape of a child; patronizing a juvenile prostitute; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

(6) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(7) "Disciplinary board final decision" means any final decision issued by a disciplining authority under chapter 18.130 RCW or the secretary of the department of health for the following businesses or professions:

- (a) Chiropractic;
- (b) Dentistry;
- (c) Dental hygiene;
- (d) Massage;
- (e) Midwifery;
- (f) Naturopathy;
- (g) Osteopathic medicine and surgery;
- (h) Physical therapy;
- (i) Physicians;
- (j) Practical nursing;
- (k) Registered nursing; and
- (l) Psychology.

"Disciplinary board final decision," for real estate brokers and salespersons, means any final decision issued by the director of the department of licensing for real estate brokers and salespersons.

(8) "Unsupervised" means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

(b) Any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.

(9) "Vulnerable adult" means "vulnerable adult" as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

(10) "Financial exploitation" means the illegal or improper use of a vulnerable adult or that adult's resources for another person's profit or advantage.

(11) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults.

[1996 c 178 § 12; 1995 c 250 § 1; 1994 c 108 § 1; 1992 c 145 § 16. Prior: 1990 c 146 § 8; 1990 c 3 § 1101; prior: 1989 c 334 § 1; 1989 c 90 § 1; 1987 c 486 § 1.]

Effective date—1996 c 178: See note following RCW 18.35.110.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

At-risk children volunteer program: RCW 43.150.080.

Developmentally disabled persons: RCW 41.06.475.

State hospitals: RCW 72.23.035.

43.43.832 Background checks—Disclosure of child abuse or financial exploitation activity. (1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. The legislature further finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol criminal identification system may disclose, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian, an applicant's record for convictions of offenses against children or other persons, convictions for crimes relating to financial exploitation, but only if the victim was a vulnerable adult, adjudications of child abuse in a civil action, the issuance of a protection order against the respondent under chapter 74.34 RCW, and disciplinary board final decisions and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision. When necessary, applicants may be employed on a conditional basis pending completion of such a background investigation.

(2) The legislature also finds that the state board of education may request of the Washington state patrol criminal identification system information regarding a certificate applicant's record for convictions under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the department of social and health services, when considering persons for state positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults or when licensing or authorizing such persons or agencies pursuant to its authority under chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to license or regulate a facility which handles vulnerable adults, must consider the information listed in subsection (1) of this section. However, when necessary, persons may be employed on a conditional basis pending completion of the background investigation. The Washington personnel resources board shall adopt rules to accomplish the purposes of this subsection as it applies to

state employees. [1995 c 250 § 2; 1993 c 281 § 51; 1990 c 3 § 1102. Prior: 1989 c 334 § 2; 1989 c 90 § 2; 1987 c 486 § 2.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

43.43.834 Background checks by business, organization, or insurance company—Limitations—Civil liability.

(1) A business or organization shall not make an inquiry to the Washington state patrol under RCW 43.43.832 or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who has been offered a position as an employee or volunteer, that an inquiry may be made.

(2) A business or organization shall require each applicant to disclose to the business or organization whether the applicant has been:

(a) Convicted of any crime against children or other persons;

(b) Convicted of crimes relating to financial exploitation if the victim was a vulnerable adult;

(c) Found in any dependency action under RCW 13.34.040 to have sexually assaulted or exploited any minor or to have physically abused any minor;

(d) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor;

(e) Found in any disciplinary board final decision to have sexually or physically abused or exploited any minor or developmentally disabled person or to have abused or financially exploited any vulnerable adult; or

(f) Found by a court in a protection proceeding under chapter 74.34 RCW, to have abused or financially exploited a vulnerable adult.

The disclosure shall be made in writing and signed by the applicant and sworn under penalty of perjury. The disclosure sheet shall specify all crimes against children or other persons and all crimes relating to financial exploitation as defined in RCW 43.43.830 in which the victim was a vulnerable adult.

(3) The business or organization shall pay such reasonable fee for the records check as the state patrol may require under RCW 43.43.838.

(4) The business or organization shall notify the applicant of the state patrol's response within ten days after receipt by the business or organization. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

(5) The business or organization shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited. A business or organization violating this subsection is subject to a civil action for damages.

(6) An insurance company shall not require a business or organization to request background information on any employee before issuing a policy of insurance.

(7) The business and organization shall be immune from civil liability for failure to request background information on an applicant unless the failure to do so constitutes gross

negligence. [1990 c 3 § 1103. Prior: 1989 c 334 § 3; 1989 c 90 § 3; 1987 c 486 § 3.]

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

43.43.836 Disclosure to individual of own record—Fee. An individual may contact the state patrol to ascertain whether that same individual has a civil adjudication, disciplinary board final decision, or conviction record. The state patrol shall disclose such information, subject to the fee established under RCW 43.43.838. [1987 c 486 § 4.]

43.43.838 Record checks—Transcript of conviction record, disciplinary board decision, criminal charges, or civil adjudication—Finding of no evidence, identification document—Immunity—Rules. (1) After January 1, 1988, and notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the state patrol shall furnish a transcript of the conviction record, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or civil adjudication record pertaining to any person for whom the state patrol or the federal bureau of investigation has a record upon the written request of:

- (a) The subject of the inquiry;
- (b) Any business or organization for the purpose of conducting evaluations under RCW 43.43.832;
- (c) The department of social and health services;
- (d) Any law enforcement agency, prosecuting authority, or the office of the attorney general; or
- (e) The department of social and health services for the purpose of meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to regulate or license a facility which handles vulnerable adults. However, access to conviction records pursuant to this subsection (1)(e) does not limit or restrict the ability of the department to obtain additional information regarding conviction records and pending charges as set forth in RCW 74.15.030(2)(b).

After processing the request, if the conviction record, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or adjudication record shows no evidence of a crime against children or other persons or, in the case of vulnerable adults, no evidence of crimes relating to financial exploitation in which the victim was a vulnerable adult, an identification declaring the showing of no evidence shall be issued to the business or organization by the state patrol and shall be issued within fourteen working days of the request. The business or organization shall provide a copy of the identification declaring the showing of no evidence to the applicant. Possession of such identification shall satisfy future record check requirements for the applicant for a two-year period unless the prospective employee is any current school district employee who has applied for a position in another school district.

(2) The state patrol shall by rule establish fees for disseminating records under this section to recipients identified in subsection (1)(a) and (b) of this section. The

state patrol shall also by rule establish fees for disseminating records in the custody of the national crime information center. The revenue from the fees shall cover, as nearly as practicable, the direct and indirect costs to the state patrol of disseminating the records: PROVIDED, That no fee shall be charged to a nonprofit organization for the records check: PROVIDED FURTHER, That in the case of record checks using fingerprints requested by school districts and educational service districts, the state patrol shall charge only for the incremental costs associated with checking fingerprints in addition to name and date of birth. Record checks requested by school districts and educational service districts using only name and date of birth shall continue to be provided free of charge.

(3) No employee of the state, employee of a business or organization, or the business or organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or 43.43.760.

(4) Before July 26, 1987, the state patrol shall adopt rules and forms to implement this section and to provide for security and privacy of information disseminated under this section, giving first priority to the criminal justice requirements of this chapter. The rules may include requirements for users, audits of users, and other procedures to prevent use of civil adjudication record information or criminal history record information inconsistent with this chapter.

(5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an employer to make an inquiry not specifically authorized by this chapter, or be construed to affect the policy of the state declared in chapter 9.96A RCW. [1995 c 29 § 1; 1992 c 159 § 7; 1990 c 3 § 1104. Prior: 1989 c 334 § 4; 1989 c 90 § 4; 1987 c 486 § 5.]

Findings—1992 c 159: See note following RCW 28A.400.303.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

43.43.839 Fingerprint identification account. The fingerprint identification account is created in the custody of the state treasurer. All receipts from incremental charges of fingerprint checks requested for noncriminal justice purposes and electronic background requests shall be deposited in the account. Receipts for fingerprint checks by the federal bureau of investigation may also be deposited in the account. Expenditures from the account may be used only for the cost of record checks. Only the chief of the state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. No appropriation is required for expenditures prior to July 1, 1997. After June 30, 1997, the account shall be subject to appropriation. [1995 c 169 § 2; 1992 c 159 § 8.]

Findings—1992 c 159: See note following RCW 28A.400.303.

43.43.840 Notification of physical or sexual abuse or exploitation of child or vulnerable adult—Notification of employment termination because of crimes against persons. (1) The supreme court shall by rule require the courts of the state to notify the state patrol of any dependency action under *RCW 13.34.030(2)(b), domestic relations

action under Title 26 RCW, or protection action under chapter 74.34 RCW, in which the court makes specific findings of physical abuse or sexual abuse or exploitation of a child or abuse or financial exploitation of a vulnerable adult.

(2) The department of licensing shall notify the state patrol of any disciplinary board final decision that includes specific findings of physical abuse or sexual abuse or exploitation of a child or abuse or financial exploitation of a vulnerable adult.

(3) When a business or an organization terminates, fires, dismisses, fails to renew the contract, or permits the resignation of an employee because of crimes against children or other persons or because of crimes relating to the financial exploitation of a vulnerable adult, and if that employee is employed in a position requiring a certificate or license issued by a licensing agency such as the state board of education, the business or organization shall notify the licensing agency of such termination of employment. [1989 c 334 § 5; 1989 c 90 § 5; 1987 c 486 § 6.]

Reviser's note: (1) This section was amended by 1989 c 90 § 5 and by 1989 c 334 § 5, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

*(2) Dependency actions are undertaken pursuant to RCW 13.34.040.

43.43.842 Vulnerable adults—Additional licensing requirements for agencies providing services. (1) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies or facilities which provide care and treatment to vulnerable adults. These additional requirements shall ensure that any person associated with a licensed agency or facility having direct contact with a vulnerable adult shall not have been: (a) Convicted of a crime against persons as defined in RCW 43.43.830, except as provided in this section; (b) convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, except as provided in this section; (c) found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or (d) the subject in a protective proceeding under chapter 74.34 RCW.

(2) The rules adopted under this section shall permit the licensee to consider the criminal history of an applicant for employment in a licensed facility when the applicant has one or more convictions for a past offense and:

(a) The offense was simple assault, assault in the fourth degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) The offense was prostitution, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) The offense was theft in the third degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(d) The offense was theft in the second degree, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(e) The offense was forgery, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment.

The offenses set forth in (a) through (e) of this subsection do not automatically disqualify an applicant from employment by a licensee. Nothing in this section may be construed to require the employment of any person against a licensee's judgment.

In consultation with law enforcement personnel, the secretary of social and health services and the secretary of health shall investigate the conviction record and the protection proceeding record information under chapter 43.43 RCW of each agency or facility and its staff under their respective jurisdictions seeking licensure or relicensure. The secretaries shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the secretaries such information as they may have and that the secretaries may require for such purpose. [1992 c 104 § 1; 1989 c 334 § 11.]

43.43.845 Crimes against children—Notification of conviction or guilty plea of school employee. (1) Upon a guilty plea or conviction of a person of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, or the sale or purchase of a minor child under RCW 9A.64.030, the prosecuting attorney shall determine whether the person holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district. If the person is employed by a school district or holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW, the prosecuting attorney shall notify the state patrol of such guilty pleas or convictions.

(2) When the state patrol receives information that a person who has a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district has pled guilty to or been convicted of one of the felony crimes under subsection (1) of this section, the state patrol shall immediately transmit that information to the superintendent of public instruction. It shall be the duty of the superintendent of public instruction to provide this information to the state board of education and the school district employing the individual who pled guilty or was convicted of the crimes identified in subsection (1) of this section. [1990 c 33 § 577; 1989 c 320 § 6.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1989 c 320: See note following RCW 28A.410.090.

43.43.850 Organized crime intelligence unit—Created. There is hereby created in the Washington state patrol an organized crime intelligence unit which shall be under the direction of the chief of the Washington state patrol. [1973 1st ex.s. c 202 § 1.]

43.43.852 "Organized crime" defined. For the purposes of RCW 43.43.850 through 43.43.864 "organized crime" means those activities which are conducted and carried on by members of an organized, disciplined association, engaged in supplying illegal goods and services and/or engaged in criminal activities in contravention of the laws of this state or of the United States. [1973 1st ex.s. c 202 § 2.]

43.43.854 Powers and duties of organized crime intelligence unit. The organized crime intelligence unit shall collect, evaluate, collate, and analyze data and specific investigative information concerning the existence, structure, activities and operations of organized crime and the participants involved therein; coordinate such intelligence data into a centralized system of intelligence information; furnish and exchange pertinent intelligence data with law enforcement agencies and prosecutors with such security and confidentiality as the chief of the Washington state patrol may determine; develop intelligence data concerning the infiltration of organized crime into legitimate businesses within the state of Washington and furnish pertinent intelligence information thereon to law enforcement agencies and prosecutors in affected jurisdictions; and may assist law enforcement agencies and prosecutors in developing evidence for purposes of criminal prosecution of organized crime activities upon request. [1973 1st ex.s. c 202 § 3.]

43.43.856 Divulging investigative information prohibited—Confidentiality—Security of records and files. (1) On and after April 26, 1973 it shall be unlawful for any person to divulge specific investigative information pertaining to activities related to organized crime which he has obtained by reason of public employment with the state of Washington or its political subdivisions unless such person is authorized or required to do so by operation of state or federal law. Any person violating this subsection shall be guilty of a felony.

(2) Except as provided in RCW 43.43.854, or pursuant to the rules of the supreme court of Washington, all of the information and data collected and processed by the organized crime intelligence unit shall be confidential and not subject to examination or publication pursuant to chapter 42.17 RCW (Initiative Measure No. 276).

(3) The chief of the Washington state patrol shall prescribe such standards and procedures relating to the security of the records and files of the organized crime intelligence unit, as he deems to be in the public interest with the advice of the governor and the board. [1973 1st ex.s. c 202 § 4.]

43.43.858 Organized crime advisory board—Created—Membership—Meetings—Travel expenses. There is hereby created the organized crime advisory board of the state of Washington. The board shall consist of thirteen voting and two nonvoting members.

The lieutenant governor shall appoint four members of the senate to the board, no more than two of whom shall be from the same political party.

The governor shall appoint five members to the board. Two members shall be county prosecuting attorneys and shall be appointed from a list of four county prosecutors

agreed upon and submitted to the governor by the elected county prosecutors. One member shall be a municipal police chief, and one member shall be a county sheriff, both of whom shall be appointed from a list of three police chiefs and three sheriffs agreed upon and submitted to the governor by the association of sheriffs and police chiefs (RCW 36.28A.010). One member shall be a retired judge of a court of record.

The United States attorneys for the western and eastern districts of Washington shall be requested to serve on the board as nonvoting members and shall not be eligible to serve as chairperson.

The speaker of the house shall appoint four members of the house of representatives to the board, no more than two of whom shall be from the same political party.

The members of the board shall be qualified on the basis of knowledge and experience in matters relating to crime prevention and security or with such other abilities as may be expected to contribute to the effective performance of the board's duties. The members of the board shall meet with the chief of the Washington state patrol at least four times a year to perform the duties enumerated in RCW 43.43.862 and to discuss any other matters related to organized crime. Additional meetings of the board may be convened at the call of the chairperson or by a majority of the members. The board shall elect its own chairperson from among its members. Legislative members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 44.04.120 as now existing or hereafter amended, and the other members in accordance with RCW 43.03.050 and 43.03.060, as now existing or hereafter amended. [1987 c 65 § 1; 1980 c 146 § 14; 1975-'76 2nd ex.s. c 34 § 115; 1973 1st ex.s. c 202 § 5.]

Severability—1980 c 146: See RCW 10.29.900.

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

State-wide special inquiry judge act: Chapter 10.29 RCW.

43.43.860 Organized crime advisory board—Terms of members. The term of each legislative member shall be two years and shall be conditioned upon such member retaining membership in the legislature and in the same political party of which he was a member at the time of appointment.

The term of each nonlegislative member shall be two years and shall be conditioned upon such member retaining the official position from which he was appointed. [1987 c 65 § 2; 1980 c 146 § 15; 1973 1st ex.s. c 202 § 6.]

Severability—1980 c 146: See RCW 10.29.900.

43.43.862 Organized crime advisory board—Powers and duties. The board shall:

(1) Advise the governor on the objectives, conduct, management, and coordination of the various activities encompassing the overall state-wide organized crime intelligence effort;

(2) Conduct a continuing review and assessment of organized crime and related activities in which the organized crime intelligence unit of the Washington state patrol is engaged;

(3) Receive, consider and take appropriate action with respect to matters related to the board by the organized crime intelligence unit of the Washington state patrol in which the support of the board will further the effectiveness of the state-wide organized crime intelligence effort; and

(4) Report to the governor concerning the board's findings and appraisals, and make appropriate recommendations for actions to achieve increased effectiveness of the state's organized crime intelligence effort in meeting state and national organized crime intelligence needs. [1973 1st ex.s. c 202 § 7.]

43.43.864 Information to be furnished board—Security—Confidentiality. In order to facilitate performance of the board's functions, the chief of the Washington state patrol shall make available to the board all information with respect to organized crime and related matters which the board may require for the purpose of carrying out its responsibilities to the governor in accordance with the provisions of RCW 43.43.850 through 43.43.864. Such information made available to the board shall be given all necessary security protection in accordance with the terms and provisions of applicable laws and regulations and shall not be revealed or divulged publicly or privately by members of the board. [1973 1st ex.s. c 202 § 8.]

43.43.866 Organized crime prosecution revolving fund. There shall be a fund known as the organized crime prosecution revolving fund which shall consist of such moneys as may be appropriated by law. The state treasurer shall be custodian of the revolving fund. Disbursements from the revolving fund shall be subject to budget approval given by the organized crime advisory board pursuant to RCW 10.29.090, and may be made either on authorization of the governor or the governor's designee, or upon request of a majority of the members of the organized crime advisory board. In order to maintain an effective expenditure and revenue control, the organized crime prosecution revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from the fund. [1980 c 146 § 16.]

Severability—1980 c 146: See RCW 10.29.900.

43.43.870 Missing children clearinghouse and hot line, duties of state patrol. See chapter 13.60 RCW.

43.43.880 Agreements with contiguous states—Jointly occupied ports of entry—Collection of fees and taxes. The Washington state patrol may negotiate and enter into bilateral agreements with designated representatives of contiguous states. Agreements may provide for the manning and operation of jointly occupied ports of entry, for the collection of highway user fees, registration fees, and taxes that may be required by statute or rule. Agreements may further provide for the collection of these fees and taxes by either party state at jointly occupied ports of entry before authorization is given for vehicles to legally operate within that state or jurisdiction, and for the enforcement of safety, size, and weight statutes or rules of the respective states. [1988 c 21 § 1.]

43.43.900 Severability—1969 c 12. If any provision of this chapter or its application to any person or circumstance is held invalid the remainder of the chapter, or its application of the provision to any other person or circumstances is not affected. [1969 c 12 § 9.]

43.43.910 Severability—1972 ex.s. c 152. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1972 ex.s. c 152 § 22.]

43.43.911 Severability—1973 1st ex.s. c 202. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 202 § 9.]

43.43.930 State fire protection services—Intent. The legislature finds that fire protection services at the state level are provided by different, independent state agencies. This has resulted in a lack of a comprehensive state-level focus for state fire protection services, funding, and policy. The legislature further finds that the paramount duty of the state in fire protection services is to enhance the capacity of all local jurisdictions to assure that their personnel with fire suppression, prevention, inspection, origin and cause, and arson investigation responsibilities are adequately trained to discharge their responsibilities. It is the intent of the legislature to consolidate fire protection services into a single state agency and to create a state board with the responsibility of (1) establishing a comprehensive state policy regarding fire protection services and (2) advising the chief of the Washington state patrol and the director of fire protection on matters relating to their duties under state law. It is also the intent of the legislature that the fire protection services program created herein will assist local fire protection agencies in program development without encroaching upon their historic autonomy. It is the further intent of the legislature that the fire protection services program be implemented incrementally to assure a smooth transition, to build local, regional, and state capacity, and to avoid undue burdens on jurisdictions with limited resources. [1995 c 369 § 14; 1993 c 280 § 68; 1986 c 266 § 54. Formerly RCW 43.63A.300.]

Application—1995 c 369: "This act does not apply to forest fire service personnel and programs." [1995 c 369 § 70.]

Effective date—1995 c 369: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 369 § 72.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1986 c 266: See note following RCW 38.52.005.

State fire protection: Chapter 48.48 RCW.

43.43.932 State fire protection policy board—Created—Members. There is created the state fire protection policy board consisting of eight members appointed by the governor:

- (1) One representative of fire chiefs;
- (2) One insurance industry representative;

- (3) One representative of cities and towns;
- (4) One representative of counties;
- (5) One full-time, paid, career fire fighter;
- (6) One volunteer fire fighter;
- (7) One representative of fire commissioners; and
- (8) One representative of fire control programs of the department of natural resources.

In making the appointments required under subsections (1) through (7) [(8)] of this section, the governor shall (a) seek the advice of and consult with organizations involved in fire protection; and (b) ensure that racial minorities, women, and persons with disabilities are represented.

The terms of the appointed members of the board shall be three years and until a successor is appointed and qualified. However, initial board members shall be appointed as follows: Three members to terms of one year, three members to terms of two years, and four members to terms of three years. In the case of a vacancy of a member appointed under subsections (1) through (7) [(8)] of this section, the governor shall appoint a new representative to fill the unexpired term of the member whose office has become vacant. A vacancy shall occur whenever an appointed member ceases to be employed in the occupation the member was appointed to represent. The members of the board appointed pursuant to subsections (1) and (5) of this section and holding office on July 1, 1995, shall serve the remainder of their terms, and the reduction of the board required by section 15, chapter 369, Laws of 1995, shall occur upon the expiration of their terms.

The appointed members of the board shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

The board shall select its own chairperson and shall meet at the request of the governor or the chairperson and at least four times per year. [1995 c 369 § 15; 1986 c 266 § 55. Formerly RCW 43.63A.310.]

Application—Effective date—1995 c 369: See notes following RCW 43.43.930.

Severability—1986 c 266: See note following RCW 38.52.005.

43.43.934 State fire protection policy board—Duties (as amended by 1995 c 243). Except for matters relating to the statutory duties of the director of community, trade, and economic development which are to be carried out through the director of fire protection, the board shall have the responsibility of developing a comprehensive state policy regarding fire protection services. In carrying out its duties, the board shall:

- (1) Adopt a state fire protection master plan;
- (2) Monitor fire protection in the state and develop objectives and priorities to improve fire protection for the state's citizens;
- (3) Establish and promote state arson control programs and ensure development of local arson control programs;
- (4) Provide representation for local fire protection services to the governor in state-level fire protection planning matters such as, but not limited to, hazardous materials;
- (5) Recommend to the director of community, trade, and economic development rules on minimum information requirements of automatic location identification for the purposes of enhanced 911 emergency service;
- (6) Seek and solicit grants, gifts, bequests, devices, and matching funds for use in furthering the objectives and duties of the board, and establish procedures for administering them;
- ~~((6))~~ (7) Promote mutual aid and disaster planning for fire services in this state;
- ~~((7))~~ (8) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention;
- ~~((8))~~ (9) Submit annually a report to the governor containing a statement of its official acts pursuant to this chapter, and make such studies,

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reports, and recommendations to the governor and the legislature as are requested;

~~((9))~~ (10) Adopt a state fire training and education master plan;

~~((10))~~ (11) Develop and adopt a master plan for the construction, equipping, maintaining, and operation of necessary fire service training and education facilities, but the authority to construct, equip, and maintain such facilities is subject to chapter 43.19 RCW;

~~((11))~~ (12) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary to establish and operate fire service training and education facilities in a manner provided by law;

~~((12))~~ (13) Adopt standards for state-wide fire service training and education courses including courses in arson detection and investigation for personnel of fire, police, and prosecutor's departments;

~~((13))~~ (14) Assure the administration of any legislation enacted by the legislature in pursuance of the aims and purposes of any acts of Congress insofar as the provisions thereof may apply;

~~((14))~~ (15) Cooperate with the common schools, community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of Congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

This section does not apply to forest fire service personnel and programs. Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule. [1995 c 243 § 11; 1993 c 280 § 69; 1986 c 266 § 56. Formerly RCW 43.63A.320.]

Effective date—1995 c 243 § 11: "Section 11 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 243 § 13.]

Findings—Severability—1995 c 243: See notes following RCW 80.36.555.

43.43.934 State fire protection policy board—Duties—Fire training and education master plan—Fire protection master plan (as amended by 1995 c 369). Except for matters relating to the statutory duties of the ~~(director of community, trade, and economic development which)~~ chief of the Washington state patrol that are to be carried out through the director of fire protection, the board shall have the responsibility of developing a comprehensive state policy regarding fire protection services. In carrying out its duties, the board shall:

(1)(a) Adopt a state fire training and education master plan that allows to the maximum feasible extent for negotiated agreements: (i) With the state board for community and technical colleges to provide academic, vocational, and field training programs for the fire service and (ii) with the higher education coordinating board and the state colleges and universities to provide instructional programs requiring advanced training, especially in command and management skills;

(b) Adopt minimum standards for each level of responsibility among personnel with fire suppression, prevention, inspection, and investigation responsibilities that assure continuing assessment of skills and are flexible enough to meet emerging technologies. With particular respect to training for fire investigations, the master plan shall encourage cross training in appropriate law enforcement skills. To meet special local needs, fire agencies may adopt more stringent requirements than those adopted by the state;

(c) Cooperate with the common schools, technical and community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule;

(d) Develop and adopt a master plan for constructing, equipping, maintaining, and operating necessary fire service training and education facilities subject to the provisions of chapter 43.19 RCW; and

(e) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary for fire service training and education facilities in a manner provided by law.

(2) In addition to its responsibilities for fire service training, the board shall:

(a) Adopt a state fire protection master plan;
~~((2))~~ (b) Monitor fire protection in the state and develop objectives and priorities to improve fire protection for the state's citizens including: (i) The comprehensiveness of state and local inspections required by law for fire and life safety; (ii) the level of skills and training of inspectors, as well as needs for additional training; and (iii) the efforts of local, regional, and state inspection agencies to improve coordination and reduce duplication among inspection efforts;

~~((3))~~ (c) Establish and promote state arson control programs and ensure development of local arson control programs;

~~((4))~~ (d) Provide representation for local fire protection services to the governor in state-level fire protection planning matters such as, but not limited to, hazardous materials control;

~~((5))~~ (e) Seek and solicit grants, gifts, bequests, ~~((devices))~~ devises, and matching funds for use in furthering the objectives and duties of the board, and establish procedures for administering them;

~~((6))~~ (f) Promote mutual aid and disaster planning for fire services in this state;

~~((7))~~ (g) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention;

~~((8))~~ (h) Submit ~~((annually a))~~ an annual report to the governor ((containing a statement of) describing its ((official acts)) activities undertaken pursuant to this chapter, and make such studies, reports, and recommendations to the governor and the legislature as are requested; and

~~((9) Adopt a state fire training and education master plan;~~

~~(10) Develop and adopt a master plan for the construction, equipping, maintaining, and operation of necessary fire service training and education facilities, but the authority to construct, equip, and maintain such facilities is subject to chapter 43.19 RCW;~~

~~(11) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary to establish and operate fire service training and education facilities in a manner provided by law;~~

~~(12) Adopt standards for state-wide fire service training and education courses including courses in arson detection and investigation for personnel of fire, police, and prosecutor's departments;~~

~~(13) Assure the administration of)~~ (i) Implement any legislation enacted by the legislature ((in pursuance of the aims and purposes)) to meet the requirements of any acts of congress ((insofar as the provisions thereof may)) that apply((;

~~(14) Cooperate with the common schools, community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of Congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.~~

~~This section does not apply to forest fire service personnel and programs. Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule)) to this section.~~

(3) In carrying out its statutory duties, the board shall give particular consideration to the appropriate roles to be played by the state and by local jurisdictions with fire protection responsibilities. Any determinations on the division of responsibility shall be made in consultation with local fire officials and their representatives.

To the extent possible, the board shall encourage development of regional units along compatible geographic, population, economic, and fire risk dimensions. Such regional units may serve to: (a) Reinforce coordination among state and local activities in fire service training, reporting, inspections, and investigations; (b) identify areas of special need, particularly in smaller jurisdictions with inadequate resources; (c) assist the state in its oversight responsibilities; (d) identify funding needs and options at both the state and local levels; and (e) provide models for building local capacity in fire protection programs. [1995 c 369 § 16; 1993 c 280 § 69; 1986 c 266 § 56. Formerly RCW 43.63A.320.]

Reviser's note: RCW 43.63A.320, recodified as RCW 43.43.934, was amended twice during the 1995 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Application—Effective date—1995 c 369: See notes following RCW 43.43.930.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1986 c 266: See note following RCW 38.52.005.

43.43.936 State fire protection policy board—Advisory duties. In regards to the statutory duties of the chief of the Washington state patrol that are to be carried out through the director of fire protection, the board shall serve in an advisory capacity in order to enhance the continuity of state fire protection services. In this capacity, the board shall:

(1) Advise the chief of the Washington state patrol and the director of fire protection on matters pertaining to their duties under law; and

(2) Advise the chief of the Washington state patrol and the director of fire protection on all budgeting and fiscal matters pertaining to the duties of the director of fire protection and the board. [1995 c 369 § 17; 1993 c 280 § 70; 1986 c 266 § 57. Formerly RCW 43.63A.330.]

Application—Effective date—1995 c 369: See notes following RCW 43.43.930.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1986 c 266: See note following RCW 38.52.005.

43.43.938 Director of fire protection—Appointment—Duties. (1) Wherever the term state fire marshal appears in the Revised Code of Washington or the Washington Administrative Code it shall mean the director of fire protection.

(2) The chief of the Washington state patrol shall appoint an officer who shall be known as the director of fire protection. The board, after consulting with the chief of the Washington state patrol, shall prescribe qualifications for the position of director of fire protection. The board shall submit to the chief of the Washington state patrol a list containing the names of three persons whom the board believes meet its qualifications. If requested by the chief of the Washington state patrol, the board shall submit one additional list of three persons whom the board believes meet its qualifications. The appointment shall be from one of the lists of persons submitted by the board.

(3) The director of fire protection may designate one or more deputies and may delegate to those deputies his or her duties and authorities as deemed appropriate.

(4) The director of fire protection, in accordance with the policies, objectives, and priorities of the fire protection policy board, shall prepare a biennial budget pertaining to fire protection services. Such biennial budget shall be submitted as part of the Washington state patrol's budget request.

(5) The director of fire protection, shall implement and administer, within constraints established by budgeted resources, the policies, objectives, and priorities of the board and all duties of the chief of the Washington state patrol that are to be carried out through the director of fire protection. Such administration shall include negotiation of agreements with the state board for community and technical colleges, the higher education coordinating board, and the state colleges and universities as provided in *RCW 43.63A.320. Programs covered by such agreements shall include, but not be limited to, planning curricula, developing and delivering instructional programs and materials, and using existing instructional personnel and facilities. Where appropriate, such contracts shall also include planning and conducting instructional programs at the state fire service training center.

(6) The chief of the Washington state patrol, through the director of fire protection, shall seek the advice of the board in carrying out his or her duties under law. [1995 c 369 § 18; 1993 c 280 § 71; 1986 c 266 § 58. Formerly RCW 43.63A.340.]

***Reviser's note:** RCW 43.63A.320 was recodified as RCW 43.43.934 pursuant to 1995 c 369 § 69, effective July 1, 1995.

Application—Effective date—1995 c 369: See notes following RCW 43.43.930.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1986 c 266: See note following RCW 38.52.005.

43.43.940 Fire service training program—Grants and bequests. The Washington state patrol may accept any and all donations, grants, bequests, and devises, conditional or otherwise, or money, property, service, or other things of value which may be received from the United States or any agency thereof, any governmental agency, any institution, person, firm, or corporation, public and private, to be held, used, or applied for the purposes of the fire service training program established in RCW 43.43.934. [1995 c 369 § 19; 1986 c 266 § 59. Formerly RCW 43.63A.350.]

Application—Effective date—1995 c 369: See notes following RCW 43.43.930.

Severability—1986 c 266: See note following RCW 38.52.005.

43.43.942 Fire service training—Fees and fee schedules. The Washington state patrol may: (1) Impose and collect fees for fire service training; and (2) establish and set fee schedules for fire service training. [1995 c 369 § 20; 1986 c 266 § 60. Formerly RCW 43.63A.360.]

Application—Effective date—1995 c 369: See notes following RCW 43.43.930.

Severability—1986 c 266: See note following RCW 38.52.005.

43.43.944 Fire service training account. The fire service training account is hereby established in the state treasury. The Washington state patrol shall deposit in the account all fees received by the Washington state patrol for fire service training. Moneys in the account may be appropriated only for fire service training. [1995 c 369 § 21; 1986 c 266 § 61. Formerly RCW 43.63A.370.]

Application—Effective date—1995 c 369: See notes following RCW 43.43.930.

Severability—1986 c 266: See note following RCW 38.52.005.

43.43.946 Fire services trust fund. The fire services trust fund is created in the state treasury. All receipts designated by the legislature shall be deposited in the fund. Appropriations from the fund may be made exclusively for the purposes specified in *RCW 43.63A.377. [1991 c 135 § 2. Formerly RCW 43.63A.375.]

***Reviser's note:** RCW 43.63A.377 was recodified as RCW 43.43.948 pursuant to 1995 c 369 § 69, effective July 1, 1995.

Intent—1991 c 135: "It is necessary for the health, safety, and welfare of the people of the state of Washington that fire code enforcement, public education on fire prevention, fire training for fire and emergency response personnel, and administration of these activities be funded in a dependable manner. It is therefore the intent of the legislature to establish a fund for these purposes." [1991 c 135 § 1.]

Effective date—1991 c 135: "This act is necessary for the preservation of the public peace, health, or safety, or support of the state government [Title 43 RCW—page 236]

and its existing public institutions, and shall take effect July 1, 1991." [1991 c 135 § 8.]

Severability—1991 c 135: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 135 § 9.]

43.43.948 Fire services trust fund—Expenditures. Money from the fire services trust fund may be expended for the following purposes:

(1) Training of fire service personnel, including both classroom and hands-on training at the state fire training center or other locations approved by the chief of the Washington state patrol through the director of fire protection services;

(2) Maintenance and operation at the state's fire training center near North Bend. If in the future the state builds or leases other facilities as other fire training centers, a portion of these moneys may be used for the maintenance and operation at these centers;

(3) Lease or purchase of equipment for use in the provisions of training to fire service personnel;

(4) Grants or subsidies to local jurisdictions to allow them to perform their functions under this section;

(5) Costs of administering these programs under this section;

(6) Licensing and enforcement of state laws governing the sales of fireworks; and

(7) Development with the legal fireworks industry and funding of a state-wide public education program for fireworks safety. [1995 c 369 § 22; 1991 c 135 § 3. Formerly RCW 43.63A.377.]

Application—Effective date—1995 c 369: See notes following RCW 43.43.930.

Intent—Effective date—Severability—1991 c 135: See notes following RCW 43.43.946.

43.43.950 Fire service training center bond retirement account of 1977. The state fire service training center bond retirement account of 1977 is hereby reestablished as an account within the treasury for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to chapter 349, Laws of 1977 ex. sess., or chapter 470, Laws of 1985 or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the commission for vocational education or the statutory successor to its powers and duties involving the state fire training center.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund such amounts and at such times as are required by the bond proceedings. [1991 sp.s. c 13 § 79. Formerly RCW 43.63A.380.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

43.43.952 Arson investigation information system—Findings—Intent. (1) The legislature finds that provisions for information systems relating to statistics and reporting for fire prevention, suppression, and damage control do not adequately address the needs of ongoing investigations of fire incidents where the cause is suspected or determined to be the result of negligence or otherwise suggestive of some criminal activity, particularly that of arson. It is the intent of the legislature to establish an information and reporting system designed specifically to assist state and local officers in conducting such investigations and, where substantiated, to undertake prosecution of individuals suspected of such activities.

(2)(a) In addition to the information provided by local officials about the cause, origin, and extent of loss in fires under chapter 48.48 RCW, there is hereby created the state arson investigation information system in the Washington state patrol.

(b) The chief of the Washington state patrol shall develop the arson investigation information system in consultation with representatives of the various state and local officials charged with investigating fires resulting from suspicious or criminal activities under chapter 48.48 RCW and of the insurance industry.

(c) The arson investigation information system shall be designed to include at least the following attributes: (i) The information gathered and reported shall meet the diverse needs of state and local investigating agencies; (ii) the forms and reports are drafted in understandable terms of common usage; and (iii) the results shall be adaptable to the varying levels of available resources, maintained in a manner to foster data sharing and mutual aid activities, and made available to other law enforcement agencies responsible for criminal investigations.

(d) All insurers required to report claim information under the provisions of chapter 48.50 RCW shall cooperate fully with any requests from the chief of the Washington state patrol in developing and maintaining the arson investigation information system. The confidentiality provisions of that chapter shall be fully enforced. [1995 c 369 § 64.]

Reviser's note: 1995 c 369 directed that this section be added to chapter 43.10 RCW. This section has been codified in chapter 43.43 RCW, which relates more directly to the functions of the chief of the Washington state patrol with regard to fire protection.

Application—Effective date—1995 c 369: See notes following RCW 43.43.930.

Chapter 43.46 ARTS COMMISSION

Sections

43.46.005	Purpose.
43.46.015	Washington state arts commission established—Composition.
43.46.030	Terms—Vacancies.
43.46.040	Compensation—Travel expenses—Organization—Chairperson—Rules—Quorum.
43.46.045	Executive director—Employees.
43.46.050	Powers and duties generally.
43.46.055	Development of arts and humanities.
43.46.060	Gifts and grants.
43.46.070	Biennial report.

43.46.090	Commission as reflecting state's responsibility—Acquisition of works of art for public buildings and lands—Visual arts program established.
43.46.095	State art collection.
43.46.900	Effective date—1985 c 317.

43.46.005 Purpose. The conservation and development of the state's artistic resources is essential to the social, educational, and economic growth of the state of Washington. Artists, works of art, and artistic institutions contribute to the quality of life and the general welfare of the citizens of the state, and are an appropriate matter of concern to the government of the state of Washington. [1985 c 317 § 1.]

43.46.015 Washington state arts commission established—Composition. There is established a Washington state arts commission. The commission consists of nineteen members appointed by the governor and two members of the legislature, one appointed by the president of the senate and one appointed by the speaker of the house of representatives. The legislative members shall be from opposite major political parties. The governor shall appoint citizens representing the various disciplines within the visual, performing and literary arts, and other citizens active in the arts community. The governor shall consider nominations for membership from individuals actively involved in cultural, state or community organizations. The governor shall also consider geographical distribution of the membership in the appointment of new members. [1985 c 317 § 2.]

43.46.030 Terms—Vacancies. Members shall serve three year terms. A legislative member shall serve as long as he or she is a member of the legislative body from which he or she was appointed. Each member will continue to serve until a successor is appointed. Vacancies shall be filled by appointment for the remainder of the unexpired term. [1985 c 317 § 3; 1967 ex.s. c 125 § 4; 1965 c 8 § 43.46.030. Prior: 1961 c 301 § 3.]

43.46.040 Compensation—Travel expenses—Organization—Chairperson—Rules—Quorum. Members of the commission shall serve without compensation. However, nonlegislative members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 and legislative members shall be reimbursed as provided in RCW 44.04.120. The commission shall organize, elect a chairperson annually, and adopt rules pursuant to chapter 34.05 RCW. A majority of its members constitute a quorum. Any action as defined in RCW 42.30.020(3) shall be taken only at a meeting at which a quorum is present. [1985 c 317 § 4; 1965 c 8 § 43.46.040. Prior: 1961 c 301 § 4.]

43.46.045 Executive director—Employees. The governor shall select a full time executive director from a list of three names submitted by the commission by September 1, 1988, and anytime thereafter that a vacancy occurs. The executive director shall receive no other salary and shall not be otherwise gainfully employed. Subject to the provisions of chapter 41.06 RCW, the executive director may also employ such clerical and other assistants as may be reason-

ably required to carry out commission functions. The executive director shall serve at the pleasure of the governor. [1988 c 81 § 23; 1985 c 317 § 5; 1967 ex.s. c 125 § 2.]

43.46.050 Powers and duties generally. The commission shall meet, study, plan, and advise the governor, the various departments of the state and the state legislature and shall make such recommendations as it deems proper for the cultural development of the state of Washington. [1985 c 317 § 6; 1965 c 8 § 43.46.050. Prior: 1961 c 301 § 5.]

43.46.055 Development of arts and humanities. The commission may develop, sponsor, promote and administer any activity, project, or program within or without this state which is related to the growth and development of the arts and humanities in the state of Washington and may assist any person or public or private agency to this end. [1985 c 317 § 7; 1967 ex.s. c 125 § 1.]

43.46.060 Gifts and grants. The commission may accept gifts and grants upon such terms as the commission shall deem proper. [1965 c 8 § 43.46.060. Prior: 1961 c 301 § 6.]

43.46.070 Biennial report. The commission shall make a biennial report of its proceedings and recommendations to the governor, which shall contain a full description of program and project activity, including fund sources and expenditures for the biennium covered by the report. [1985 c 317 § 8; 1965 c 8 § 43.46.070. Prior: 1961 c 301 § 7.]

43.46.090 Commission as reflecting state's responsibility—Acquisition of works of art for public buildings and lands—Visual arts program established. The legislature recognizes this state's responsibility to foster culture and the arts and its interest in the viable development of her artists and craftsmen by the establishment of the Washington state arts commission. The legislature declares it to be a policy of this state that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be placed in public buildings or lands. There is hereby established a visual arts program to be administered by the Washington state arts commission. [1983 c 204 § 1; 1974 ex.s. c 176 § 1.]

Severability—1983 c 204: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 204 § 11.]

Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions: RCW 43.17.200.

Colleges and universities, purchases of works of art—Procedure: RCW 28B.10.025.

Purchase of works of art—Procedure: RCW 43.19.455.

School districts, purchases of works of art—Procedure: RCW 28A.335.210.

43.46.095 State art collection. All works of art purchased and commissioned under the visual arts program shall become a part of a state art collection developed, administered, and operated by the Washington state arts commission. All works of art previously purchased or commissioned under RCW 43.46.090, 43.17.200, 43.19.455,

28B.10.025, or 28A.335.210 shall be considered a part of the state art collection to be administered by the Washington state arts commission. [1990 c 33 § 578; 1983 c 204 § 2.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1983 c 204: See note following RCW 43.46.090.

43.46.900 Effective date—1985 c 317. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985. [1985 c 317 § 10.]

Chapter 43.51

PARKS AND RECREATION COMMISSION

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- 43.51.321 Penalty for violation of RCW 43.51.320 or 46.61.585.
- 43.51.330 Winter recreational parking areas—Rules.
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- 43.51.350 Sun Lakes state park—"Vic Meyers Golf Course" designation—"Vic Meyers Lake" designation.
- 43.51.355 Authority of commission to implement RCW 43.51.350.
- 43.51.360 Hostels—Legislative declaration of intent.
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Wildlife and recreation lands; funding of maintenance and operation: Chapter 43.98B RCW.

43.51.010 Definitions. For purposes of this chapter, "recreation" means those activities of a voluntary and leisure time nature which aid in promoting entertainment, pleasure, play, relaxation, or instruction.

"Commission" means state parks and recreation commission. [1965 c 8 § 43.51.010. Prior: 1947 c 271 § 2; RRS § 10768-1.]

43.51.020 Commission created—Composition—Compensation and expenses. There is hereby created a "state parks and recreation commission" consisting of seven electors of the state. The members of the commission shall be appointed by the governor by and with the advice and consent of the senate and shall serve for a term of six years, expiring on December 31st of even-numbered years, and until their successors are appointed. In case of a vacancy, the governor shall fill the vacancy for the unexpired term of the commissioner whose office has become vacant.

The commissioners incumbent as of August 11, 1969, shall serve as follows: Those commissioners whose terms expire December 31, 1970, shall serve until December 31, 1970; the elector appointed to succeed to the office, the term for which expired December 31, 1968, shall serve until December 31, 1974; the terms of three of the four remaining commissioners shall each expire on December 31, 1972.

To assure that no more than the terms of three members will expire simultaneously on December 31st in any one even-numbered year, the term of not more than one commissioner incumbent on August 11, 1969, as designated by the governor, who was either appointed or reappointed to serve until December 31, 1972, shall be increased by the governor by two years, and said term shall expire December 31, 1974.

In making the appointments to the commission, the governor shall choose electors who understand park and recreation needs and interests. No person shall serve if he holds any elective or full-time appointive state, county, or municipal office. Members of the commission shall be compensated in accordance with RCW 43.03.240 and in

addition shall be allowed their travel expenses incurred while absent from their usual places of residence in accordance with RCW 43.03.050 and 43.03.060.

Payment of expenses pertaining to the operation of the commission shall be made upon vouchers certified to by such persons as shall be designated by the commission. [1984 c 287 § 82; 1975-'76 2nd ex.s. c 34 § 116; 1969 ex.s. c 31 § 1; 1965 ex.s. c 132 § 1; 1965 c 8 § 43.51.020. Prior: 1947 c 271 § 1; 1945 c 36 § 1; 1921 c 7 § 10; RRS § 10768.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

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

43.51.030 Chairman—Meetings—Quorum. The commission shall elect one of its members as chairman. The commission may be convened at such times as the chairman deems necessary, and a majority shall constitute a quorum for the transaction of business. [1965 c 8 § 43.51.030. Prior: 1947 c 271 § 3; RRS § 10768-2.]

43.51.040 Powers and duties—Mandatory. The commission shall:

(1) Have the care, charge, control, and supervision of all parks and parkways acquired or set aside by the state for park or parkway purposes.

(2) Adopt, promulgate, issue, and enforce rules pertaining to the use, care, and administration of state parks and parkways. The commission shall cause a copy of the rules to be kept posted in a conspicuous place in every state park to which they are applicable, but failure to post or keep any rule posted shall be no defense to any prosecution for the violation thereof.

(3) Permit the use of state parks and parkways by the public under such rules as shall be adopted.

(4) Clear, drain, grade, seed, and otherwise improve or beautify parks and parkways, and erect structures, buildings, fireplaces, and comfort stations and build and maintain paths, trails, and roadways through or on parks and parkways.

(5) Grant concessions or leases in state parks and parkways, upon such rentals, fees, or percentage of income or profits and for such terms, in no event longer than forty years, and upon such conditions as shall be approved by the commission: PROVIDED, That leases exceeding a twenty-year term shall require a unanimous vote of the commission: PROVIDED FURTHER, That if, during the term of any concession or lease, it is the opinion of the commission that it would be in the best interest of the state, the commission may, with the consent of the concessionaire or lessee, alter and amend the terms and conditions of such concession or lease: PROVIDED FURTHER, That television station leases shall be subject to the provisions of RCW 43.51.063, only: PROVIDED FURTHER, That the rates of such concessions or leases shall be renegotiated at five-year intervals. No concession shall be granted which will prevent the public from having free access to the scenic attractions of any park or parkway.

(6) Employ such assistance as it deems necessary.

(7) By majority vote of its authorized membership select and purchase or obtain options upon, lease, or otherwise

acquire for and in the name of the state such tracts of land, including shore and tide lands, for park and parkway purposes as it deems proper. If the commission cannot acquire any tract at a price it deems reasonable, it may, by majority vote of its authorized membership, obtain title thereto, or any part thereof, by condemnation proceedings conducted by the attorney general as provided for the condemnation of rights of way for state highways. Option agreements executed under authority of this subdivision shall be valid only if:

(a) The cost of the option agreement does not exceed one dollar; and

(b) Moneys used for the purchase of the option agreement are from (i) funds appropriated therefor, or (ii) funds appropriated for undesignated land acquisitions, or (iii) funds deemed by the commission to be in excess of the amount necessary for the purposes for which they were appropriated; and

(c) The maximum amount payable for the property upon exercise of the option does not exceed the appraised value of the property.

(8) Cooperate with the United States, or any county or city of this state, in any matter pertaining to the acquisition, development, redevelopment, renovation, care, control, or supervision of any park or parkway, and enter into contracts in writing to that end. All parks or parkways, to which the state contributed or in whose care, control, or supervision the state participated pursuant to the provisions of this section, shall be governed by the provisions hereof. [1989 c 175 § 106; 1980 c 89 § 1; 1979 c 10 § 4. Prior: 1977 ex.s. c 123 § 1; 1977 c 75 § 57; 1967 ex.s. c 90 § 1; 1965 c 8 § 43.51.040; prior: 1959 c 317 § 1; 1955 c 391 § 1; 1929 c 148 § 1; 1923 c 157 § 1; 1921 c 149 § 2; RRS § 10942.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Inspection of recreational devices: Chapter 70.88 RCW.

Parks and recreation commission authorized to establish small works roster of public works contractors: RCW 39.04.150.

43.51.045 Additional powers and duties. (1) The commission shall:

(a) Manage timber and land under its jurisdiction to maintain and enhance aesthetic and recreational values;

(b) Apply modern conservation practices to maintain and enhance aesthetic, recreational, and ecological resources; and

(c) Designate and preserve certain forest areas throughout the state as natural forests or natural areas for interpretation, study, and preservation purposes.

(2) Trees may be removed from state parks:

(a) When hazardous to persons, property, or facilities;

(b) As part of a park maintenance or development project, or conservation practice;

(c) As part of a road or utility easement; or

(d) When damaged by a catastrophic forest event.

(3) Tree removal under subsection (2) of this section shall be done by commission personnel, unless the personnel lack necessary expertise. Except in emergencies and when feasible, significant trees shall be removed only after they have been marked or appraised by a professional forester. The removal of significant trees from a natural forest may

take place only after a public hearing has been held, except in emergencies.

(4) When feasible, felled timber shall be left on the ground for natural purposes or used for park purposes including, but not limited to, building projects, trail mulching, and firewood. In natural forest areas, first consideration shall be given to leaving timber on the ground for natural purposes.

(5) The commission may issue permits to individuals under RCW 4.24.210 and 43.51.065 for the removal of wood debris from state parks for personal firewood use. [1984 c 82 § 1; 1981 c 271 § 3.]

43.51.046 Waste reduction and recycling. (1) By July 1, 1992, the state parks and recreation commission shall provide waste reduction and recycling information in each state park campground and day-use area.

(2) By July 1, 1993, the commission shall provide recycling receptacles in the day-use and campground areas of at least fifteen state parks. The receptacles shall be clearly marked for the disposal of at least two of the following recyclable materials: Aluminum, glass, newspaper, plastic, and tin. The commission shall endeavor to provide recycling receptacles in parks that are near urban centers or in heavily used parks.

(3) The commission shall provide daily maintenance of such receptacles from April through September of each year.

(4) Beginning July 1, 1993, the commission shall provide recycling receptacles in at least five additional state parks per biennium until the total number of state parks having recycling receptacles reaches forty.

(5) The commission is authorized to enter into agreements with any person, company, or nonprofit organization to provide for the collection and transport of recyclable materials and related activities under this section. [1991 c 11 § 1.]

Reviser's note: 1991 c 11 directed that this section be added to chapter 70.93 RCW. The placement appears inappropriate and the section has been codified as part of chapter 43.51 RCW.

Marinas and airports: RCW 70.93.095.

43.51.047 Sale of timber. Only timber which qualifies for cutting or removal under RCW 43.51.045(2) may be sold. Timber shall be sold only when surplus to the needs of the park.

Net revenue derived from timber sales shall be deposited in the parks renewal and stewardship account created in RCW 43.51.275. [1995 c 211 § 2; 1984 c 82 § 3.]

Findings—Intent—Effective date—Severability—1995 c 211: See notes following RCW 43.51.060.

43.51.048 Community service for littering in state parks—Policy and procedures. (1) The commission shall establish a policy and procedures for supervising and evaluating community service activities that may be imposed under RCW 70.93.060(3) including a description of what constitutes satisfactory completion of community service.

(2) The commission shall inform each state park of the policy and procedures regarding community service activities, and each state park shall then notify the commission as to whether or not the park elects to participate in the

community service program. The commission shall transmit a list notifying the district courts of each state park that elects to participate. [1996 c 263 § 3.]

43.51.050 Additional powers and duties. The commission may: (1) Study and appraise parks and recreational needs of the state and assemble and disseminate information relative to parks and recreation;

(2) Make provisions for the publication and sale in state parks facilities of interpretive, recreational, and historical materials and literature. Proceeds from such sales shall be directed to the parks improvement account; and

(3) Coordinate the parks and recreational functions of the various state departments, and cooperate with state and federal agencies in the promotion of parks and recreational opportunities. [1987 c 225 § 1; 1965 c 8 § 43.51.050. Prior: 1955 c 391 § 2; 1947 c 271 § 4; RRS § 10768-3.]

43.51.052 Parks improvement account. The parks improvement account is hereby established in the state treasury. The parks and recreation commission shall deposit all moneys received from the sale of interpretive, recreational, and historical literature and materials in this account. Moneys in the account may be spent only for development, production, and distribution costs associated with literature and materials, and for enhancements to park facilities that are supplementary to those improvements approved through the appropriation process. Disbursements from the account shall be on the authority of the director of the parks and recreation commission, or the director's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW. No appropriation is required for disbursement of moneys to be used for support of further production of materials provided for in RCW 43.51.050(2) but any moneys to be used for other capital or operating purposes must be appropriated. [1987 c 225 § 2.]

43.51.055 Park passes—Eligibility. (1) The commission shall grant to any person who meets the eligibility requirements specified in this section a senior citizen's pass which shall (a) entitle such person, and members of his camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission, and (b) entitle such person to free admission to any state park.

(2) The commission shall grant a senior citizen's pass to any person who applies for the same and who meets the following requirements:

(a) The person is at least sixty-two years of age; and

(b) The person is a domiciliary of the state of Washington and meets reasonable residency requirements prescribed by the commission; and

(c) The person and his or her spouse have a combined income which would qualify the person for a property tax exemption pursuant to RCW 84.36.381, as now law or hereafter amended. The financial eligibility requirements of this subparagraph (c) shall apply regardless of whether the applicant for a senior citizen's pass owns taxable property or has obtained or applied for such property tax exemption.

(3) Each senior citizen's pass granted pursuant to this section is valid so long as the senior citizen meets the requirements of subsection (2)(b) of this section. Not-

withstanding, any senior citizen meeting the eligibility requirements of this section may make a voluntary donation for the upkeep and maintenance of state parks.

(4) A holder of a senior citizen's pass shall surrender the pass upon request of a commission employee when the employee has reason to believe the holder fails to meet the criteria in subsection (2)(a), (b), or (c) of this section. The holder shall have the pass returned upon providing proof to the satisfaction of the director of the parks and recreation commission that the holder does meet the eligibility criteria for obtaining the senior citizen's pass.

(5) Any resident of Washington who is disabled as defined by the social security administration and who receives social security benefits for that disability, or any other benefits for that disability from any other governmental or nongovernmental source, or who is entitled to benefits for permanent disability under RCW 71A.10.020(2) due to unemployability full time at the minimum wage, or who is legally blind or profoundly deaf, or who has been issued a card, decal, or special license plate for a permanent disability under RCW 46.16.381 shall be entitled to receive, regardless of age and upon making application therefor, a disability pass at no cost to the holder. The pass shall (a) entitle such person, and members of his camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission, and (b) entitle such person to free admission to any state park.

(6) A card, decal, or special license plate issued for a permanent disability under RCW 46.16.381 may serve as a pass for the holder to entitle that person and members of the person's camping unit to a fifty percent reduction in the campsite rental fee prescribed by the commission, and to allow the holder free admission to state parks.

(7) Any resident of Washington who is a veteran and has a service-connected disability of at least thirty percent shall be entitled to receive a lifetime veteran's disability pass at no cost to the holder. The pass shall (a) entitle such person, and members of his camping unit, to free use of any campsite within any state park, and (b) entitle such person to free admission to any state park.

(8) All passes issued pursuant to this section shall be valid at all parks any time during the year: PROVIDED, That the pass shall not be valid for admission to concessionaire operated facilities.

(9) This section shall not affect or otherwise impair the power of the commission to continue or discontinue any other programs it has adopted for senior citizens.

(10) The commission shall adopt such rules and regulations as it finds appropriate for the administration of this section. Among other things, such rules and regulations shall prescribe a definition of "camping unit" which will authorize a reasonable number of persons traveling with the person having a pass to stay at the campsite rented by such person, a minimum Washington residency requirement for applicants for a senior citizen's pass and an application form to be completed by applicants for a senior citizen's pass. [1989 c 135 § 1; 1988 c 176 § 909; 1986 c 6 § 1; 1985 c 182 § 1; 1979 ex.s. c 131 § 1; 1977 ex.s. c 330 § 1.]

Severability—1988 c 176: See RCW 71A.10.900.

43.51.060 Further powers—Director of parks and recreation—Salaries. The commission may:

(1) Make rules and regulations for the proper administration of its duties;

(2) Accept any grants of funds made with or without a matching requirement by the United States, or any agency thereof, for purposes in keeping with the purposes of this chapter; accept gifts, bequests, devises and endowments for purposes in keeping with such purposes; enter into cooperative agreements with and provide for private nonprofit groups to use state park property and facilities to raise money to contribute gifts, grants, and support to the commission for the purposes of this chapter. The commission may assist the nonprofit group in a cooperative effort by providing necessary agency personnel and services, if available. However, none of the moneys raised may inure to the benefit of the nonprofit group, except in furtherance of its purposes to benefit the commission as provided in this chapter. The agency and the private nonprofit group shall agree on the nature of any project to be supported by such gift or grant prior to the use of any agency property or facilities for raising money. Any such gifts may be in the form of recreational facilities developed or built in part or in whole for public use on agency property, provided that the facility is consistent with the purposes of the agency;

(3) Require certification by the commission of all parks and recreation workers employed in state aided or state controlled programs;

(4) Act jointly, when advisable, with the United States, any other state agencies, institutions, departments, boards, or commissions in order to carry out the objectives and responsibilities of this chapter;

(5) Grant franchises and easements for any legitimate purpose on parks or parkways, for such terms and subject to such conditions and considerations as the commission shall specify;

(6) Charge such fees for services, utilities, and use of facilities as the commission shall deem proper;

(7) Enter into agreements whereby individuals or companies may rent undeveloped parks or parkway land for grazing, agricultural, or mineral development purposes upon such terms and conditions as the commission shall deem proper, for a term not to exceed ten years;

(8) Determine the qualifications of and employ a director of parks and recreation who shall receive a salary as fixed by the governor in accordance with the provisions of RCW 43.03.040, and upon his recommendation, a supervisor of recreation, and determine the qualifications and salary of and employ such other persons as may be needed to carry out the provisions hereof; and

(9) Without being limited to the powers hereinbefore enumerated, the commission shall have such other powers as in the judgment of a majority of its members are deemed necessary to effectuate the purposes of this chapter: PROVIDED, That the commission shall not have power to supervise directly any local park or recreation district, and no funds shall be made available for such purpose. [1995 c 211 § 3; 1993 c 156 § 1; 1987 c 225 § 3; 1980 c 89 § 2; 1969 c 99 § 1; 1965 c 8 § 43.51.060. Prior: 1961 c 307 § 12; 1955 c 391 § 3; 1947 c 271 § 5; RRS § 10768-4.]

Findings—Intent—1995 c 211: "The legislature finds that during the past fourteen years, the Washington state parks and recreation commission

has endured a steady erosion of general fund operating support, which has caused park closures, staff reductions, and growing backlog of deferred maintenance projects. The legislature also finds that the growth of parks revenue has been constrained by staff limitations and by transfers of that revenue into the general fund.

The legislature intends to reverse the decline in operating support to its state parks, stabilize the system's level of general fund support, and inspire system employees and park visitors to enhance these irreplaceable resources and ensure their continuing availability to current and future state citizens and visitors. To achieve these goals, the legislature intends to dedicate park revenues to park operations, developing and renovating park facilities, undertaking deferred maintenance, and improving park stewardship. The legislature clearly intends that such revenues shall complement, not supplant, future general fund support." [1995 c 211 § 1.]

Effective date—1995 c 211: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 211 § 8.]

Severability—1995 c 211: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 211 § 9.]

Effective date—1969 c 99: "This 1969 amendatory act shall take effect July 1, 1969." [1969 c 99 § 12.] For codification of 1969 c 99, see Codification Tables, Volume 0.

43.51.061 Delegation of commission's powers and duties to director. Notwithstanding any other provisions of this chapter or of other laws relating to the commission, the commission may delegate to the director of parks and recreation such powers and duties of the commission as they may deem proper. [1969 ex.s. c 31 § 2.]

43.51.062 Lease of park lands for television stations. The state parks and recreation commission is hereby authorized to lease the use of such areas in Mount Spokane state park, Steptoe Butte state park, Kamiak Butte state park or any other state park for television stations as the commission may decide are suitable for that purpose: PROVIDED, That this authority shall not extend to school lands or lands held by the state of Washington for educational purposes. [1965 c 8 § 43.51.062. Prior: 1953 c 39 § 1.]

Validating—1953 c 39: "Any lease authorizing the use of any portion of Mount Spokane state park for a television station which the state parks and recreation commission has already made is hereby validated and confirmed, and the parties thereto are bound by the terms thereof." [1953 c 39 § 2.]

Construction—1953 c 39: "The authority conferred by this act is in addition to the powers and authority now conferred upon the state parks and recreation commission, and this act shall not be construed to repeal or limit, by implication or otherwise, any authority or power now conferred by law upon the state parks and recreation commission." [1953 c 39 § 3.]

43.51.063 Lease of park lands for television stations—Lease rental rates, terms—Attachment of antennae. The commission shall determine the fair market value for television station leases based upon independent appraisals and existing leases for television stations shall be extended at said fair market rental for at least one period of not more than twenty years: PROVIDED, That the rates in said leases shall be renegotiated at five year intervals: PROVIDED FURTHER, That said stations shall permit the attachment of antennae of publicly operated broadcast and microwave stations where electronically practical to combine the towers: PROVIDED FURTHER, That notwithstanding any term to the contrary in any lease, this section shall not

preclude the commission from prescribing new and reasonable lease terms relating to the modification, placement or design of facilities operated by or for a station, and any extension of a lease granted under this section shall be subject to this proviso: PROVIDED FURTHER, That notwithstanding any other provision of law the director in his discretion may waive any requirement that any environmental impact statement or environmental assessment be submitted as to any lease negotiated and signed between January 1, 1974 and December 31, 1974. [1974 ex.s. c 151 § 1.]

43.51.065 Exemption of persons over sixty-five from fees for collection in state parks of wood debris for personal use. Persons over the age of sixty-five are exempt from any permit or other administrative fee imposed by the commission for the collection of wood debris in state parks, if such wood is for personal use. [1983 c 193 § 1.]

43.51.070 Donations of land for park purposes. The commission may receive and accept donations of lands for state park purposes, and shall have the management and control of all lands so acquired. It may from time to time recommend to the legislature the acquisition of lands for park purposes by purchase or condemnation. [1965 c 8 § 43.51.070. Prior: 1913 c 113 § 2; RRS § 10940.]

43.51.080 Parks in island counties. Whenever any tract of land not exceeding one hundred acres in area considered as a whole regardless of ownership, situated in a county composed entirely of islands and bounded on two or more sides by an established state park, shall in the judgment of the commission be desirable for state park purposes, the commission may lease, purchase, or condemn said tract for park purposes and incorporate it within the adjoining established park: PROVIDED, That nothing in this act [1925 ex.s. c 92] shall in any manner abridge the full effect of any existing powers heretofore granted to the state parks and recreation commission. [1965 c 8 § 43.51.080. Prior: 1925 ex.s. c 92 § 1; RRS § 10942-1.]

43.51.090 Bequests and donations of money. The commission may receive in trust any money donated or bequeathed to it, and carry out the terms of such donation or bequest, or, in the absence of such terms, expend the same as it may deem advisable for park or parkway purposes.

Money so received shall be deposited in the state general fund. [1969 c 99 § 2; 1965 c 8 § 43.51.090. Prior: 1923 c 157 § 2; 1921 c 149 § 3; RRS § 10943.]

43.51.100 Withdrawal of granted lands on public highways. Inasmuch as the value of land with standing timber is increasing and will continue to increase from year to year and no loss will be caused to the common school fund or other fund into which the proceeds of the sale of any land held by the state would be paid by postponing the sale thereof, the commissioner of public lands may, upon his own motion, and shall, when directed so to do by the state parks and recreation commission, withdraw from sale any land held by the state abutting on any public highway and certify to the commission that such land is withheld from sale pursuant to the terms of this section.

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Such lands shall not be sold until directed by the legislature, and shall in the meantime be under the care, charge, control, and supervision of the commission. [1965 c 8 § 43.51.100. Prior: 1921 c 149 § 4; RRS § 10944.]

43.51.110 Withdrawal of other lands—Exchange for lands on highway. The commissioner of public lands may, upon his own motion, and shall, when directed so to do by the state parks and recreation commission, withdraw from sale any land held by the state and not acquired directly from the United States with reservations as to the manner of sale thereof and the purposes for which it may be sold, and certify to the commission that such land is withheld from sale pursuant to the terms of this section.

All such land shall be under the care, charge, control, and supervision of the state parks and recreation commission, and after appraisal in such manner as the commission directs may be exchanged for land of equal value abutting upon a public highway, and to this end the chairman and secretary of the commission may execute deeds of conveyance in the name of the state. [1965 c 8 § 43.51.110. Prior: 1921 c 149 § 5; RRS § 10945.]

43.51.112 Cross-state trail facility. (Contingent expiration date.) (1) The commission shall develop and maintain a cross-state trail facility with appropriate appurtenances.

(2) This section expires July 1, 1999, if the department of transportation does not enter into a franchise agreement for a rail line over portions of the Milwaukee Road corridor by July 1, 1999. [1996 c 129 § 2.]

Intent—1996 c 129: "The legislature intends to complete a cross-state trail system while maintaining long-term ownership of the Milwaukee Road corridor. In order to accomplish this, it will be beneficial to change the management and control of certain portions of the Milwaukee Road corridor currently managed and controlled by several state agencies and to provide a franchise to establish and maintain a rail line. It is the intent of the legislature that if a franchise is not agreed upon, no changes in the current management and control shall occur." [1996 c 129 § 1.]

Effective date—1996 c 129: "This act takes effect July 1, 1996." [1996 c 129 § 10.]

Severability—1996 c 129: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 129 § 12.]

43.51.1121 Cross-state trail—Transfer of lands in Milwaukee Road corridor. (Contingent expiration date.)

(1) To facilitate completion of a cross-state trail under the management of the parks and recreation commission, management and control of lands known as the Milwaukee Road corridor shall be transferred between state agencies as follows on the date a franchise agreement is entered into for a rail line over portions of the Milwaukee Road corridor:

(a) Portions owned by the state between Ellensburg and the Columbia river that are managed by the parks and recreation commission are transferred to the department of transportation;

(b) Portions owned by the state between the west side of the Columbia river and Royal City Junction and between Warden and Lind that are managed by the department of natural resources are transferred to the department of transportation; and

(c) Portions owned by the state between Lind and the Idaho border that are managed by the department of natural resources are transferred to the parks and recreation commission.

(2) The department of natural resources and the parks and recreation commission may by mutual agreement transfer the management authority over portions of the Milwaukee Road corridor between their two respective agencies without legislative approval if the portion transferred does not exceed ten miles in length.

(3) This section expires July 1, 1999, and no transfers shall occur if the department of transportation does not enter into a franchise agreement for a rail line over portions of the Milwaukee Road corridor by July 1, 1999. [1996 c 129 § 3.]

Intent—Effective date—Severability—1996 c 129: See notes following RCW 43.51.112.

43.51.113 Cross-state trail—Rail line franchise negotiations by department of transportation. (*Contingent expiration date.*) (1) The department of transportation shall negotiate a franchise with a rail carrier to establish and maintain a rail line over portions of the Milwaukee Road corridor owned by the state between Ellensburg and Lind. The department of transportation may negotiate such a franchise with any qualified rail carrier. Criteria for negotiating the franchise and establishing the right of way include:

(a) Assurances that resources from the franchise will be sufficient to compensate the state for use of the property, including completion of a cross-state trail between Easton and the Idaho border;

(b) Types of payment for use of the franchise, including payment for the use of federally granted trust lands in the transportation corridor;

(c) Standards for maintenance of the line;

(d) Provisions ensuring that both the conventional and intermodal rail service needs of local shippers are met. Such accommodations may comprise agreements with the franchisee to offer or maintain adequate service or to provide service by other carriers at commercially reasonable rates;

(e) Provisions requiring the franchisee, upon reasonable request of any other rail operator, to provide rail service and interchange freight over what is commonly known as the Stampede Pass rail line from Cle Elum to Auburn at commercially reasonable rates;

(f) If any part of the franchise agreement is invalidated by actions or rulings of the federal surface transportation board or a court of competent jurisdiction, the remaining portions of the franchise agreement are not affected;

(g) Compliance with environmental standards; and

(h) Provisions for insurance and the coverage of liability.

(2) The franchise may provide for periodic review of financial arrangements under the franchise.

(3) The department of transportation, in consultation with the parks and recreation commission and the legislative transportation committee, shall negotiate the terms of the franchise, and shall present the agreement to the parks and recreation commission for approval of as to terms and provisions affecting the cross-state trail or affecting the commission.

(4) This section expires July 1, 1999, if the department of transportation does not enter into a franchise agreement for a rail line over portions of the Milwaukee Road corridor by July 1, 1999. [1996 c 129 § 4.]

Review and approval of franchise—Report to the legislature: "(1) Before entering into a final agreement to issue a franchise negotiated in accordance with RCW 43.51.113, the department of transportation shall submit the franchise to the legislative transportation committee for review and approval.

(2) If the department of transportation has not entered into a final agreement to franchise a rail line over portions of the Milwaukee Road corridor by December 1, 1998, a report of the progress and obstacles to such an agreement shall be made. The report shall be submitted by December 15, 1998, to appropriate committees of the legislature." [1996 c 129 § 6.]

Intent—Effective date—Severability—1996 c 129: See notes following RCW 43.51.112.

43.51.114 Cross-state trail account—Land acquisition—Rules describing trail. (*Contingent expiration date.*)

(1) The cross-state trail account is created in the custody of the state treasurer. Eleven million five hundred thousand dollars is provided to the state parks and recreation commission to acquire, construct, and maintain a cross-state trail. This amount may consist of: (a) Legislative appropriations intended for trail development; (b) payments for the purchase of federally granted trust lands; and (c) franchise fees derived from use of the rail corridor. The legislature intends that any amounts provided from the transportation fund are to be repaid to the transportation fund from franchise fees.

(2) The department shall deposit franchise fees from use of the rail corridor according to the following priority: (a) To the department of transportation for actual costs incurred in administering the franchise; (b) to the department of natural resources as compensation for use of federally granted trust lands in the rail corridor; (c) to the transportation fund to reimburse any amounts transferred or appropriated from that fund by the legislature for trail development; (d) to the cross-state trail account, not to exceed eleven million five hundred thousand dollars, provided that this amount shall be reduced proportionate with any funds transferred or appropriated by the 1996 legislature or paid from franchise fees for the purchase of federally granted trust lands or for trail development; and (e) the remainder to the essential rail assistance account, created under RCW 47.76.250. Expenditures from the cross-state trail account may be used only for the acquisition, development, operation, and maintenance of the cross-state trail. Only the director of the state parks and recreation commission or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

(3) The commission may acquire land from willing sellers for the cross-state trail, but not by eminent domain.

(4) The commission shall adopt rules describing the cross-state trail.

(5) This section expires July 1, 1999, if the department of transportation does not enter into a franchise agreement for a rail line over portions of the Milwaukee Road corridor by July 1, 1999. [1996 c 129 § 5.]

Intent—Effective date—Severability—1996 c 129: See notes following RCW 43.51.112.

43.51.120 Dedication as parks and parkways. All state parks and parkways, subject to the provisions of this chapter are set apart and dedicated as public parks and parkways for the benefit and enjoyment of all the people of this state. [1965 c 8 § 43.51.120. Prior: 1921 c 149 § 6; RRS § 10946.]

43.51.130 Permits for improvement of parks—Limitations. The state parks and recreation commission may grant permits to individuals, groups, churches, charities, organizations, agencies, clubs, or associations to improve any state park or parkway, or any lands belonging to the state and withdrawn from sale under the provisions of this chapter. Any expenses borne by the state shall be limited to premiums or assessments for the insurance of volunteers by the department of labor and industries, compensation of staff who assist volunteers, minimal use of natural resources contained within such public lands, paint, incidental materials, and equipment used to assist volunteers. These improvements shall not interfere with access to or use of such public lands or facilities by the general public and shall benefit the public in terms of safety, recreation, aesthetics, or wildlife or natural area preservation. These improvements on public lands and facilities shall be for the use of all members of the general public. [1982 c 156 § 1; 1965 c 8 § 43.51.130. Prior: 1929 c 83 § 1; RRS § 10946-1.]

43.51.140 Application for permit. Any such individual, group, organization, agency, club, or association desiring to obtain such permit shall make application therefor in writing to the commission, describing the lands proposed to be improved and stating the nature of the proposed improvement. Prior to granting a permit, the commission shall determine that the applicants are persons of good standing in the community in which they reside. [1982 c 156 § 2; 1965 c 8 § 43.51.140. Prior: 1929 c 83 § 2; RRS § 10946-2.]

43.51.150 Plans and specifications. If the state parks and recreation commission determines that the proposed improvement will substantially alter a park, parkway, or park land, it shall require the applicant to submit detailed plans and specifications of the proposed improvement, which, as submitted, or as modified by the state parks and recreation commission, shall be incorporated in the permit when granted. [1982 c 156 § 3; 1965 c 8 § 43.51.150. Prior: 1929 c 83 § 3; RRS § 10946-3.]

43.51.160 Surety bond. If the commission determines it necessary, the applicant shall execute and file with the secretary of state a bond payable to the state, in such penal sum as the commission shall require, with good and sufficient sureties to be approved by the commission, conditioned that the grantee of the permit will make the improvement in accordance with the plans and specifications contained in the permit, and, in case the improvement is made upon lands withdrawn from sale under the provisions of RCW 43.51.100, will pay into the state treasury to the credit of the fund to which the proceeds of the sale of such lands would belong, the appraised value of all merchantable timber and material on the land, destroyed, or used in making such

improvement. [1982 c 156 § 4; 1965 c 8 § 43.51.160. Prior: 1929 c 83 § 4; RRS § 10946-4.]

43.51.170 Police powers vested in commission and employees. The members of the state parks and recreation commission and such of its employees as the commission may designate shall be vested with police powers to enforce the laws of this state. [1965 c 8 § 43.51.170. Prior: 1921 c 149 § 7; RRS § 10947.]

43.51.180 Penalties. Every person who:

(1) Cuts, breaks, injures, destroys, takes or removes any tree, shrub, timber, plant, or natural object in any park or parkway; or

(2) Kills, or pursues with intent to kill, any bird or animal in any park or parkway; or

(3) Takes any fish from the waters of any park or parkway, except in conformity with such general rules as the commission may prescribe; or

(4) Wilfully mutilates, injures, defaces, or destroys any guidepost, notice, tablet, fence, inclosure, or work for the protection or ornamentation of any park or parkway; or

(5) Lights any fire upon any park or parkway, except in such places as the commission has authorized, or wilfully or carelessly permits any fire which he has lighted or which is under his charge, to spread or extend to or burn any of the shrubbery, trees, timber, ornaments, or improvements upon any park or parkway, or leaves any campfire which he has lighted or which has been left in his charge, unattended by a competent person, without extinguishing it; or

(6) Places within any park or parkway or affixes to any object therein contained, without a written license from the commission, any word, character, or device designed to advertise any business, profession, article, thing, exhibition, matter, or event; or

(7) Violates any rule adopted, promulgated, or issued by the commission pursuant to the provisions of this chapter; shall be guilty of a misdemeanor unless the commission has specified by rule, when not inconsistent with applicable statutes, that violation of the rule is an infraction under chapter 7.84 RCW. [1987 c 380 § 15; 1965 c 8 § 43.51.180. Prior: 1921 c 149 § 8; RRS § 10948.]

Effective date—Severability—1987 c 380: See RCW 7.84.900 and 7.84.901.

43.51.200 Transfer of surplus land—Reversionary clause required—Release—Parkland acquisition account.

(1) Any lands owned by the state parks and recreation commission, which are determined to be surplus to the needs of the state for development for state park purposes and which the commission proposes to deed to a local government or other entity, shall be accompanied by a clause requiring that if the land is not used for outdoor recreation purposes, ownership of the land shall revert to the state parks and recreation commission.

(2) The state parks and recreation commission, in cases where land subject to such a reversionary clause is proposed for use or disposal for purposes other than recreation, shall require that, if the land is surplus to the needs of the commission for park purposes at the time the commission becomes aware of its proposed use for nonrecreation

purposes, the holder of the land or property shall reimburse the commission for the release of the reversionary interest in the land. The reimbursement shall be in the amount of the fair market value of the reversionary interest as determined by a qualified appraiser agreeable to the commission. Appraisal costs shall be borne by the local entity which holds title to the land.

(3) Any funds generated under a reimbursement under this section shall be deposited in the parkland acquisition account which is hereby created in the state treasury. Moneys in this account are to be used solely for the purchase or acquisition of property for use as state park property by the commission, as directed by the legislature; all such funds shall be subject to legislative appropriation. [1991 sp.s. c 13 § 23; 1985 c 57 § 33; 1984 c 87 § 1.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.51.210 Disposal of land not needed for park purposes. Whenever the state parks and recreation commission finds that any land under its control cannot advantageously be used for park purposes, it is authorized to dispose of such land. If such lands are school or other grant lands, control thereof shall be relinquished by resolution of the commission to the proper state officials. If such lands were acquired under restrictive conveyances by which the state may hold them only so long as they are used for park purposes, they may be returned to the donor or grantors by the commission. All other such lands may be either sold by the commission to the highest bidder or exchanged for other lands of equal value by the commission, and all conveyance documents shall be executed by the governor. All such exchanges shall be accompanied by a transfer fee, to be set by the commission and paid by the other party to the transfer; such fee shall be paid into the parkland acquisition account established under RCW 43.51.200. Sealed bids on all sales shall be solicited at least twenty days in advance of the sale date by an advertisement appearing at least in three consecutive issues of a newspaper of general circulation in the county in which the land to be sold is located. If the commission feels that no bid received adequately reflects the fair value of the land to be sold, it may reject all bids, and may call for new bids. All proceeds derived from the sale of such park property shall be paid into the state general fund. All land considered for exchange shall be evaluated by the commission to determine its adaptability to park usage. The equal value of all lands exchanged shall first be determined by the appraisals to the satisfaction of the commission: **PROVIDED**, That no sale or exchange of state park lands shall be made without the unanimous consent of the commission. [1984 c 87 § 2; 1971 ex.s. c 246 § 1; 1969 c 99 § 3; 1965 c 8 § 43.51.210. Prior: 1953 c 64 § 1; 1947 c 261 § 1; RRS § 10951a.]

Exchange of lands to secure state park lands: RCW 79.08.108.

43.51.215 Exchange of state land by commission—Public notice—News release—Hearing—Procedure. At least ten days but not more than twenty-five days before the director of parks and recreation presents a proposed exchange to the parks and recreation commission involving an

exchange of state land pursuant to this chapter, the director shall hold a public hearing on the proposal in the county where the state lands or the greatest proportion thereof is located. Ten days but not more than twenty-five days prior to such hearing, the director shall publish a paid public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing, at least once in one or more daily newspapers of general circulation in the county and at least once in one or more weekly newspapers circulated in the area where the state owned land is located. A news release pertaining to the hearing shall be disseminated among printed and electronic media in the area where the state land is located. The public notice and news release also shall identify lands involved in the proposed exchange and describe the purposes of the exchange and proposed use of the lands involved. A summary of the testimony presented at the hearings shall be prepared for the commission's consideration when reviewing the director's exchange proposal. If there is a failure to substantially comply with the procedures set forth in this section, then the exchange agreement shall be subject to being declared invalid by a court. Any such suit must be brought within one year from the date of the exchange agreement. [1975 1st ex.s. c 107 § 1.]

Exchange of land under control of department of natural resources, procedure: RCW 79.08.015.

43.51.220 Small boat facilities for Puget Sound authorized. To encourage the development of the Puget Sound country as a recreational boating area, the commission is authorized to establish landing and other facilities for small pleasure boats at places on Puget Sound frequented by such boats and where the commission shall find such facilities will be of greatest advantage to the users of pleasure boats. The commission is authorized to acquire land or to make use of lands belonging to the state for such purposes, and to construct the necessary floats and other desirable structures and to make such further development of any area used in connection therewith as in the judgment of the commission is best calculated to facilitate the public enjoyment thereof. [1965 c 8 § 43.51.220. Prior: 1949 c 154 § 1; RRS § 10768-4d.]

43.51.230 Lease with option to purchase parental school facilities. The commission may execute leases with options to purchase and then subsequently purchase but not before July 1, 1961, the parental school facilities now or hereafter owned or operated by school districts. Leases with options to purchase shall include such terms and conditions as the commission deems reasonable and necessary to acquire the facilities. Notwithstanding any provisions of law to the contrary, the board of directors of each school district now or hereafter owning or operating parental school facilities may, without submission for approval to the voters of the school district, sell or execute leases with options to purchase such parental school facilities. Leases with options to purchase shall include such terms and conditions as the board of directors deems reasonable and necessary to dispose of the facilities in a manner beneficial to the school district. The commission, if it enters into a lease with option to purchase parental school facilities, may exercise its option

and purchase such parental school facilities; and a school district may, if it enters into a lease with an option to purchase parental school facilities, upon exercise of the option to purchase by the commission, sell such parental school facilities and such sale may be accomplished without first obtaining a vote of approval from the electorate of the school district. [1965 c 8 § 43.51.230. Prior: 1959 c 215 § 1.]

Parental schools—Leases, purchases—Powers of school districts: RCW 72.05.300.

43.51.240 Certain tidelands transferred to commission. The powers, functions, and duties heretofore exercised by the *department of fisheries, or its director, respecting the management, control, and operation of the following enumerated tidelands, which are presently suitable for public recreational use, are hereby transferred to the parks and recreation commission which shall also have respecting such tidelands all the powers conferred by chapter 43.51 RCW, as now or hereafter amended, respecting parks and parkways:

Parcel No. 1. (Toandos Peninsula) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 2, and 3, section 5, lots 1, 2, and 3, section 4, and lot 1, section 3, all in township 25 north, range 1 west, W.M., with a frontage of 158.41 lineal chains, more or less.

Parcel No. 2. (Shine) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 2, 3 and that portion of lot 4 lying north of the south 8.35 chains thereof as measured along the government meander line, all in section 35, township 28 north, range 1 east, W.M., with a frontage of 76.70 lineal chains, more or less.

Subject to an easement for right of way for county road granted to Jefferson county December 8, 1941 under application No. 1731, records of department of public lands.

Parcel No. 3. (Mud Bay - Lopez Island) The tidelands of the second class, owned by the state of Washington situate in front of, adjacent to, or abutting upon lots 5, 6 and 7, section 18, lot 5, section 7 and lots 3, 4, and 5, section 8, all in township 34 north, range 1 west, W.M., with a frontage of 172.11 lineal chains, more or less.

Excepting, however, any tideland of the second class in front of said lot 3, section 8 conveyed through deeds issued April 14, 1909 pursuant to the provisions of chapter 24, Laws of 1895 under application No. 4985, records of department of public lands.

Parcel No. 4. (Spencer Spit) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 3, and 4, section 7, and lot 5, section 18 all in township 35 north, range 1 west, W.M., with a frontage of 118.80 lineal chains, more or less.

Parcel No. 5. (Lilliwaup) The tidelands of the second class, owned by the state of Washington, lying easterly of the east line of vacated state oyster reserve plat No. 133 produced southerly and situate in front of, adjacent to or abutting upon lot 9, section 30, lot 8, section 19 and lot 5 and the south 20 acres of lot 4, section 20, all in township 23 north, range 3 west, W.M., with a frontage of 62.46 lineal chains, more or less. [1967 ex.s. c 96 § 1.]

***Reviser's note:** Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

Severability—1967 ex.s. c 96: "If any provision of this 1967 act, or its application to any person or circumstance is held invalid, the remainder of this 1967 act, or the application of the provision to other persons or circumstances is not affected." [1967 ex.s. c 96 § 3.]

Certain tidelands reserved for recreational use: RCW 79.94.390.

43.51.250 Certain tidelands transferred to commission—Access to and from tidelands. The state parks and recreation commission may take appropriate action to provide public and private access, including roads and docks, to and from the tidelands described in RCW 43.51.240. [1967 ex.s. c 96 § 2.]

43.51.260 Acquisition of Wallace Falls property authorized. In addition to all other powers and duties provided by law, the state parks and recreation commission is hereby directed to acquire such real property upon which Wallace Falls on the Wallace River in Snohomish county is located together with such real property in the vicinity thereof as it deems necessary for park purposes.

The state parks and recreation commission shall acquire such property in any manner authorized by law for the acquisition of lands for park and parkway purposes. [1969 c 41 § 1; 1965 c 146 § 2.]

43.51.270 Sale of state trust lands—Terms and conditions. (1) The department of natural resources and the state parks and recreation commission shall have authority to negotiate a sale to the state parks and recreation commission, for park and outdoor recreation purposes, of trust lands at fair market value.

(2) The department of natural resources and the state parks and recreation commission shall negotiate a sale to the state parks and recreation commission of the lands and timber thereon identified in the joint study under section 4, chapter 163, Laws of 1985, and commonly referred to as the Point Lawrence trust property, San Juan county — on the extreme east point of Orcas Island. Timber conservation and management practices provided for in RCW 43.51.045 and 43.51.395 shall govern the management of land and timber transferred under this subsection as of the effective date of the transfer, upon payment for the property, and nothing in this chapter shall be construed as restricting or otherwise modifying the department of natural resources' management, control, or use of such land and timber until such date. [1995 c 211 § 4; 1992 c 185 § 1; 1988 c 79 § 1; 1987 c 466 § 1; 1985 c 163 § 1; 1981 c 271 § 1; 1980 c 4 § 1; 1971 ex.s. c 210 § 1.]

Findings—Intent—Effective date—Severability—1995 c 211: See notes following RCW 43.51.060.

Withdrawal of state trust lands for park and recreational purpose: RCW 79.08.1072 through 79.08.1078.

43.51.275 State parks renewal and stewardship account. The state parks renewal and stewardship account is created in the state treasury. Except as otherwise provided in this chapter, all receipts from user fees, concessions, leases, and other state park-based activities shall be deposited into the account. Expenditures from the account may be

used for operating state parks, developing and renovating park facilities, undertaking deferred maintenance, enhancing park stewardship, and other state park purposes. Expenditures from the account may be made only after appropriation by the legislature. [1995 c 211 § 7.]

Findings—Intent—Effective date—Severability—1995 c 211: See notes following RCW 43.51.060.

43.51.285 Trust lands—Periodic review to identify parcels appropriate for transfer to commission. The parks and recreation commission and the department of natural resources may periodically conduct a joint review of trust lands managed by the department to identify those parcels which may be appropriate for transfer to the commission for public recreation purposes. [1987 c 466 § 3.]

Escheat land suitable for park purposes: RCW 79.01.612.

43.51.290 Winter recreational facilities—Commission duties—Liability. In addition to its other powers, duties, and functions the state parks and recreation commission may:

(1) Plan, construct, and maintain suitable facilities for winter recreational activities on lands administered or acquired by the commission or as authorized on lands administered by other public agencies or private landowners by agreement;

(2) Provide and issue upon payment of the proper fee, with the assistance of such authorized agents as may be necessary for the convenience of the public, special permits to park in designated winter recreational area parking spaces;

(3) Administer the snow removal operations for all designated winter recreational area parking spaces; and

(4) Compile, publish, and distribute maps indicating such parking spaces, adjacent trails, and areas and facilities suitable for winter recreational activities.

The commission may contract with any public or private agency for the actual conduct of such duties, but shall remain responsible for the proper administration thereof. The commission is not liable for unintentional injuries to users of lands administered for winter recreation purposes under this section or under RCW 46.10.210, whether the lands are administered by the commission, by other public agencies, or by private landowners through agreement with the commission. Nothing in this section prevents the liability of the commission for injuries sustained by a user by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. A road covered with snow and groomed for the purposes of winter recreation consistent with this chapter and chapter 46.10 RCW shall not be presumed to be a known dangerous artificial latent condition for the purposes of this chapter. [1990 c 136 § 2; 1990 c 49 § 2; 1982 c 11 § 1; 1975 1st ex.s. c 209 § 1.]

Reviser's note: This section was amended by 1990 c 49 § 2 and by 1990 c 136 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1975 1st ex.s. c 209: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 209 § 9.]

43.51.300 Winter recreational area parking permits—Fee—Expiration. The fee for the issuance of special winter recreational area parking permits shall be determined by the commission after consultation with the winter recreation advisory committee. If the person making application therefor is also the owner of a snowmobile registered pursuant to chapter 46.10 RCW, there shall be no fee for the issuance of an annual permit. All special winter recreational area parking permits shall commence and expire on the dates established by the commission. [1990 c 49 § 3; 1986 c 47 § 1; 1982 c 11 § 2; 1975 1st ex.s. c 209 § 2.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

43.51.310 Winter recreational program account—Deposit of parking permit fees—Winter recreation programs by public and private agencies. There is hereby created the winter recreational program account in the state treasury. Special winter recreational area parking permit fees collected under this chapter shall be remitted to the state treasurer to be deposited in the winter recreational program account and shall be appropriated only to the commission for nonsnowmobile winter recreation purposes including the administration, acquisition, development, operation, planning, and maintenance of winter recreation facilities and the development and implementation of winter recreation, safety, enforcement, and education programs. The commission may accept gifts, grants, donations, or moneys from any source for deposit in the winter recreational program account.

Any public agency in this state may develop and implement winter recreation programs. The commission may make grants to public agencies and contract with any public or private agency or person to develop and implement winter recreation programs. [1991 sp.s. c 13 § 6; 1985 c 57 § 35; 1982 c 11 § 3; 1975 1st ex.s. c 209 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

43.51.320 Winter recreational parking areas—Restriction of overnight parking. The commission may, after consultation with the winter recreation advisory committee, adopt rules and regulations prohibiting or restricting overnight parking at any special state winter recreational parking areas owned or administered by it. Where such special state winter recreational parking areas are administered by the commission pursuant to an agreement with other public agencies, such agreement may provide for prohibition or restriction of overnight parking. [1982 c 11 § 4; 1975 1st ex.s. c 209 § 4.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

43.51.321 Penalty for violation of RCW 43.51.320 or 46.61.585. See RCW 46.61.587.

43.51.330 Winter recreational parking areas—Rules. The commission may adopt such rules as are necessary to implement and enforce RCW 43.51.290 through

43.51.320 and 46.61.585 after consultation with the winter recreation advisory committee. [1982 c 11 § 5; 1975 1st ex.s. c 209 § 7.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

43.51.340 Winter recreation advisory committee—Generally. (1) There is created a winter recreation advisory committee to advise the parks and recreation commission in the administration of this chapter and to assist and advise the commission in the development of winter recreation facilities and programs.

(2) The committee shall consist of:

(a) Six representatives of the nonsnowmobiling winter recreation public appointed by the commission, including a resident of each of the six geographical areas of this state where nonsnowmobiling winter recreation activity occurs, as defined by the commission.

(b) Three representatives of the snowmobiling public appointed by the commission.

(c) One representative of the department of natural resources, one representative of the department of fish and wildlife, and one representative of the Washington state association of counties, each of whom shall be appointed by the director of the particular department or association.

(3) The terms of the members appointed under subsection (2) (a) and (b) of this section shall begin on October 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies for the remainder of the unexpired term: PROVIDED, That the first of these members shall be appointed for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

(4) Members of the committee shall be reimbursed from the winter recreational program account created by RCW 43.51.310 for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The committee shall meet at times and places it determines not less than twice each year and additionally as required by the committee chairman or by majority vote of the committee. The chairman of the committee shall be chosen under procedures adopted by the committee. The committee shall adopt any other procedures necessary to govern its proceedings.

(6) The director of parks and recreation or the director's designee shall serve as secretary to the committee and shall be a nonvoting member.

(7) The winter recreation advisory committee and its powers and duties shall terminate on June 30, 2001. [1994 c 264 § 19; 1990 c 49 § 1; 1989 c 175 § 107; 1988 c 36 § 16; 1987 c 330 § 1101; 1986 c 47 § 2; 1982 c 11 § 6; 1975 1st ex.s. c 209 § 8.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

43.51.350 Sun Lakes state park—"Vic Meyers Golf Course" designation—"Vic Meyers Lake" designation.

[Title 43 RCW—page 250]

The legislature hereby names the golf course located at Sun Lakes State Park the "Vic Meyers Golf Course", and Rainbow Lake shall be re-named "Vic Meyers Lake". The state shall provide and install a proper marker in a suitable location in the main activity area of the park which will set forth the key role Victor Aloysius Meyers had in the development of Sun Lakes State Park and the important part he had for many years in the political and governmental history of the state. In addition, the name hereby established for the golf course shall be prominently displayed at the golf course club house.

The legislature finds it appropriate to so honor Victor Aloysius Meyers for his long and dedicated service to the people of this state. [1977 ex.s. c 266 § 1.]

43.51.355 Authority of commission to implement RCW 43.51.350. The state parks and recreation commission is directed to do all things necessary to carry out the provisions of RCW 43.51.350 and 43.51.355. [1977 ex.s. c 266 § 2.]

43.51.360 Hostels—Legislative declaration of intent. The legislature finds that there is a need for hostels in the state for the safety and welfare of transient persons with limited resources. It is the intent of RCW 43.51.360 through 43.51.370 that such facilities be established using locally donated structures. It is the further intent of RCW 43.51.360 through 43.51.370 that the state dispense any available federal or other moneys for such related projects and provide assistance where possible. [1977 ex.s. c 281 § 1.]

43.51.365 "Hostel" defined. For purposes of *this chapter, "hostel" means a simple basic structure that serves as a safe, low-cost accommodation for mobile people of all ages from this country and abroad. [1977 ex.s. c 281 § 2.]

***Reviser's note:** "This chapter" apparently refers to RCW 43.51.360 through 43.51.375.

43.51.370 Hostels—Authority of political subdivisions to establish. Any political subdivision of the state is authorized to establish hostels within its jurisdiction. The facilities and services shall include, but not be limited to:

(1) Short term sleeping accommodations including adequate restroom and bathing facilities; and

(2) Information and referral services, including, but not limited to availability of employment and health services.

Details of operations and regulations, including the establishment of appropriate fees to recover actual operating and maintenance costs, shall be within the discretion of the operating authority: PROVIDED, That the consumption of alcoholic beverages or the possession or use of a controlled substance in violation of chapter 69.50 RCW shall be prohibited. [1977 ex.s. c 281 § 3.]

43.51.375 Hostels—Commission authorized to accept grants or moneys for the support thereof—Rules required. The parks and recreation commission is authorized to accept grants or moneys from any federal or private source for support of hostels. The commission at its discretion is directed to apportion and transfer any such moneys to contracting agencies or political subdivisions

which operate hostels: PROVIDED, That the commission shall establish rules and regulations for the operation of hostels which are substantially similar to the operating standards and customs established by the American Youth Hostels Incorporated. [1977 ex.s. c 281 § 4.]

43.51.380 Acquisition, development, etc., of urban area parks by interagency committee for outdoor recreation. Recognizing the fact that the demand for park services is greatest in our urban areas, that parks should be accessible to all Washington citizens, that the urban poor cannot afford to travel to remotely located parks, that few state parks are located in or near urban areas, that a need exists to conserve energy, and that local governments having jurisdiction in urban areas cannot afford the costs of maintaining and operating the extensive park systems needed to service their large populations, the legislature hereby directs the interagency committee for outdoor recreation to place a high priority on the acquisition, development, redevelopment, and renovation of parks to be located in or near urban areas and to be particularly accessible to and used by the populations of those areas. For purposes of RCW 43.51.380 and 43.51.385, "urban areas" mean any incorporated city with a population of five thousand persons or greater or any county with a population density of two hundred fifty persons per square mile or greater. This section shall be implemented by January 1, 1981. [1980 c 89 § 3.]

43.51.385 Establishment of urban area state parks by parks and recreation commission. For the reasons specified in RCW 43.51.380, the state parks and recreation commission shall place a high priority on the establishment of urban area state parks and shall revise its plan for future state parks to achieve this priority. This section shall be implemented by January 1, 1981. [1980 c 89 § 4.]

43.51.395 Declaration of policy—Lands for public park purposes. The legislature declares that it is the continuing policy of the state of Washington to set aside and manage certain lands within the state for public park purposes. To comply with public park purposes, these lands shall be acquired and managed to:

(1) Maintain and enhance ecological, aesthetic, and recreational purposes;

(2) Preserve and maintain mature and old-growth forests containing trees of over ninety years and other unusual ecosystems as natural forests or natural areas, which may also be used for interpretive purposes;

(3) Protect cultural and historical resources, locations, and artifacts, which may also be used for interpretive purposes;

(4) Provide a variety of recreational opportunities to the public, including but not limited to use of developed recreation areas, trails, and natural areas;

(5) Preserve and maintain habitat which will protect and promote endangered, threatened, and sensitive plants, and endangered, threatened, and sensitive animal species; and

(6) Encourage public participation in the formulation and implementation of park policies and programs. [1984 c 82 § 2.]

43.51.400 Powers and duties—Program of boating safety education—Casualty and accident reporting program—Reports to the legislature. The state parks and recreation commission shall:

(1) Coordinate a state-wide program of boating safety education using to the maximum extent possible existing programs offered by the United States power squadron and the United States coast guard auxiliary;

(2) Adopt rules in accordance with chapter 34.05 RCW, consistent with United States coast guard regulations, standards, and precedents, as needed for the efficient administration and enforcement of this section;

(3) Enter into agreements aiding the administration of this chapter;

(4) Adopt and administer a casualty and accident reporting program consistent with United States coast guard regulations;

(5) Adopt and enforce recreational boating safety rules, including but not necessarily limited to equipment and navigating requirements, consistent with United States coast guard regulations;

(6) Coordinate with local and state agencies the development of biennial plans and programs for the enhancement of boating safety, safety education, and enforcement of safety rules and laws; allocate money appropriated to the commission for these programs as necessary; and accept and administer any public or private grants or federal funds which are obtained for these purposes under chapter 43.88 RCW;

(7) Biennially report to the legislature the effects of the combined efforts of state and local boating safety programs on the state's boating accident and fatality rate. The report shall assess and recommend new or alternative fire safety and accident prevention laws adopted in other states as well as successful programs employed by government or industry; and

(8) Take additional actions necessary to gain acceptance of a program of boating safety for this state under the federal boating safety act of 1971. [1994 c 151 § 3; 1984 c 183 § 4; 1983 2nd ex.s. c 3 § 52.]

Enforcement of watercraft registration and boating safety education: RCW 75.10.160.

Penalties for violations: RCW 88.02.110.

43.51.405 Milwaukee Road corridor—Transfer of management control to commission. (*Contingent expiration date.*) Except as provided in RCW 43.51.1121 and 43.51.113, management control of the portion of the Milwaukee Road corridor, beginning at the western terminus near Easton and concluding at the west end of the bridge structure over the Columbia river, which point is located in section 34, township 16 north, range 23 east, W.M., inclusive of the northerly spur line therefrom, shall be transferred by the department of natural resources to the state parks and recreation commission at no cost to the commission. [1996 c 129 § 7; 1989 c 129 § 1; 1984 c 174 § 2.]

Contingent expiration date—1996 c 129 §§ 7, 8: "Sections 7 and 8, chapter 129, Laws of 1996 expire July 1, 1999, if the department of transportation does not enter into a franchise agreement for a rail line over portions of the Milwaukee Road corridor by July 1, 1999." [1996 c 129 § 11.]

Intent—Effective date—Severability—1996 c 129: See notes following RCW 43.51.112.

Construction—1989 c 129: "Nothing in this act shall be construed to affect any existing or reversionary interests in the real property lying within the Milwaukee Road corridor." [1989 c 129 § 4.]

Purpose—1984 c 174: "The purpose of RCW 43.51.405 through 43.51.411 and 79.08.275 through 79.08.283 is to set forth the state's policy regarding the approximately two hundred thirteen-mile corridor of land purchased by the state from the Milwaukee Railroad Company under section 17(21), chapter 143, Laws of 1981." [1984 c 174 § 1.]

43.51.405 Milwaukee Road corridor—Transfer of management control to commission. (Contingent effective date.) Management control of the portion of the Milwaukee Road corridor, beginning at the western terminus near Easton and concluding at the west end of the bridge structure over the Columbia river, which point is located in section 34, township 16 north, range 23 east, W.M., inclusive of the northerly spur line therefrom, shall be transferred by the department of natural resources to the state parks and recreation commission at no cost to the commission. [1989 c 129 § 1; 1984 c 174 § 2.]

Construction—1989 c 129: "Nothing in this act shall be construed to affect any existing or reversionary interests in the real property lying within the Milwaukee Road corridor." [1989 c 129 § 4.]

Purpose—1984 c 174: "The purpose of RCW 43.51.405 through 43.51.411 and 79.08.275 through 79.08.283 is to set forth the state's policy regarding the approximately two hundred thirteen-mile corridor of land purchased by the state from the Milwaukee Railroad Company under section 17(21), chapter 143, Laws of 1981." [1984 c 174 § 1.]

43.51.407 Milwaukee Road corridor—Duties. The state parks and recreation commission shall do the following with respect to the portion of the Milwaukee Road corridor under its control:

- (1) Manage the corridor as a recreational trail except when closed under RCW 43.51.409;
- (2) Close the corridor to hunting;
- (3) Close the corridor to all motorized vehicles except: (a) Emergency or law enforcement vehicles; (b) vehicles necessary for access to utility lines; and (c) vehicles necessary for maintenance of the corridor, or construction of the trail;
- (4) Comply with legally enforceable conditions contained in the deeds for the corridor;
- (5) Control weeds under the applicable provisions of chapters 17.04, 17.06, and 17.10 RCW; and
- (6) Clean and maintain culverts. [1987 c 438 § 39; 1984 c 174 § 3.]

Purpose—1984 c 174: See note following RCW 43.51.405.

43.51.409 Milwaukee Road corridor—Additional duties. The state parks and recreation commission may do the following with respect to the portion of the Milwaukee Road corridor under its control:

- (1) Enter into agreements to allow the realignment or modification of public roads, farm crossings, water conveyance facilities, and other utility crossings;
- (2) Regulate activities and restrict uses, including, but not limited to, closing portions of the corridor to reduce fire danger or protect public safety;
- (3) Place hazard warning signs and close hazardous structures;

(4) Renegotiate deed restrictions upon agreement with affected parties; and

(5) Approve and process the sale or exchange of lands or easements if such a sale or exchange will not adversely affect the recreational potential of the corridor; and

(6) Manage the portion of the Milwaukee Road corridor lying between the eastern corporate limits of the city of Kittitas and the eastern end of the corridor under commission control for recreational access limited to holders of permits issued by the commission. The commission shall, for the purpose of issuing permits for corridor use, adopt rules necessary for the orderly and safe use of the corridor and the protection of adjoining landowners, which may include restrictions on the total numbers of permits issued, numbers in a permitted group, and periods during which the corridor is available for permitted users. The commission may increase recreational management of this portion of the corridor and eliminate the permit system as it determines in its discretion based upon available funding and other resources. [1989 c 129 § 3; 1984 c 174 § 4.]

Construction—1989 c 129: See note following RCW 43.51.405.

Purpose—1984 c 174: See note following RCW 43.51.405.

43.51.411 Recreation trail on Milwaukee Road corridor. The state parks and recreation commission shall identify opportunities and encourage volunteer work, private contributions, and support from tax-exempt foundations to develop, operate, and maintain the recreation trail on the portion of the Milwaukee Road under its control. [1984 c 174 § 5.]

Purpose—1984 c 174: See note following RCW 43.51.405.

43.51.415 Environmental interpretation—Authority of commission. The legislature finds that the lands owned and managed by the state parks and recreation commission are a significant collection of valuable natural, historical, and cultural resources for the citizens of Washington state. The legislature further finds that if citizens understand and appreciate the state park ecological resources, they will come to appreciate and understand the ecosystems and natural resources throughout the state. Therefore, the state parks and recreation commission may increase the use of its facilities and resources to provide environmental interpretation throughout the state parks system. [1991 c 107 § 1.]

43.51.417 Environmental interpretation—Scope of activities. The state parks and recreation commission may provide environmental interpretative activities for visitors to state parks that:

- (1) Explain the functions, history, and cultural aspects of ecosystems;
- (2) Explain the relationship between human needs, human behaviors and attitudes, and the environment; and
- (3) Offer experiences and information to increase citizen appreciation and stewardship of the environment and its multiple uses. [1991 c 107 § 2.]

43.51.419 Environmental interpretation—Assistance from other organizations. The state parks and recreation commission may consult and enter into agreements with and solicit assistance from private sector organizations and other

governmental agencies that are interested in conserving and interpreting Washington's environment. The commission shall not permit commercial advertising in state park lands or interpretive centers as a condition of such agreements. Logos or credit lines for sponsoring organizations may be permitted. The commission shall maintain an accounting of all monetary gifts provided, and expenditures of monetary gifts shall not be used to increase personnel. [1991 c 107 § 3.]

43.51.420 Senior environmental corps—Commission powers and duties. (1) The parks and recreation commission shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under RCW 43.63A.247:

- Appoint a representative to the coordinating council;
- Develop project proposals;
- Administer project activities within the agency;
- Develop appropriate procedures for the use of volunteers and procedures for reimbursement of volunteer expenses;
- Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;
- Maintain project records and provide project reports;
- Apply for and accept grants or contributions for corps approved projects; and
- With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The commission shall not use corps volunteers to displace currently employed workers. [1992 c 63 § 14.]

Severability—1992 c 63: See note following RCW 43.63A.240.

43.51.430 Underwater parks—Lead agency. The state parks and recreation commission shall act as the lead agency for the establishment of underwater parks in state waters and for environmental reviews of projects necessary to establish underwater parks. The commission may enter into interagency agreements to facilitate timely receipt of necessary permits from other state agencies and local governments. [1993 c 267 § 1.]

43.51.432 Underwater parks—Authority to establish—Powers and duties. The state parks and recreation commission may establish a system of underwater parks to provide for diverse recreational diving opportunities and to conserve and protect unique marine resources of the state of Washington. In establishing and maintaining an underwater park system, the commission may:

- (1) Plan, construct, and maintain underwater parks;
- (2) Acquire property and enter management agreements with other units of state government for the management of lands, tidelands, and bedlands as underwater parks;
- (3) Construct artificial reefs and other underwater features to enhance marine life and recreational uses of an underwater park;
- (4) Accept gifts and donations for the benefit of underwater parks;
- (5) Facilitate private efforts to construct artificial reefs and underwater parks;

(6) Work with the federal government, local governments and other appropriate agencies of state government, including but not limited to: The department of natural resources, the department of fish and wildlife and the natural heritage council to carry out the purposes of RCW 43.51.430 through 43.51.438; and

(7) Contract with other state agencies or local governments for the management of an underwater park unit. [1994 c 264 § 20; 1993 c 267 § 2.]

43.51.434 Underwater parks—Fees—Underwater park account. The commission may charge a fee for recreational uses of an underwater park to offset a part or all of the costs of creating and administering the underwater park system. The fees and any monetary gifts shall be deposited to the underwater park account, which is created in the state treasury. Funds in the underwater park account shall be expended for the operation and creation of state underwater parks, and shall be subject to appropriation. Before implementing a fee program for underwater park uses, the commission shall submit to the appropriate committees of the legislature an estimate of what the fees would be and a plan for collecting these fees. [1993 c 267 § 3.]

43.51.436 Underwater parks—Diverse recreational opportunity. In establishing an underwater park system, the commission shall seek to create diverse recreational opportunities in areas throughout Washington state. The commission shall place a high priority upon creating units that possess unique or diverse marine life or underwater natural or artificial features such as shipwrecks. [1993 c 267 § 4.]

43.51.438 Underwater parks—Liability. The commission is not liable for unintentional injuries to users of underwater parks, whether the facilities are administered by the commission or by another entity or person. However, nothing in this section prevents the liability of the commission for injuries sustained by a user by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. [1993 c 267 § 5.]

43.51.440 Water trail recreation program—Created. The legislature recognizes the increase in water-oriented recreation by users of human and wind-powered, beachable vessels such as kayaks, canoes, or day sailors on Washington's waters. These recreationists frequently require overnight camping facilities along the shores of public or private beaches. The legislature now creates a water trail recreation program, to be administered by the Washington state parks and recreation commission. [1993 c 182 § 1.]

43.51.442 Water trail recreation program—Powers and duties. In addition to its other powers, duties, and functions, the commission may:

- (1) Plan, construct, and maintain suitable facilities for water trail activities on lands administered or acquired by the commission or as authorized on lands administered by tribes or other public agencies or private landowners by agreement.
- (2) Provide and issue, upon payment of the proper fee, with the assistance of those authorized agents as may be necessary for the convenience of the public, water trail

permits to utilize designated water trail facilities. The commission may, after consultation with the water trail advisory committee, adopt rules authorizing reciprocity of water trail permits provided by another state or Canadian province, but only to the extent that a similar exemption or provision for water trail permits is issued by that state or province.

(3) Compile, publish, distribute, and charge a fee for maps or other forms of public information indicating areas and facilities suitable for water trail activities.

(4) Contract with a public agency, private entity, or person for the actual conduct of these duties.

(5) Work with individuals or organizations who wish to volunteer their time to support the water trail recreation program. [1993 c 182 § 2.]

43.51.444 Water trail recreation program—Grants.

The commission may make water trail program grants to public agencies or tribal governments and may contract with any public agency, tribal government, entity, or person to develop and implement water trail programs. [1993 c 182 § 3.]

43.51.446 Water trail recreation program—

Liability. The commission is not liable for unintentional injuries to users of facilities administered for water trail purposes under this chapter, whether the facilities are administered by the commission or by any other entity or person. However, nothing in this section prevents the liability of the commission for injuries sustained by a user by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. [1993 c 182 § 4.]

43.51.448 Water trail recreation program—Permits.

A person may not participate as a user of the water trail recreation program without first obtaining a water trail permit. A person must renew this permit on an annual basis in order to continue to participate as a user of the program. The fee for the issuance of the state-wide water trail permit for each year shall be determined by the commission after consultation with the water trail advisory committee. All state-wide water trail permits shall expire on the last day of December of the year for which the permit is issued. [1993 c 182 § 5.]

43.51.450 Water trail recreation program—Account

created. The water trail program account is created in the state treasury. All receipts from sales of materials pursuant to RCW 43.51.442, from state-wide water trail permit fees collected pursuant to RCW 43.51.448, and all monetary civil penalties collected pursuant to RCW 43.51.454 shall be deposited in the water trail program account. Any gifts, grants, donations, or moneys from any source received by the commission for the water trail program shall also be deposited in the water trail program account. Moneys in the account may be spent only after appropriation to the commission, and may be used solely for water trail program purposes, including: (1) Administration, acquisition, development, operation, planning, and maintenance of water trail lands and facilities, and grants or contracts therefor; and (2) the development and implementation of water trail informa-

tional, safety, enforcement, and education programs, and grants or contracts therefor. [1993 c 182 § 6.]

43.51.452 Water trail recreation program—Rules.

The commission may, after consultation with the water trail advisory committee, adopt rules to administer the water trail program and facilities on areas owned or administered by the commission. Where water trail facilities administered by other public or private entities are incorporated into the water trail system, the rules adopted by those entities shall prevail. The commission is not responsible or liable for enforcement of these alternative rules. [1993 c 182 § 7.]

43.51.454 Water trail recreation program—

Violation. Violation of the provisions of the commission's rules governing the use of water trail facilities and property shall constitute a civil infraction, punishable as provided under chapter 7.84 RCW. [1993 c 182 § 8.]

43.51.456 Water trail advisory committee. (1)

There is created a water trail advisory committee to advise the parks and recreation commission in the administration of RCW 43.51.440 through 43.51.454 and to assist and advise the commission in the development of water trail facilities and programs.

(2) The advisory committee shall consist of twelve members, who shall be appointed as follows:

(a) Five public members representing recreational water trail users, to be appointed by the commission;

(b) Two public members representing commercial sectors with an interest in the water trail system, to be appointed by the commission;

(c) One representative each from the department of natural resources, the department of fish and wildlife, the Washington state association of counties, and the association of Washington cities, to be appointed by the director of the agency or association. The director of the Washington state parks and recreation commission or the director's designee shall serve as secretary to the committee and shall be a nonvoting member.

(3) Except as provided in this section, the terms of the public members appointed by the commission shall begin on January 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies for the remainder of an unexpired term. In making the initial appointments to the advisory committee, the commission shall appoint two public members to serve one year, two public members to serve for two years, and three public members to serve for three years. Public members of the advisory committee may be reimbursed from the water trail program account for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) The committee shall select a chair and adopt rules necessary to govern its proceedings. The committee shall meet at the times and places it determines, not less than twice a year, and additionally as required by the committee chair or by majority vote of the committee. [1994 c 264 § 21; 1993 c 182 § 9.]

YOUTH DEVELOPMENT AND CONSERVATION CORPS

43.51.500 Declaration of purpose. The purpose of RCW 43.51.500 through 43.51.570 is to provide: (1) The opportunity for healthful employment of youths in programs of conservation, developing, improving, and maintaining natural and artificial recreational areas for the welfare of the general public; (2) the opportunity for our youths to learn vocational and work skills, develop good work habits and a sense of responsibility and contribution to society, improvement in personal physical and moral well being, and an understanding and appreciation of nature. [1969 ex.s. c 96 § 1; 1965 c 8 § 43.51.500. Prior: 1961 c 215 § 1.]

43.51.510 Youth development and conservation division established—Supervisory personnel. There is hereby created and established a youth development and conservation division within the state parks and recreation commission (hereafter referred to as the "commission"). The commission shall appoint such supervisory personnel as necessary to carry out the purposes of RCW 43.51.500 through 43.51.570. [1965 c 8 § 43.51.510. Prior: 1961 c 215 § 2.]

43.51.530 Composition of youth corps—Qualifications, conditions, period of enrollment, etc. Composition of the corps shall consist of youths who are citizens of the United States and residents of the state of Washington of good character and health, and who are not more than twenty-one years of age. In order to enroll, an individual must agree to comply with rules and regulations promulgated by the commission. The period of enrollment shall be for thirty, sixty or ninety days or for such shorter period as determined by the commission. If permitted by the commission an individual may reenroll. Enrollment shall basically be allocated on a percentage basis to each of the forty-nine legislative districts on the basis of the ratio that the population of each district bears to the total population of the state of Washington, but the commission may also take into account problems of substantial unemployment in certain areas. [1975 c 7 § 1; 1969 ex.s. c 96 § 3; 1965 c 8 § 43.51.530. Prior: 1961 c 215 § 3.]

43.51.540 Compensation—Quarters—Hospital services, etc. (1) The minimum compensation shall be at the rate of twenty-five dollars per week, except that up to the minimum state wage may be paid on the basis of assigned leadership responsibilities or special skills.

(2) Enrollees shall be furnished quarters, subsistence, medical and hospital services, transportation, equipment, as the commission may deem necessary and appropriate for their needs. Such quarters, subsistence, and equipment may be furnished by any governmental or public agency. [1982 c 70 § 1; 1975 c 7 § 2; 1965 c 8 § 43.51.540. Prior: 1961 c 215 § 5.]

43.51.545 Compensation—Biweekly payment of compensation authorized. The compensation of enrollees of any program under RCW 43.51.500 through 43.51.570 may be paid biweekly. [1965 ex.s. c 48 § 3.]

43.51.550 Laws relating to hours, conditions of employment, civil service, etc., not applicable. Existing provisions of law with respect to hours of work, rate of compensation, sick leave, vacation, civil service and unemployment compensation shall not be applicable to enrollees or temporary employees working under the provisions of RCW 43.51.500 through 43.51.570. [1965 c 8 § 43.51.550. Prior: 1961 c 215 § 6.]

43.51.560 Expenditures, gifts, government surplus materials. The commission may expend such amounts as necessary for supplies, material and equipment to be used by enrollees in connection with their work, recreation, health, or welfare; the commission shall purchase government surplus materials, supplies and equipment when available and as needed.

The commission may accept any gifts, grants or contributions of money, material, lands, or personal property as it deems appropriate and may administer and dispose of them as it determines to be in the interests of the general public. [1965 c 8 § 43.51.560. Prior: 1961 c 215 § 7.]

43.51.570 Agreements with private persons to enroll additional people—Commercial activities prohibited—Authorized closures of area. The commission may, by agreement with an individual or company enroll and supervise additional young persons, who shall be furnished compensation, subsistence, quarters, supplies and materials by the cooperating private company or individual, to develop, maintain or improve natural and artificial recreational areas for the health and happiness of the general public. The corps shall not be engaged in the development, improvement or maintenance of a commercial recreational area or resort, and the individual or corporation entering such agreement with the commission shall make such improved areas available to the general public without cost for a period of at least five years. Private individuals may reserve the right to close the area during periods of fire hazard or during periods when excess damage would be caused by public use. [1975 c 7 § 3; 1973 1st ex.s. c 154 § 85; 1965 c 8 § 43.51.570. Prior: 1961 c 215 § 8.]

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

43.51.580 Agreements with and acceptance of grants from federal government authorized. The state parks and recreation commission is authorized to enter into agreements with and accept grants from the federal government for the support of any program within the purposes of RCW 43.51.500 through 43.51.570. [1965 ex.s. c 48 § 1.]

43.51.590 Agreements with and acceptance of grants from federal government authorized—Length of enrollment and compensation in accordance with federal standards authorized. Notwithstanding the provisions of RCW 43.51.530 and 43.51.540, the commission may determine the length of enrollment and the compensation of enrollees in accordance with the standards of any federal act or regulation under which an agreement is made with, or a grant is received from the federal government pursuant to RCW 43.51.580. [1965 ex.s. c 48 § 2.]

SEASHORE CONSERVATION AREA

43.51.650 Declaration of principles. The beaches bounding the Pacific Ocean from the Straits of Juan de Fuca to Cape Disappointment at the mouth of the Columbia River constitute some of the last unspoiled seashore remaining in the United States. They provide the public with almost unlimited opportunities for recreational activities, like swimming, surfing and hiking; for outdoor sports, like hunting, fishing, clamming, and boating; for the observation of nature as it existed for hundreds of years before the arrival of white men; and for relaxation away from the pressures and tensions of modern life. In past years, these recreational activities have been enjoyed by countless Washington citizens, as well as by tourists from other states and countries. The number of people wishing to participate in such recreational activities grows annually. This increasing public pressure makes it necessary that the state dedicate the use of the ocean beaches to public recreation and to provide certain recreational and sanitary facilities. Nonrecreational use of the beach must be strictly limited. Even recreational uses must be regulated in order that Washington's unrivaled seashore may be saved for our children in much the same form as we know it today. [1967 c 120 § 1.]

Repeal and savings—1967 c 120: "Chapter 78, Laws of 1929 (uncodified) is hereby repealed: PROVIDED, That the title of anyone who has purchased property under this act shall not be affected." [1967 c 120 § 10.]

43.51.655 Seashore conservation area—Established. There is established for the recreational use and enjoyment of the public the Washington State Seashore Conservation Area. It shall include all lands now or hereafter under state ownership or control lying between Cape Disappointment and Leadbetter Point; between Toke Point and the South jetty on Point Chehalis; and between Damon Point and the Makah Indian Reservation and occupying the area between the line of ordinary high tide and the line of extreme low tide, as these lines now are or may hereafter be located, and, where applicable, between the Seashore Conservation Line, as established by survey of the Washington state parks and recreation commission and the line of extreme low tide, as these lines now are or may hereafter be located; and shall also include all state-owned nontrust accreted lands along the ocean: PROVIDED, That no such conservation area shall include any lands within the established boundaries of any Indian reservation. [1969 ex.s. c 55 § 1; 1967 c 120 § 2.]

Construction—1969 ex.s. c 55: "No provision of this 1969 amendatory act shall be construed as affecting any private or public property rights." [1969 ex.s. c 55 § 8.]

43.51.660 Jurisdiction over and administration of area. Except as otherwise provided in RCW 43.51.650 through 43.51.685, the Washington State Seashore Conservation Area shall be under the jurisdiction of the Washington state parks and recreation commission, which shall administer RCW 43.51.650 through 43.51.685 in accordance with the powers granted it herein and under the appropriate provisions of chapter 43.51 RCW. [1969 ex.s. c 55 § 2; 1967 c 120 § 3.]

Construction—1969 ex.s. c 55: See note following RCW 43.51.655.

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43.51.665 Principles and purposes to be followed in administering area. The Washington state parks and recreation commission shall administer the Washington State Seashore Conservation Area in harmony with the broad principles set forth in RCW 43.51.650. Where feasible, the area shall be preserved in its present state; everywhere it shall be maintained in the best possible condition for public use. All forms of public outdoor recreation shall be permitted and encouraged in the area, unless specifically excluded or limited by the commission. While the primary purpose in the establishment of the area is to preserve the coastal beaches for public recreation, other uses shall be allowed as provided in RCW 43.51.650 through 43.51.685, or when found not inconsistent with public recreational use by the Washington state parks and recreation commission. [1969 ex.s. c 55 § 3; 1967 c 120 § 4.]

Construction—1969 ex.s. c 55: See note following RCW 43.51.655.

43.51.670 Cooperation and assistance of federal, state and local agencies. In administering the Washington State Seashore Conservation Area, the Washington state parks and recreation commission shall seek the cooperation and assistance of federal agencies, other state agencies, and local political subdivisions. All state agencies, and the governing officials of each local subdivision shall cooperate with the commission in carrying out its duties. Except as otherwise provided in RCW 43.51.650 through 43.51.685, and notwithstanding any other provision of law, other state agencies and local subdivisions shall perform duties in the Washington State Seashore Conservation Area which are within their normal jurisdiction, except when such performance clearly conflicts with the purposes of RCW 43.51.650 through 43.51.685. [1969 ex.s. c 55 § 4; 1967 c 120 § 5.]

Construction—1969 ex.s. c 55: See note following RCW 43.51.655.

43.51.675 Powers and authority of department of fish and wildlife not interfered with. Nothing in RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765 shall be construed to interfere with the powers, duties and authority of the department of fish and wildlife to regulate the conservation or taking of food fish and shellfish. Nor shall anything in RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765 be construed to interfere with the powers, duties and authority of the department of fish and wildlife to regulate, manage, conserve, and provide for the harvest of wildlife within such area: PROVIDED, HOWEVER, That no hunting shall be permitted in any state park. [1994 c 264 § 22; 1988 c 75 § 17; 1987 c 506 § 92; 1983 c 3 § 109; 1969 ex.s. c 55 § 5; 1967 c 120 § 6.]

Effective date—1988 c 75: See note following RCW 43.51.695.

Legislative findings and Intent—1987 c 506: See note following RCW 77.04.020.

Construction—1969 ex.s. c 55: See note following RCW 43.51.655.

43.51.685 Sale, lease, and disposal of lands within the Seashore Conservation Area. Lands within the Seashore Conservation Area shall not be sold, leased, or otherwise disposed of, except as herein provided. The commission may, under authority granted in RCW 43.51.210 and 43.51.215, exchange state park lands in the Seashore Conservation Area for lands of equal value to be managed

by the commission consistent with this chapter. Only state park lands lying east of the Seashore Conservation Line, as it is located at the time of exchange, may be so exchanged. The department of natural resources may lease the lands within the Washington State Seashore Conservation Area as well as the accreted lands along the ocean in state ownership for the exploration and production of oil and gas: PROVIDED, That oil drilling rigs and equipment will not be placed on the seashore conservation area or state-owned accreted lands.

Sale of sand from accretions shall be made to supply the needs of cranberry growers for cranberry bogs in the vicinity and shall not be prohibited if found by the commission to be reasonable, and not generally harmful or destructive to the character of the land: PROVIDED, That the commission may grant leases and permits for the removal of sands for construction purposes from any lands within the Seashore Conservation Area if found by the commission to be reasonable and not generally harmful or destructive to the character of the land: PROVIDED FURTHER, That net income from such leases shall be deposited in the general fund. [1995 c 203 § 1; 1988 c 75 § 18; 1969 ex.s. c 55 § 6; 1967 c 120 § 8.]

Effective date—1995 c 203: "This act is necessary for the inmediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 1, 1995]." [1995 c 203 § 2.]

Effective date—1988 c 75: See note following RCW 43.51.695.

Construction—1969 ex.s. c 55: See note following RCW 43.51.655.

43.51.695 Ocean beach recreation management plans—Cooperative program. A cooperative program to provide recreation management plans for the ocean beaches that comprise the Seashore Conservation Area established by RCW 43.51.655 is created. [1988 c 75 § 1.]

Effective date—1988 c 75: "This act shall take effect January 1, 1989." [1988 c 75 § 20.]

43.51.700 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply to RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765.

(1) "Local government" means a county, city, or town.

(2) "Ocean beaches" include the three ocean beaches described in RCW 43.51.655.

(3) "Pedestrian use" means any use that does not involve a motorized vehicle. [1988 c 75 § 2.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.705 Local recreation management plans. Local governments having a portion of the Seashore Conservation Area within their boundaries may, individually or through an agreement with other local governments located on the same ocean beach, adopt a recreation management plan which meets the requirements of RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765 for that portion of the ocean beach. The legislature hereby encourages adoption of a single plan for each beach. [1988 c 75 § 3.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.710 Reservation for pedestrian use—Restrictions on motorized traffic. (1) Except as provided in RCW 43.51.715 and 43.51.720, a total of forty percent of the length of the beach subject to the recreation management plan shall be reserved for pedestrian use under this section and RCW 43.51.725. Restrictions on motorized traffic under this section shall be from April 15 to the day following Labor day of each year. Local jurisdictions may adopt provisions within recreation management plans that exceed the requirements of this section. The commission shall not require that a plan designate for pedestrian use more than forty percent of the land subject to the plan.

(2) In designating areas to be reserved for pedestrian use, the plan shall consider the following:

(a) Public safety;

(b) State-wide interest in recreational use of the ocean beaches;

(c) Protection of shorebird and marine mammal habitats;

(d) Preservation of native beach vegetation;

(e) Protection of sand dune topography;

(f) Prudent management of clam beds;

(g) Economic impacts to the local community; and

(h) Public access and parking availability. [1988 c 75 § 4.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.715 Areas reserved for pedestrian use—Exception. Notwithstanding RCW 43.51.710(1), recreation management plans may make provision for vehicular traffic on areas otherwise reserved for pedestrian use in order to:

(1) Facilitate clam digging;

(2) Accommodate organized recreational events of not more than seven consecutive days duration;

(3) Provide for removal of wood debris under RCW 4.24.210 and 43.51.045(5); and

(4) Accommodate removal of sand located upland from the Seashore Conservation Area or removal of sand within the Seashore Conservation Area under the terms of a covenant, easement, or deed. [1988 c 75 § 5.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.720 Public vehicles. Recreation management plans shall not prohibit or restrict public vehicles operated in the performance of official duties or vehicles responding to an emergency. [1988 c 75 § 6.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.725 Land adjoining national wildlife refuges and state parks—Pedestrian use—Exception. Recreation management plans shall, upon request of the commission, reserve on a permanent, seasonal, or temporary basis, land adjoining national wildlife refuges and state parks for pedestrian use. After a plan is approved, the commission may require local jurisdictions to adopt amendments to the plan governing driving on land adjoining wildlife refuges and state parks. Land reserved for pedestrian use under this section for at least the period from April 15th through the day following Labor Day of each year shall be included when determining compliance with the requirements of RCW 43.51.710. [1988 c 75 § 7.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.730 Consultation with government agencies required. In preparing, adopting, or approving a recreation management plan, local jurisdictions and the commission shall consult with the *department of fisheries, the department of wildlife and the United States fish and wildlife service. [1988 c 75 § 8.]

***Reviser's note:** Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.735 Compliance with federal and state laws required. Recreation management plans shall comply with all applicable federal and state laws. [1988 c 75 § 9.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.740 Hearings. Before adopting a recreation management plan, or amendments to an existing plan, local jurisdictions shall conduct a public hearing. Notice of the hearing shall be published in a newspaper of general circulation in each jurisdiction adopting the plan as well as in a newspaper of general state-wide circulation on at least two occasions not less than fourteen days before the first day of the hearing. When a proposed recreation management plan has been prepared by more than one jurisdiction, joint hearings may be conducted. [1988 c 75 § 10.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.745 Adoption of plans—Approval—Procedure. Recreation management plans shall be adopted by each participating jurisdiction and submitted to the commission by September 1, 1989. The commission shall approve the proposed plan if, in the commission's judgment, the plan adequately fulfills the requirements of RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765.

If the proposed plan is not approved, the commission shall suggest modifications to the participating local governments. Local governments shall have ninety days after receiving the suggested modifications to resubmit a recreation management plan. Thereafter, if the commission finds that a plan does not adequately fulfill the requirements of RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765, the commission may amend the proposal or adopt an alternative plan.

If a plan for all or any portion of the Seashore Conservation Area is not submitted in accordance with RCW 43.51.695 through 43.51.765, the commission shall adopt a recreation management plan for that site.

Administrative rules adopted by the commission under RCW 43.51.680 shall remain in effect for all or any portion of each ocean beach until a recreation management plan for that site is adopted or approved by the commission.

The commission shall not adopt a recreation management plan for all or any portion of an ocean beach while appeal of a commission decision regarding that site is pending. [1988 c 75 § 11.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.750 Appeal. Any individual, partnership, corporation, association, organization, cooperative, local

government, or state agency aggrieved by a decision of the commission under RCW 43.51.695 through 43.51.765 may appeal under chapter 34.05 RCW. [1988 c 75 § 12.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.755 Cooperation for law enforcement. The commission shall cooperate with state and local law enforcement agencies in meeting the need for law enforcement within the Seashore Conservation Area. [1988 c 75 § 13.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.760 Ocean beaches in Seashore Conservation Area declared public highways. The ocean beaches within the Seashore Conservation Area are hereby declared a public highway and shall remain forever open to the use of the public as provided in RCW 43.51.695 through 43.51.765. [1988 c 75 § 14.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.765 Amendments to plan—Approval—Procedure. Amendments to the recreation management plan may be adopted jointly by each local government participating in the plan and submitted to the commission for approval. The commission shall approve a proposed amendment if, in the commission's judgment, the amendment adequately fulfills the requirements of RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765.

After a plan is approved, the commission may require local jurisdictions to adopt amendments to the plan if the commission finds that such amendments are necessary to protect public health and safety, or to protect significant natural resources as determined by the agency having jurisdiction over the resource. [1988 c 75 § 15.]

Effective date—1988 c 75: See note following RCW 43.51.695.

GREEN RIVER GORGE CONSERVATION AREA

43.51.900 Declaration. The Green River Gorge, between the town of Kanasket and the Kummer bridge in King county, is a twelve mile spectacularly winding gorge with steep to overhanging rock walls reaching heights of from one hundred fifty to three hundred feet. The beauty and natural features of the gorge are generally confined within the canyon rim. This twelve mile gorge area contains many examples of unique biological and geological features for educational and recreational interpretation, almost two miles of Eocene sediment rocks and fossils are exposed revealing one of the most complete stratigraphic sections to be found in the region. The area, a unique recreational attraction with more than one million seven hundred thousand people living within an hour's driving time, is presently used by hikers, geologists, fishermen, kayakers and canoeists, picnickers and swimmers, and those seeking the solitude offered by this unique area. Abutting and adjacent landowners generally have kept the gorge lands in their natural state; however, economic and urbanization pressures for development are rapidly increasing. Local and state outdoor recreation plans show a regional need for resources and facilities which could be developed in this area. A twelve mile strip incorporating the visual basins of the Green River

from the Kummer bridge to Palmer needs to be acquired and developed as a conservation area to preserve this unique area for the recreational needs of the region. [1969 ex.s. c 162 § 1.]

43.51.910 Green River Gorge conservation area created. There is hereby created a Washington state parks and recreation commission conservation area to be known as "Green River Gorge conservation area". [1969 ex.s. c 162 § 2.]

43.51.920 Acquisition of real property, easements, or rights authorized. In addition to all other powers and duties prescribed by law, the state parks and recreation commission is authorized and directed to acquire such real property, easements, or rights in the Green River Gorge in King county, together with such real property, easements, and rights as is necessary for such park and conservation purposes in any manner authorized by law for the acquisition of lands for parks and parkway purposes. Except for such real property as is necessary and convenient for development of picnicking or camping areas and their related facilities, it is the intent of this section that such property shall be acquired to preserve, as much as possible, the gorge within the canyon rim in its natural pristine state. [1969 ex.s. c 162 § 3.]

43.51.930 Acquisition of real property, easements, or rights authorized—Rights of other state agencies not to be infringed upon. Nothing herein shall be construed as authorizing or directing the state parks and recreation commission to acquire any real property, easements, or rights in the Green River Gorge in King county which are now held by any state agency for the purposes of outdoor recreation, conservation, fish, or wildlife management or public hunting or fishing without the approval of such agency. [1969 ex.s. c 162 § 4.]

MOUNT SI CONSERVATION AREA

43.51.940 Legislative declaration. Mt. Si and Little Si in King county offer unique scenic, natural, and geological features which can be viewed from the I-90 highway. They also afford outstanding recreational opportunities enjoyed by the citizens of this state and tourists alike. The legislature recognizes the importance of guarding portions of this area from those types of development which would permanently alter the area's natural form and beauty. It further recognizes the necessity of setting forth procedures to manage the area, to enhance the opportunities afforded the state's citizens, one-half of whom live within one-half hour driving time of Mt. Si, and to safeguard to the extent possible the scenic, natural, geological, game habitat, and recreational values therein, and to safeguard and promote the upper Snoqualmie River valley's economy in which the recreational use of Mt. Si plays a pivotal role. Therefore, the legislature declares this area to be of state-wide significance for the foregoing purposes to be enhanced and safeguarded in accordance with the procedures set forth in *this 1977 amendatory act. [1977 ex.s. c 306 § 1; 1975-'76 2nd ex.s. c 88 § 1.]

***Reviser's note:** "This 1977 amendatory act" consists of the enactment of RCW 43.51.942 through 43.51.945, the repeal of RCW 43.51.941, and the 1977 amendment to RCW 43.51.940.

43.51.942 "Mt. Si conservation area"—Created. There is hereby created a "Mt. Si conservation area" to include approximately twenty-five hundred acres of state, United States government, and privately owned lands within Sections 25, 26, 35, and 36, Township 24 North, Range 8 East, W.M., and Sections 2, 3, 10, 11, and 12 of Township 23 North, Range 8 East, W.M., as identified for inclusion in the conservation area and described more specifically by the Mt. Si citizen advisory subcommittee in their published report of December 6, 1976, to the Washington state department of natural resources and the Washington state parks and recreation commission as contained in the report filed by those agencies to the house and senate committees on parks and recreation, filed December 1976. [1977 ex.s. c 306 § 2.]

Designation of Mt. Si conservation area as Mt. Si natural resources conservation area: RCW 79.71.100.

43.51.943 Mt. Si conservation area—Management. The state department of natural resources and the state parks and recreation commission have joined together in excellent cooperation in the conducting of this study along with the citizen advisory subcommittee and have joined together in cooperation with the department of fish and wildlife to accomplish other projects of multidisciplinary concern, and because it may be in the best interests of the state to continue such cooperation, the state parks and recreation commission, the department of natural resources, and the department of fish and wildlife are hereby directed to consider both short and long term objectives, the expertise of each agency's staff, and alternatives such as reasonably may be expected to safeguard the conservation area's values as described in RCW 43.51.940 giving due regard to efficiency and economy of management: PROVIDED, That the interests conveyed to or by the state agencies identified in this section shall be managed by the department of natural resources until such time as the state parks and recreation commission or other public agency is managing public recreation areas and facilities located in such close proximity to the conservation area described in RCW 43.51.942 so as to make combined management of those areas and facilities and transfer of management of the conservation area more efficient and economical than continued management by the department of natural resources. At that time the department of natural resources is directed to negotiate with the appropriate public agency for the transfer of those management responsibilities for the interests obtained within the conservation area under RCW 43.51.940 through 43.51.945: PROVIDED FURTHER, That the state agencies identified in this section may, by mutual agreement, undertake management of portions of the conservation area as they may from time to time determine in accordance with those rules and regulations established for natural area preserves under chapter 79.70 RCW, for natural and conservation areas under present WAC 352-16-020(3) and (6), and under chapter 77.12 RCW. [1994 c 264 § 23; 1988 c 36 § 17; 1977 ex.s. c 306 § 3.]

43.51.944 Mt. Si conservation area—Valuation of included lands—Reports. (1) The full market value for department of natural resources' managed trust lands or interest therein within the conservation area shall be determined by the department of natural resources for any lands or interests to be dedicated or leased as provided herein. The department of natural resources shall determine the value of dedicating such lands or interests in lands as it may determine to be necessary to carry out the purposes of *this 1977 amendatory act either by execution of fifty-five year scenic or development easements or by execution of fifty-five year leases, including such conditions as may be necessary to carry out the purposes of *this 1977 amendatory act. Any lease issued pursuant to *this 1977 amendatory act may be subject to renewal under the provisions of **RCW 79.01.276 as presently existing or hereafter amended. Nothing in *this 1977 amendatory act shall be deemed to alter or affect normal management on lands owned by the state for which no dedication by easement or lease has been made and it is further recognized that no restrictions on management of such lands shall be required unless the applicable trust relating to such lands shall have been compensated.

The completed report of the cost of obtaining the desired interest in these lands shall be presented by the department of natural resources to the interagency committee for outdoor recreation and a summary of the report to the senate and house committees on parks and recreation by December 31, 1978.

(2) The parks and recreation commission shall appraise all lands except those identified in subsection (1) of this section to establish fair market fee title value of the interests therein. The parks and recreation commission shall present to the interagency committee for outdoor recreation the completed report of the cost of obtaining the desired interest in such lands, and a summary of the report to the senate and house committees on parks and recreation by December 31, 1978. [1977 ex.s. c 306 § 4.]

Reviser's note: *(1) For "this 1977 amendatory act" see note following RCW 43.51.940.

***(2) "RCW 79.01.276" was repealed by 1979 1st ex.s. c 109 § 23.

43.51.945 Eminent domain—Use prohibited. No property or interest in property shall be acquired for the purpose of *this 1977 amendatory act by the exercise of the power of eminent domain. [1977 ex.s. c 306 § 6.]

***Reviser's note:** For "this 1977 amendatory act" see note following RCW 43.51.940.

WASHINGTON STATE YAKIMA RIVER CONSERVATION AREA

43.51.946 Legislative declaration. It is the intent of RCW 43.51.946 through 43.51.956 to establish and recognize the Yakima river corridor from Selah Gap (Yakima Ridge) to Union Gap (Rattlesnake Hills) as a uniquely valuable recreation, conservation, and scenic resource in the state of Washington. [1977 ex.s. c 75 § 1.]

43.51.947 "Washington State Yakima river conservation area"—Created. There is hereby created an area to

be known as the "Washington State Yakima river conservation area". This area designation may be used as a common reference by all state and local agencies, municipalities, and federal agencies. [1977 ex.s. c 75 § 3.]

43.51.948 Yakima river conservation area—Size prescribed. For the purposes of RCW 43.51.946 through 43.51.956, the Yakima river conservation area is to contain no more than the area delineated in appendix D on pages D-3, D-4, D-6, D-7, D-9, and D-10 of the report entitled "The Yakima River Regional Greenway" which resulted from the Yakima river study authorized in section 170, chapter 269, Laws of 1975, first extraordinary session. [1977 ex.s. c 75 § 2.]

43.51.949 Yakima river conservation area—Authority of Yakima county commissioners. The Yakima county commissioners are authorized to coordinate the acquisition, development, and operation of the Yakima river conservation area in accordance with the purposes of RCW 43.51.946 through 43.51.956 and in cooperation with public parks, conservation and resource managing agencies. [1977 ex.s. c 75 § 4.]

43.51.950 Yakima river conservation area—Land acquisition. The Yakima county commissioners are authorized to acquire such real property, easements or rights in river-related lands in the Yakima river conservation area, together with such real property, easements, and rights as are necessary for such conservation and parks purposes in any manner authorized by law for the acquisition of lands for conservation, parks and parkway purposes: PROVIDED, That only the Yakima county commissioners shall have the power of eminent domain for the purposes of this chapter. [1977 ex.s. c 75 § 5.]

43.51.951 Intent to preserve river wetlands in their natural state. Except for such property as is necessary or suitable for the development of recreational areas and their related facilities, it is the intent of this section that such property shall be acquired to preserve, as much as possible, the river wetlands in their natural state. [1977 ex.s. c 75 § 6.]

43.51.952 Yakima river conservation area—Consultation between commission and Yakima county commissioners. The Washington state parks and recreation commission is directed to consult with the Yakima county commissioners in the acquisition, development, and operation of the Yakima river conservation area in accordance with the purposes of RCW 43.51.946 through 43.51.956 and the Yakima river study authorized in section 170, chapter 269, Laws of 1975, first extraordinary session. [1977 ex.s. c 75 § 7.]

43.51.953 Yakima river conservation area—Interagency committee for outdoor recreation directed to assist Yakima county commissioners. The interagency committee for outdoor recreation is directed to assist the Yakima county commissioners in obtaining state, federal,

and private funding for the acquisition, development, and operation of the Yakima river conservation area. [1977 ex.s. c 75 § 8.]

43.51.954 County or city zoning and/or permitted land uses not affected. Nothing herein shall be construed as affecting nor being in conflict with existing county or city zoning and/or permitted land uses and the right to develop, build or expand existing uses in accordance with the said zoning or permitted land uses within the Yakima river conservation area. [1977 ex.s. c 75 § 9.]

43.51.955 Department of fish and wildlife, fish and wildlife commission—Powers, duties, and authority—No hunting in any state park. Nothing in RCW 43.51.946 through 43.51.956 shall be construed to interfere with the powers, duties, and authority of the state department of fish and wildlife or the state fish and wildlife commission to regulate, manage, conserve, and provide for the harvest of wildlife within such area: PROVIDED, HOWEVER, That no hunting shall be permitted in any state park. [1993 sp.s. c 2 § 19; 1987 c 506 § 93; 1977 ex.s. c 75 § 10.]

Effective date—1993 sp.s. c 2 § 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability—1993 sp.s. c 2: See RCW 43.300.901.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

43.51.956 Acquisition of real property, etc., of another agency by Yakima county commissioners—Agency approval required. Nothing herein shall be construed as authorizing or directing the Yakima county commissioners to acquire any real property, easements, or rights in the Yakima river conservation area which are now held by any other agency without the approval of that agency. [1977 ex.s. c 75 § 11.]

Chapter 43.52

OPERATING AGENCIES

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43.52.612	Contract bid form.
43.52.910	Construction—1965 c 8.

43.52.250 Definitions. As used in this chapter and unless the context indicates otherwise, words and phrases shall mean:

"District" means a public utility district as created under the laws of the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"City" means any city or town in the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"Canada" means Canada or any province thereof.

"Operating agency" or "joint operating agency" means a municipal corporation created pursuant to RCW 43.52.360, as now or hereafter amended.

"Board of directors" means the board established under RCW 43.52.370.

"Executive board" means the board established under RCW 43.52.374.

"Board" means the board of directors of the joint operating agency unless the operating agency is constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW, in which case "board" means the executive board.

"Public utility" means any person, firm or corporation, political subdivision or governmental subdivision including cities, towns and public utility districts engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy.

"Revenue bonds or warrants" means bonds, notes, bond anticipation notes, warrants, certificates of indebtedness, commercial paper, refunding or renewal obligations, payable from a special fund or revenues of the utility properties operated by the joint operating agency.

"Electrical resources" means both electric energy and conservation.

"Electrical energy" means electric energy produced by any means including water power, steam power, nuclear power, and conservation.

"Conservation" means any reduction in electric power consumption as a result of increases in efficiency of energy use, production, or distribution. [1987 c 376 § 8; 1982 1st ex.s. c 43 § 1; 1981 1st ex.s. c 1 § 1; 1977 ex.s. c 184 § 1; 1965 c 8 § 43.52.250. Prior: 1953 c 281 § 1.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

Severability—1981 1st ex.s. c 1: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 1st ex.s. c 1 § 5.]

43.52.260 Scope of authority. The authority granted in this chapter shall apply equally to the generating of electricity by water power, by steam power, by nuclear power, conservation, or by any other means whatsoever. [1987 c 376 § 9; 1977 ex.s. c 184 § 2; 1965 c 8 § 43.52.260. Prior: 1955 c 258 § 18; 1953 c 281 § 20.]

43.52.272 Power commission abolished. The Washington state power commission is hereby abolished. [1965 c 8 § 43.52.272. Prior: 1957 c 295 § 8.]

43.52.290 Members of the board of directors of an operating agency—Compensation—May hold other public position—Incompatibility of offices doctrine voided. Members of the board of directors of an operating agency shall be paid the sum of fifty dollars per day as compensation for each day or major part thereof devoted to the business of the operating agency, together with their traveling and other necessary expenses. Such member may, regardless of any charter or other provision to the contrary, be an officer or employee holding another public position and, if he be such other public officer or employee, he shall be paid by the operating agency such amount as will, together with the compensation for such other public position equal the sum of fifty dollars per day. The common law doctrine of incompatibility of offices is hereby voided as it applies to persons sitting on the board of directors or the executive board of an operating agency and holding an elective or appointive position on a public utility district commission or municipal legislative authority or being an employee of a public utility district or municipality. [1983 1st ex.s. c 3 § 1; 1982 1st ex.s. c 43 § 5; 1977 ex.s. c 184 § 3; 1965 c 8 § 43.52.290. Prior: 1953 c 281 § 4.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.300 Powers and duties of an operating agency. An operating agency formed under RCW 43.52.360 shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate plants, works and facilities for the generation and/or transmission of electric energy, either within or without the state of Washington, and to take, condemn, purchase, lease and acquire any real or personal, public or private property, franchise and property rights, including but not limited to state, county and school lands and properties, for any of the purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of any such works, plants and facilities; provided that an operating agency shall not be authorized to acquire by condemnation any plants, works and facilities owned and operated by any city or district, or by a privately owned public utility. An operating agency shall be authorized to contract for and to acquire by lease or purchase from the United States or any of its agencies, any plants, works or facilities for the generation and transmission of electricity and any real or personal property necessary or convenient for use in connection therewith.

(3) To negotiate and enter into contracts with the United States or any of its agencies, with any state or its agencies, with Canada or its agencies or with any district or city of this state, for the lease, purchase, construction, extension, betterment, acquisition, operation and maintenance of all or any part of any electric generating and transmission plants and reservoirs, works and facilities or rights necessary thereto, either within or without the state of Washington, and for the marketing of the energy produced therefrom. Such negotiations or contracts shall be carried on and concluded with due regard to the position and laws of the United States in respect to international agreements.

(4) To negotiate and enter into contracts for the purchase, sale, exchange, transmission or use of electric energy or falling water with any person, firm or corporation, including political subdivisions and agencies of any state of Canada, or of the United States, at fair and nondiscriminating rates.

(5) To apply to the appropriate agencies of the state of Washington, the United States or any thereof, and to Canada and/or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate works, plants and facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

(6) To establish rates for electric energy sold or transmitted by the operating agency. When any revenue bonds or warrants are outstanding the operating agency shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy, falling water and other services sold, furnished or supplied by the operating agency which shall be fair and nondiscriminatory and adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the operating agency is obligated to set aside in any special fund or funds created for such purposes, and for the proper operation and maintenance of the public

utility owned by the operating agency and all necessary repairs, replacements and renewals thereof.

(7) To act as agent for the purchase and sale at wholesale of electricity for any city or district whenever requested so to do by such city or district.

(8) To contract for and to construct, operate and maintain fishways, fish protective devices and facilities and hatcheries as necessary to preserve or compensate for projects operated by the operating agency.

(9) To construct, operate and maintain channels, locks, canals and other navigational, reclamation, flood control and fisheries facilities as may be necessary or incidental to the construction of any electric generating project, and to enter into agreements and contracts with any person, firm or corporation, including political subdivisions of any state, of Canada or the United States for such construction, operation and maintenance, and for the distribution and payment of the costs thereof.

(10) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the operating agency may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the operating agency shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the operating agency.

(11) To study, analyze and make reports concerning the development, utilization and integration of electric generating facilities and requirements within the state and without the state in that region which affects the electric resources of the state.

(12) To acquire any land bearing coal, uranium, geothermal, or other energy resources, within or without the state, or any rights therein, for the purpose of assuring a long-term, adequate supply of coal, uranium, geothermal, or other energy resources to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale, or disposal of such energy resources that it deems proper. [1977 ex.s. c 184 § 4; 1975 1st ex.s. c 37 § 1; 1965 c 8 § 43.52.300. Prior: 1955 c 258 § 1; 1953 c 281 § 5.]

43.52.3411 Revenue bonds or warrants. For the purposes provided for in this chapter, an operating agency shall have power to issue revenue bonds or warrants payable from the revenues of the utility properties operated by it. Whenever the board of a joint operating agency shall deem it advisable to issue bonds or warrants to engage in conservation activities or to construct or acquire any public utility or any works, plants or facilities or any additions or betterments thereto or extensions thereof it shall provide therefor by resolution, which shall specify and adopt the system or plan proposed and declare the estimated cost thereof as near as may be. Such cost may include funds for working capital, for payment of expenses incurred in the conservation activities or the acquisition or construction of the utility and for the repayment of advances made to the operating agency by any public utility district or city. Except as otherwise provided in RCW 43.52.343, all the provisions of law as now or hereafter in effect relating to revenue bonds or warrants of public utility districts shall

apply to revenue bonds or warrants issued by the joint operating agency including, without limitation, provisions relating to: The creation of special funds and the pledging of revenues thereto; the time and place of payment of such bonds or warrants and the interest rate or rates thereon; the covenants that may be contained therein and the effect thereof; the execution, issuance, sale, funding, or refunding, redemption and registration of such bonds or warrants; and the status thereof as negotiable instruments, as legal securities for deposits of public moneys and as legal investments for trustees and other fiduciaries and for savings and loan associations, banks and insurance companies doing business in this state. However, for revenue bonds or warrants issued by an operating agency, the provisions under RCW 54.24.030 relating to additional or alternate methods for payment may be made a part of the contract with the owners of any revenue bonds or warrants of an operating agency. The board may authorize the managing director or the treasurer of the operating agency to sell revenue bonds or warrants maturing one year or less from the date of issuance, and to fix the interest rate or rates on such revenue bonds or warrants with such restrictions as the board shall prescribe. Such bonds and warrants may be in any form, including bearer bonds or bearer warrants, or registered bonds or registered warrants as provided in RCW 39.46.030. Such bonds and warrants may also be issued and sold in accordance with chapter 39.46 RCW. [1987 c 376 § 10; 1983 c 167 § 116; 1981 1st ex.s. c 1 § 2; 1965 c 8 § 43.52.3411. Prior: 1957 c 295 § 6.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Severability—1981 1st ex.s. c 1: See note following RCW 43.52.250.

43.52.343 Revenue bonds or warrants—Sale by negotiation or advertisement and bid. All bonds issued by an operating agency shall be sold and delivered in such manner, at such rate or rates of interest and for such price or prices and at such time or times as the board shall deem in the best interests of the operating agency, whether by negotiation or to the highest and best bidder after such advertising for bids as the board of the operating agency may deem proper: PROVIDED, That the board may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as it may deem most advantageous to its own interests. [1981 1st ex.s. c 1 § 3; 1965 c 8 § 43.52.343. Prior: 1957 c 295 § 7; 1955 c 258 § 10.]

Severability—1981 1st ex.s. c 1: See note following RCW 43.52.250.

43.52.350 Operating agencies to provide fishways, facilities and hatcheries—Contracts. An operating agency shall, at the time of the construction of any dam or obstruction, construct and shall thereafter maintain and operate such fishways, fish protective facilities and hatcheries as the director of fish and wildlife finds necessary to permit anadromous fish to pass any dam or other obstruction operated by the operating agency or to replace fisheries damaged or destroyed by such dam or obstruction and an operating agency is further authorized to enter into contracts with the department of fish and wildlife to provide for the

construction and/or operation of such fishways, facilities and hatcheries. [1994 c 264 § 24; 1988 c 36 § 18; 1977 ex.s. c 184 § 5; 1965 c 8 § 43.52.350. Prior: 1953 c 281 § 11.]

43.52.360 Operating agency—Formation—Additional projects—Appeals—Membership, withdrawal—Dissolution. Any two or more cities or public utility districts or combinations thereof may form an operating agency (herein sometimes called a joint operating agency) for the purpose of acquiring, constructing, operating and owning plants, systems and other facilities and extensions thereof, for the generation and/or transmission of electric energy and power. Each such agency shall be a municipal corporation of the state of Washington with the right to sue and be sued in its own name.

Application for the formation of an operating agency shall be made to the director of the department of ecology (herein sometimes referred to as the director) after the adoption of a resolution by the legislative body of each city or public utility district to be initial members thereof authorizing said city or district to participate. Such application shall set forth (1) the name and address of each participant, together with a certified copy of the resolution authorizing its participation; (2) a general description of the project and the principal project works, including dams, reservoirs, power houses and transmission lines; (3) the general location of the project and, if a hydroelectric project, the name of the stream on which such proposed project is to be located; (4) if the project is for the generation of electricity, the proposed use or market for the power to be developed; (5) a general statement of the electric loads and resources of each of the participants; (6) a statement of the proposed method of financing the preliminary engineering and other studies and the participation therein by each of the participants.

Within ten days after such application is filed with the director of the department of ecology notice thereof shall be published by the director once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is to be located, setting forth the names of the participants and the general nature, extent and location of the project. Any public utility wishing to do so may object to such application by filing an objection, setting forth the reasons therefor, with the director of the department of ecology not later than ten days after the date of last publication of such notice.

Within ninety days after the date of last publication the director shall either make findings thereon or have instituted a hearing thereon. In [the] event the director has neither made findings nor instituted a hearing within ninety days of the date of last publication, or if such hearing is instituted within such time but no findings are made within one hundred and twenty days of the date of such last publication, the application shall be deemed to have been approved and the operating agency established. If it shall appear (a) that the statements set forth in said application are substantially correct; (b) that the contemplated project is such as is adaptable to the needs, both actual and prospective, of the participants and such other public utilities as indicate a good faith intention by contract or by letter of intent to participate in the use of such project; (c) that no objection to the

formation of such operating agency has been filed by any other public utility which prior to and at the time of the filing of the application for such operating agency had on file a permit or license from an agency of the state or an agency of the United States, whichever has primary jurisdiction, for the construction of such project; (d) that adequate provision will be made for financing the preliminary engineering, legal and other costs necessary thereto; the director shall make findings to that effect and enter an order creating such operating agency, establishing the name thereof and the specific project for the construction and operation for which such operating agency is formed. Such order shall not be construed to constitute a bar to any other public utility proceeding according to law to procure any required governmental permits, licenses or authority, but such order shall establish the competency of the operating agency to proceed according to law to procure such permits, licenses or authority.

No operating agency shall undertake projects or conservation activities in addition to those for which it was formed without the approval of the legislative bodies of a majority of the members thereof. Prior to undertaking any new project for acquisition of an energy resource, a joint operating agency shall prepare a plan which details a least-cost approach for investment in energy resources. The plan shall include an analysis of the costs of developing conservation compared with costs of developing other energy resources and a strategy for implementation of the plan. The plan shall be updated annually and presented to the energy and utilities committees of the senate and house of representatives for their review and comment. In the event that an operating agency desires to undertake such a hydroelectric project at a site or sites upon which any publicly or privately owned public utility has a license or permit or has a prior application for a license or permit pending with any commission or agency, state or federal, having jurisdiction thereof, application to construct such additional project shall be made to the director of the department of ecology in the same manner, subject to the same requirements and with the same notice as required for an initial agency and project and shall not be constructed until an order authorizing the same shall have been made by the director in the manner provided for such original application.

Any party who has joined in filing the application for, or objections against, the creation of such operating agency and/or the construction of an additional project, and who feels aggrieved by any order or finding of the director shall have the right to appeal to the superior court in the manner set forth in RCW 43.52.430.

After the formation of an operating agency, any other city or district may become a member thereof upon application to such agency after the adoption of a resolution of its legislative body authorizing said city or district to participate, and with the consent of the operating agency by the affirmative vote of the majority of its members. Any member may withdraw from an operating agency, and thereupon such member shall forfeit any and all rights or interest which it may have in such operating agency or in any of the assets thereof: PROVIDED, That all contractual obligations incurred while a member shall remain in full force and effect. An operating agency may be dissolved by the unanimous agreement of the members, and the members,

after making provisions for the payment of all debts and obligations, shall thereupon hold the assets thereof as tenants in common. [1987 c 376 § 11; 1977 ex.s. c 184 § 6; 1965 c 8 § 43.52.360. Prior: 1957 c 295 § 1; 1955 c 258 § 3; 1953 c 281 § 12.]

Generation of electric energy by steam: RCW 43.21.250 through 43.21.410.

43.52.370 Operating agency board of directors—Members, appointment, vote, term, etc.—Rules—Proceedings—Limitation on powers and duties. (1)

Except as provided in subsection (2) of this section, the management and control of an operating agency shall be vested in a board of directors, herein sometimes referred to as the board. The legislative body of each member of an operating agency shall appoint a representative who may, at the discretion of the member and regardless of any charter or other provision to the contrary, be an officer or employee of the member, to serve on the board of the operating agency. Each representative shall have one vote and shall have, in addition thereto, one vote for each block of electric energy equal to ten percent of the total energy generated by the agency during the preceding year purchased by the member represented by such representative. Each member may appoint an alternative representative to serve in the absence or disability of its representative. Each representative shall serve at the pleasure of the member. The board of an operating agency shall elect from its members a president, vice president and secretary, who shall serve at the pleasure of the board. The president and secretary shall perform the same duties with respect to the operating agency as are provided by law for the president and secretary, respectively, of public utility districts, and such other duties as may be provided by motion, rule or resolution of the board. The board of an operating agency shall adopt rules for the conduct of its meetings and the carrying out of its business, and adopt an official seal. All proceedings of an operating agency shall be by motion or resolution and shall be recorded in the minute book which shall be a public record. A majority of the board members shall constitute a quorum for the transaction of business. A majority of the votes which the members present are entitled to cast shall be necessary and sufficient to pass any motion or resolution: PROVIDED, That such board members are entitled to cast a majority of the votes of all members of the board. The members of the board of an operating agency may be compensated by such agency as is provided in RCW 43.52.290: PROVIDED, That the compensation to any member shall not exceed five thousand dollars in any year except for board members who are elected to serve on an executive board established under RCW 43.52.374.

(2) If an operating agency is constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW, the powers and duties of the board of directors shall include and are limited to the following:

(a) Final authority on any decision of the operating agency to purchase, acquire, construct, terminate, or decommission any power plants, works, and facilities except that once the board of directors has made a final decision regarding a nuclear power plant, the executive board established under RCW 43.52.374 shall have the authority to

make all subsequent decisions regarding the plant and any of its components;

(b) Election of members to, removal from, and establishment of salaries for the elected members of the executive board under RCW 43.52.374(1)(a); and

(c) Selection and appointment of three outside directors as provided in RCW 43.52.374(1)(b).

All other powers and duties of the operating agency, including without limitation authority for all actions subsequent to final decisions by the board of directors, including but not limited to the authority to sell any power plant, works, and facilities are vested in the executive board established under RCW 43.52.374. [1983 1st ex.s. c 3 § 2; 1982 1st ex.s. c 43 § 2; 1981 1st ex.s. c 3 § 1; 1977 ex.s. c 184 § 7; 1965 c 8 § 43.52.370. Prior: 1957 c 295 § 2; 1953 c 281 § 13.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.374 Operating agency executive board—Members—Terms—Removal—Rules—Proceedings—Managing director—Civil immunities—Defense and indemnification. (1)

With the exception of the powers and duties of the board of directors described in RCW 43.52.370(2), the management and control of an operating agency constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW is vested in an executive board established under this subsection and consisting of eleven members.

(a) Five members of the executive board shall be elected to four-year terms by the board of directors from among the members of the board of directors. The board of directors may provide by rule for the composition of the five members of the executive board elected from among the members of the board of directors so as to reflect the member public utility districts' and cities' participation in the joint operating agency's projects. Members elected to the executive board from the board of directors are ineligible for continued membership on the executive board if they cease to be members of the board of directors. The board of directors may also provide by rule for the removal of a member of the executive board, except for the outside directors. Members of the board of directors may be elected to serve successive terms on the executive board. Members elected to the executive board from the board of directors shall receive a salary from the operating agency at a rate set by the board of directors.

(b) Six members of the executive board shall be outside directors. Three shall be selected and appointed by the board of directors, and three shall be selected and appointed by the governor and confirmed by the senate. All outside directors shall:

(i) Serve four-year terms on the executive board. However, of the initial members of the executive board, the board of directors and the governor shall each appoint one outside director to serve a two-year term, one outside director to serve a three-year term, and one outside director to serve a four-year term. Thereafter, all outside directors shall be appointed for four-year terms. All outside directors are eligible for reappointment;

(ii) Receive travel expenses on the same basis as the five members elected from the board of directors. The outside directors shall also receive a salary from the operating agency as fixed by the governor;

(iii) Not be an officer or employee of, or in any way affiliated with, the Bonneville power administration or any electric utility conducting business in the states of Washington, Oregon, Idaho, or Montana;

(iv) Not be involved in the financial affairs of the operating agency as an underwriter or financial adviser of the operating agency or any of its members or any of the participants in any of the operating agency's plants; and

(v) Be representative of policy makers in business, finance, or science, or have expertise in the construction or management of such facilities as the operating agency is constructing or operating, or have expertise in the termination, disposition, or liquidation of corporate assets.

(c) The governor may remove outside directors from the executive board for incompetency, misconduct, or malfeasance in office in the same manner as state appointive officers under chapter 43.06 RCW. For purposes of this subsection, misconduct shall include, but not be limited to, nonfeasance and misfeasance.

(2) Nothing in this chapter shall be construed to mean that an operating agency is in any manner an agency of the state. Nothing in this chapter alters or destroys the status of an operating agency as a separate municipal corporation or makes the state liable in any way or to any extent for any preexisting or future debt of the operating agency or any present or future claim against the agency.

(3) The eleven members of the executive board shall be selected with the objective of establishing an executive board which has the resources to effectively carry out its responsibilities. All members of the executive board shall conduct their business in a manner which in their judgment is in the interest of all ratepayers affected by the joint operating agency and its projects.

(4) The executive board shall elect from its members a chairman, vice chairman, and secretary, who shall serve at the pleasure of the executive board. The executive board shall adopt rules for the conduct of its meetings and the carrying out of its business. All proceedings shall be by motion or resolution and shall be recorded in the minute book, which shall be a public record. A majority of the executive board shall constitute a quorum for the transaction of business.

(5) With respect to any operating agency existing on April 20, 1982, to which the provisions of this section are applicable:

(a) The board of directors shall elect five members to the executive board no later than sixty days after April 20, 1982; and

(b) The board of directors and the governor shall select and appoint the initial outside directors and the executive board shall hold its organizational meeting no later than sixty days after April 20, 1982, and the powers and duties prescribed in this chapter shall devolve upon the executive board at that time.

(6) The executive board shall select and employ a managing director of the operating agency and may delegate to the managing director such authority for the management and control of the operating agency as the executive board

deems appropriate. The managing director's employment is terminable at the will of the executive board.

(7) Members of the executive board shall be immune from civil liability for mistakes and errors of judgment in the good faith performance of acts within the scope of their official duties involving the exercise of judgment and discretion. This grant of immunity shall not be construed as modifying the liability of the operating agency.

The operating agency shall undertake the defense of and indemnify each executive board member made a party to any civil proceeding including any threatened, pending, or completed action, suit, or proceeding, whether civil, administrative, or investigative, by reason of the fact he or she is or was a member of the executive board, against judgments, penalties, fines, settlements, and reasonable expenses, actually incurred by him or her in connection with such proceeding if he or she had conducted himself or herself in good faith and reasonably believed his or her conduct to be in the best interest of the operating agency.

In addition members of the executive board who are utility employees shall not be fired, forced to resign, or demoted from their utility jobs for decisions they make while carrying out their duties as members of the executive board involving the exercise of judgment and discretion. [1983 1st ex.s. c 3 § 3; 1982 1st ex.s. c 43 § 3; 1981 1st ex.s. c 3 § 2.]

Severability—1982 1st ex.s. c 43: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 43 § 11.]

Savings—1982 1st ex.s. c 43: "(1) All personnel and employees of a board of directors or executive board or committee displaced by section 3 of this act shall become personnel and employees of the executive board created in section 3 of this act without any loss of rights, subject to any appropriate action thereafter.

(2) All pending business before a board of directors or executive board or committee which is replaced by the executive board created in section 3 of this act shall be continued and acted upon by the new executive board.

(3) This act shall not be construed to alter:

(a) Any existing rights acquired under laws relating to operating agencies;

(b) The status of any actions, activities, or civil or criminal proceedings of any existing operating agencies;

(c) The status of any collective bargaining agreements, indebtedness, contracts, or other obligations;

(d) Any valid resolutions, covenants, or agreements between an operating agency and members, participants in any electric generating facility, privately owned public utilities, or agencies of the federal government; or

(e) Any rules, resolutions, or orders adopted by a board of directors or executive board or committee until canceled or superseded." [1982 1st ex.s. c 43 § 4.] "Section 3 of this act" is the 1982 1st ex.s. c 43 amendment to RCW 43.52.374.

43.52.375 Treasurer—Auditor—Powers and duties—Official bonds—Funds. The board of each joint operating agency shall by resolution appoint a treasurer. The treasurer shall be the chief financial officer of the operating agency, who shall report at least annually to the board a detailed statement of the financial condition of the operating agency and of its financial operations for the preceding fiscal year. The treasurer shall advise the board on all matters affecting the financial condition of the operating agency. Before entering upon his duties the treasurer shall give bond to the operating agency, with a surety company authorized to write such bonds in this state as surety, in an amount

which the board finds by resolution will protect the operating agency against loss, conditioned that all funds which he receives as such treasurer will be faithfully kept and accounted for and for the faithful discharge of his duties. The amount of such bond may be decreased or increased from time to time as the board may by resolution direct.

The board shall also appoint an auditor and may require him to give a bond with a surety company authorized to do business in the state of Washington in such amount as it shall by resolution prescribe, conditioned for the faithful discharge of his duties. The auditor shall report directly to the board and be responsible to it for discharging his duties.

The premiums on the bonds of the auditor and the treasurer shall be paid by the operating agency. The board may provide for coverage of said officers and other persons on the same bond.

All funds of the joint operating agency shall be paid to the treasurer and shall be disbursed by him only on warrants issued by the auditor upon orders or vouchers approved by the board: PROVIDED, That the board by resolution may authorize the managing director or any other bonded officer or employee as legally permissible to approve or disapprove vouchers presented to defray salaries of employees and other expenses of the operating agency arising in the usual and ordinary course of its business, including expenses incurred by the board of directors, its executive committee, or the executive board in the performance of their duties. All moneys of the operating agency shall be deposited forthwith by the treasurer in such depositories, and with such securities as are designated by rules of the board. The treasurer shall establish a general fund and such special funds as shall be created by the board, into which he shall place all money of the joint operating agency as the board by resolution or motion may direct. [1982 1st ex.s. c 43 § 7; 1981 1st ex.s. c 3 § 3; 1965 c 8 § 43.52.375. Prior: 1957 c 295 § 4.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.378 Executive board—Appointment of administrative auditor—Retention of firm for performance audits—Duties of auditor and firm—Reports. The executive board of any operating agency constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement issued pursuant to chapter 80.50 RCW shall appoint an administrative auditor. The administrative auditor shall be deemed an officer under chapter 42.23 RCW. The appointment of the administrative auditor shall be in addition to the appointment of the auditor for the issuance of warrants and other purposes as provided in RCW 43.52.375. The executive board shall retain a qualified firm or firms to conduct performance audits which is in fact independent and does not have any interest, direct or indirect, in any contract with the operating agency other than its employment hereunder. No member or employee of any such firm shall be connected with the operating agency as an officer, employee, or contractor. The administrative auditor and the firm or firms shall be independently and directly responsible to the executive board of the operating agency. The executive board shall require a firm to conduct continuing audits of the methods, procedures and organization used by the operating agency to control costs, schedules, productivity, contract amendments, project design and any

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other topics deemed desirable by the executive board. The executive board may also require a firm to analyze particular technical aspects of the operating agency's projects and contract amendments. The firm or firms shall provide advice to the executive board in its management and control of the operating agency. At least once each year, the firm or firms shall prepare and furnish a report of its actions and recommendations to the executive board for the purpose of enabling it to attain the highest degree of efficiency in the management and control of any thermal power project under construction or in operation. The administrative auditor shall assist the firm or firms in the performance of its duties. The administrative auditor and the firm or firms shall consult regularly with the executive board and furnish any information or data to the executive board which the administrative auditor, firm, or executive board deems helpful in accomplishing the purpose above stated. The administrative auditor shall perform such other duties as the executive board shall prescribe to accomplish the purposes of this section.

Upon the concurrent request of the chairmen of the senate or house energy and utilities committees, the operating agency shall report to the committees on a quarterly basis. [1987 c 505 § 84; 1986 c 158 § 13; 1982 1st ex.s. c 43 § 8; 1981 1st ex.s. c 3 § 4; 1979 ex.s. c 220 § 1.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.380 Member's preference to buy energy—Apportionment—Surplus. Members shall have a preference right to the purchase of all electric energy generated by an operating agency. As between members, the amount of electric energy to which each shall be entitled shall be computed annually and shall be based on the same percentage as the purchases of such member bore to the total generation of the operating agency for the preceding year. Surplus electric energy, that is energy not contracted for by the members, may be sold to any public utility authorized by law to distribute and sell electric energy. [1965 c 8 § 43.52.380. Prior: 1953 c 281 § 14.]

43.52.383 Compliance with open public meetings act. (1) The legislature intends that the business and deliberations of joint operating agencies conducted by their boards of directors, executive boards, committees and subcommittees be conducted openly and with opportunity for public input.

(2) The board of directors, executive board, and all committees or subcommittees thereof shall comply with the provisions of chapter 42.30 RCW, in order to assure adequate public input and awareness of decisions. [1983 1st ex.s. c 3 § 4.]

43.52.385 Best interest of ratepayers to determine interest of agency. For the purposes of this chapter, including but not limited to RCW 43.52.343, the best interests of all ratepayers affected by the joint operating agency and its projects shall determine the interest of the operating agency and its board. [1982 1st ex.s. c 43 § 9.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.391 Powers and duties of operating agency.

Except as otherwise provided in this section, a joint operating agency shall have all powers now or hereafter granted public utility districts under the laws of this state. It shall not acquire nor operate any electric distribution properties nor condemn any properties owned by a public utility which are operated for the generation and transmission of electric power and energy or are being developed for such purposes with due diligence under a valid license or permit, nor purchase or acquire any operating hydroelectric generating plant owned by any city or district on June 11, 1953, or which may be acquired by any city or district by condemnation on or after January 1, 1957, nor levy taxes, issue general obligation bonds, or create subdistricts. It may enter into any contracts, leases or other undertakings deemed necessary or proper and acquire by purchase or condemnation any real or personal property used or useful for its corporate purposes. Actions in eminent domain may be instituted in the superior court of any county in which any of the property sought to be condemned is located and the court in any such action shall have jurisdiction to condemn property wherever located within the state; otherwise such actions shall be governed by the same procedure as now or hereafter provided by law for public utility districts. An operating agency may sell steam or water not required by it for the generation of power and may construct or acquire any facilities it deems necessary for that purpose.

An operating agency may make contracts for any term relating to the purchase, sale, interchange or wheeling of power with the government of the United States or any agency thereof and with any municipal corporation or public utility, within or without the state, and may purchase or deliver power anywhere pursuant to any such contract. An operating agency may acquire any coal-bearing lands for the purpose of assuring a long-term, adequate supply of coal to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale or disposal of coal that it deems proper.

Any member of an operating agency may advance or contribute funds to an agency as may be agreed upon by the agency and the member, and the agency shall repay such advances or contributions from proceeds of revenue bonds, from operating revenues or from any other funds of the agency, together with interest not to exceed the maximum specified in RCW 43.52.395(1). The legislative body of any member may authorize and make such advances or contributions to an operating agency to assist in a plan for termination of a project or projects, whether or not such member is a participant in such project or projects. Any member who makes such advances or contributions for terminating a project or projects in which it is not a participant shall not assume any liability for any debts or obligations related to the terminated project or projects on account of such advance or contribution. [1982 c 1 § 1; 1977 ex.s. c 184 § 8; 1965 c 8 § 43.52.391. Prior: 1957 c 295 § 5.]

Severability—1982 c 1: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 1 § 3.]

Liability to other taxing districts for increased financial burdens: Chapter 54.36 RCW.

43.52.395 Maximum interest rate operating agency may pay member. (1) The maximum rate at which an operating agency shall add interest in repaying a member under RCW 43.52.391 may not exceed the higher of fifteen percent per annum or four percentage points above the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve System) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the preceding calendar month.

(2) The maximum rate specified in subsection (1) of this section is applicable to all advances and contributions made by each member to the agency prior to January 21, 1982, and to all renewals of such advances and contributions. [1989 c 14 § 4; 1982 c 1 § 2.]

Severability—1982 c 1: See note following RCW 43.52.391.

43.52.410 Authority of city or district to contract for electric energy or falling waters. Any city or district is authorized to enter into contracts or compacts with any operating agency or a publicly or privately owned public utility for the purchase and sale of electric energy or falling waters: **PROVIDED,** That no city or district may enter into a contract or compact with an operating agency to purchase electric energy, or to purchase or participate in a portion of an electrical generating project, that commits the city or district to pay an amount in excess of an express dollar amount or in excess of an express rate per unit of electrical energy received. [1983 c 308 § 1; 1977 ex.s. c 184 § 9; 1965 c 8 § 43.52.410. Prior: 1953 c 281 § 17.]

43.52.430 Appeals from director of department of ecology. Any party in interest deeming itself aggrieved by any order of the director of the department of ecology may appeal to the superior court of Thurston county by serving upon the director and filing with clerk of said court within thirty days after the entry of the order a notice of appeal. The director shall, within ten days after service of the notice of appeal, file with the clerk of the court a return containing a true copy of the order appealed from, together with a transcript of the record of the proceeding before the director, after which the appeal shall be at issue. The appeal shall be heard and decided by the court upon the record before the director and the court may either affirm, set aside, or remand the order appealed from for further proceedings. Appellate review of the superior court's decision may be sought as in other civil cases. [1988 c 202 § 44; 1977 ex.s. c 184 § 10; 1971 c 81 § 113; 1965 c 8 § 43.52.430. Prior: 1953 c 281 § 19.]

Severability—1988 c 202: See note following RCW 2.24.050.

43.52.440 Effect of chapter on "Columbia River Sanctuary Act." Nothing contained in this chapter shall be construed to amend, modify or repeal in any manner RCW 75.20.110, commonly known as the "Columbia River Sanctuary Act", and all matter herein contained shall be expressly subject to such act. [1983 1st ex.s. c 46 § 178; 1965 c 8 § 43.52.440. Prior: 1953 c 281 § 23.]

Intent—Savings—Effective date—1983 1st ex.s. c 46: See RCW 75.98.005 through 75.98.007.

43.52.450 Chapter requirements are cumulative—Preservation of rights—Not subject to utilities and transportation commission. The provisions of this chapter shall be cumulative and shall not impair or supersede the powers or rights of any person, firm or corporation or political subdivision of the state of Washington under any other law. The rights of all persons, firms, corporations and political subdivisions or operating units of any kind under existing contracts, renewals thereof or supplements thereto, with the United States, or any agency thereof, for power, are hereby preserved and such rights shall not be impaired or modified by any of the provisions of this chapter or any of the powers granted by this chapter.

The rates, services and practices of any operating agency in respect to the power generated, transmitted or sold by it shall not be governed by the regulations of the utilities and transportation commission. [1977 ex.s. c 184 § 11; 1965 c 8 § 43.52.450. Prior: 1953 c 281 § 10.]

43.52.460 Operating agency to pay in lieu of taxes. Any joint operating agency formed under this chapter shall pay in lieu of taxes payments in the same amounts as paid by public utility districts. Such payments shall be distributed in accordance with the provisions applicable to public utility districts: PROVIDED, HOWEVER, That such tax shall not apply to steam generated electricity produced by a nuclear steam powered electric generating facility constructed or acquired by a joint operating agency and in operation prior to May 17, 1971. [1971 ex.s. c 75 § 1; 1965 c 8 § 43.52.460. Prior: 1957 c 295 § 10.]

43.52.470 Operating agency—Validity of organization and existence. Except as provided in RCW 43.52.360, the validity of the organization of any joint operating agency can be questioned only by action instituted within six months from the date that the joint operating agency is created. If the validity of the existence of any joint operating agency is not challenged within that period, by the filing and service of a petition or complaint in the action, the state shall be barred forever from questioning the validity of the joint operating agency by reason of any defect claimed to exist in the organization thereof, and it shall be deemed validly organized for all purposes. Any joint operating agency heretofore (March 26, 1957) attempted to be organized pursuant to chapter 43.52 RCW and which has maintained its existence since the date of such attempted organization, is hereby declared legal and valid and its organization and creation are validated and confirmed. [1965 c 8 § 43.52.470. Prior: 1957 c 295 § 11.]

43.52.515 Application of Titles 9 and 9A RCW. All of the provisions of Titles 9 and 9A RCW apply to actions of a joint operating agency. [1981 c 173 § 6.]

Severability—1981 c 173: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 173 § 9.]

43.52.520 Security force—Authorized. An operating agency constructing or operating a nuclear power plant under a site certificate issued under chapter 80.50 RCW may

establish a security force for the protection and security of each nuclear power plant site exclusion area. Members of the security force may be supplied with uniforms and badges indicating their position as security force members if the uniforms and badges do not closely resemble the uniforms or badges of any law enforcement agency or other agency possessing law enforcement powers in the surrounding area of the nuclear power plant exclusion area. Members of the security force shall enroll in and successfully complete a training program approved by the criminal justice training commission which does not conflict with any requirements of the United States nuclear regulatory commission for the training of security personnel at nuclear power plants. All costs incurred by the criminal justice training commission in the preparation, delivery, or certification of the training programs shall be paid by the operating agency. [1981 c 301 § 1.]

43.52.525 Security force—Criminal history record information. An operating agency is authorized to obtain criminal history record information pursuant to RCW 10.97.050 for any member of an operating agency security force and for any applicant seeking employment as a member of an operating agency security force. [1981 c 301 § 2.]

43.52.530 Security force—Powers and duties—Rules on speed, operation, location of vehicles authorized. (1) Members of an operating agency security force authorized under RCW 43.52.520 may use reasonable force to detain, search, or remove persons who enter or remain without permission within the nuclear power plant site exclusion area or whenever, upon probable cause, it appears to a member of the security force that a person has committed or is attempting to commit a crime. Should any person be detained, the security force shall immediately notify the law enforcement agency, having jurisdiction over the nuclear power plant site, of the detainment. The security force is authorized to detain the person for a reasonable time until custody can be transferred to a law enforcement officer. Members of a security force may use that force necessary in the protection of persons and properties located within the confines of the nuclear power plant site exclusion area.

(2) An operating agency may adopt and enforce rules controlling the speed, operation, and location of vehicles on property owned or occupied by the operating agency. Such rules shall be conspicuously posted and persons violating the rules may be expelled or detained.

(3) The rights granted in subsection (1) of this section are in addition to any others that may exist by law including, but not limited to, the rights granted in RCW 9A.16.020(4). [1981 c 301 § 3.]

43.52.535 Security force—Membership in retirement system authorized. Members of the operating agency security force shall be members of the retirement system under chapter 41.40 RCW. [1981 c 301 § 4.]

43.52.550 Plans for repayment of operating agency obligations maturing prior to planned operation of plant. Any municipal corporation, cooperative or mutual which has

entered into a contract with an operating agency to participate in the construction or acquisition of an energy plant as defined in chapter 80.50 RCW shall annually adopt a plan for the repayment of its contractual share of any operating agency obligation which matures prior to the planned operation of the plant. The manner of adoption of the plan shall be subject to the laws regarding approval of rates of the municipal corporation, cooperative or mutual.

The plan shall include the effect of the means of repayment on its financial condition, its customers' rates, its other contractual rights and obligations, and any other matter deemed useful by the participant.

Each such participating municipal corporation, cooperative or mutual shall include a statement of the extent of its contractual obligation to any operating agency in an annual financial report. [1981 1st ex.s. c 1 § 4.]

Severability—1981 1st ex.s. c 1: See note following RCW 43.52.250.

43.52.560 Contracts for materials or work required—Sealed bids—Certification. (1) Except as provided otherwise in this chapter, a joint operating agency shall purchase any item or items of materials, equipment, or supplies, the estimated cost of which is in excess of five thousand dollars exclusive of sales tax, or order work for construction of generating projects and associated facilities, the estimated cost of which is in excess of ten thousand dollars exclusive of sales tax, by contract in accordance with RCW 54.04.070 and 54.04.080, which require sealed bids for contracts.

(2) When a joint operating agency executes a contract under RCW 43.52.565, 43.52.575, or 43.52.580, the managing director shall certify to the committees on energy and utilities of the senate and house of representatives in writing within thirty days after the contract is signed, that such contract is in the public interest, state the reason or reasons why, and indicate the estimated cost savings to the project compared to contracting for the same material, supplies, equipment or work through completion of work as contracted, including termination costs, or through sealed bids. [1987 c 376 § 1.]

43.52.565 Contracts for materials or work through competitive negotiation authorized—Selection of contractor. (1) An operating agency may enter into contracts through competitive negotiation under subsection (2) of this section for materials, equipment, supplies, or work to be performed during commercial operation of a nuclear generating project and associated facilities (a) to replace a defaulted contract or a contract terminated in whole or in part, or (b) where consideration of factors in addition to price, such as technical knowledge, experience, management, staff, or schedule, is necessary to achieve economical operation of the project, provided that the managing director or a designee determines in writing and the executive board finds that execution of a contract under this section will accomplish project completion or operation more economically than sealed bids.

(2) The selection of a contractor shall be made in accordance with the following procedures:

(a) Proposals shall be solicited through a request for proposals, which shall state the requirements to be met. Responses shall describe the professional competence of the offeror, the technical merits of the offer, and the price.

(b) The request for proposals shall be given adequate public notice in the same manner as for sealed bids.

(c) As provided in the request for proposals, the operating agency shall specify at a preproposal conference the contract requirements in the request for proposal, which may include but are not limited to: Schedule, managerial, and staffing requirements, productivity and production levels, technical expertise, approved project quality assurance procedures, and time and place for submission of proposals. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all potential offerors.

(d) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be open for public inspection after contract award.

(e) As provided in the request for proposals, invitations shall be sent to all responsible offerors who submit proposals to attend discussions for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all offerors. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(f) The operating agency shall execute a contract with the responsible offeror whose proposal is determined in writing to be the most advantageous to the operating agency and the state taking into consideration the requirements set forth in the request for proposals. If a proposed contract exceeds ten million dollars, the operating agency shall notify the committees on energy and utilities of the senate and house of representatives at least thirty days prior to the date of contract execution and shall provide a copy of the contract with the notification. The contract file shall contain the basis on which the successful offeror is selected. The operating agency shall conduct a briefing conference on the selection if requested by an offeror.

(g) The contract may be fixed price or cost-reimbursable, in whole or in part, but not cost-plus-percentage-of-cost.

(h) The operating agency shall retain authority and responsibility for inspection, testing, and compliance with applicable regulations or standards of any state or federal governmental agency. [1994 c 27 § 1; 1987 c 376 § 2.]

43.52.570 Purchase of materials by telephone or written quotation authorized—Procedure. For the awarding of a contract to purchase any item or items of materials, equipment, or supplies in an amount exceeding five thousand dollars but less than seventy-five thousand dollars, exclusive of sales tax, the managing director or a designee may, in lieu of sealed bids, secure telephone and/or written quotations from at least five vendors, where practical,

and award contracts for purchase of materials, equipment, or supplies to the lowest responsible bidder. The agency shall establish a procurement roster, which shall consist of suppliers and manufacturers who may supply materials or equipment to the operating agency, and shall provide for solicitations which will equitably distribute opportunity for bids among suppliers and manufacturers on the roster. Immediately after the award is made, the bid quotations obtained shall be recorded and shall be posted or otherwise made available for public inspection and copying pursuant to chapter 42.17 RCW at the office of the operating agency or any other officially designated location. Waiver of the deposit or bid bond required for sealed bids may be authorized by the operating agency in securing the bid quotations. [1987 c 376 § 3.]

43.52.575 Purchase of materials without competition authorized. When the managing director or a designee determines in writing that it is impracticable to secure competition for required materials, equipment, or supplies, he or she may purchase the materials, equipment, or supplies without competition. The term "impracticable to secure competition" means:

(1) When material, equipment, or supplies can be obtained from only one person or firm (single source of supply); or

(2) When specially designed parts or components are being procured as replacement parts in support of equipment specially designed by the manufacturer. [1987 c 376 § 4.]

43.52.580 Emergency purchase of materials or work by contract. When the managing director or a designee determines in writing that an emergency endangers the public safety or threatens property damage or that serious financial injury would result if materials, supplies, equipment, or work are not obtained by a certain time, and they cannot be contracted for by that time by means of sealed bids, the managing director or a designee may purchase materials, equipment, or supplies or may order work by contract in any amount necessary, after having taken precautions to secure a responsive proposal at the lowest price practicable under the circumstances.

For the purposes of this section the term "serious financial injury" means that the costs attributable to the delay caused by contracting by sealed bids exceed the cost of materials, supplies, equipment, or work to be obtained. [1987 c 376 § 5.]

43.52.585 Procedures for implementing RCW 43.52.560 through 43.52.580. The executive board shall establish procedures for implementing RCW 43.52.560 through 43.52.580 by operating agency resolution after notice, public hearing, and opportunity for public comment. The procedures shall be established within six months after July 26, 1987. [1987 c 376 § 6.]

43.52.590 Construction of RCW 43.52.560 through 43.52.585. Nothing in RCW 43.52.560 through 43.52.585 requires reapplication by a joint operating agency in existence on July 26, 1987. [1987 c 376 § 7.]

43.52.612 Contract bid form. A joint operating agency shall require that bids upon any construction or improvement of any nuclear generating project and associated facilities shall be made upon the contract bid form supplied by the operating agency, and in no other manner. The operating agency may, before furnishing any person, firm, or corporation desiring to bid upon any work with a contract bid form, require from the person, firm, or corporation, answers to questions contained in a standard form of questionnaire and financial statement, including a complete statement of the financial ability and experience of the person, firm, or corporation in performing work. The questionnaire shall be sworn to before a notary public or other person authorized to take acknowledgement of deeds and shall be submitted once a year or at such other times as the operating agency may require. Whenever the operating agency is not satisfied with the sufficiency of the answers contained in the questionnaire and financial statement or whenever the operating agency determines that the person, firm, or corporation does not meet all of the requirements set forth in this section, it may refuse to furnish the person, firm, or corporation with a contract bid form and any bid of the person, firm, or corporation must be disregarded. The operating agency shall require that a person, firm, or corporation have all of the following requirements in order to obtain a contract form:

(1) Adequate financial resources, the ability to secure these resources, or the capability to secure a one hundred percent payment and performance bond;

(2) The necessary experience, organization, and technical qualifications to perform the proposed contract;

(3) The ability to comply with the required performance schedule taking into consideration all of its existing business commitments;

(4) A satisfactory record of performance, integrity, judgment, and skills; and

(5) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

The refusal shall be conclusive unless appealed to the superior court of the county where the operating agency is situated or Thurston county within fifteen days, which appeal shall be heard summarily within ten days after the appeal is made and on five days' notice thereof to the operating agency.

The prevailing party in such litigation shall be awarded its attorney fees and costs.

The operating agency shall not be required to make available for public inspection or copying under chapter 42.17 RCW financial information provided under this section. [1982 1st ex.s. c 44 § 5.]

Severability—1982 1st ex.s. c 44: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 44 § 10.]

43.52.910 Construction—1965 c 8. This chapter shall be liberally construed to effectuate its purposes. [1965 c 8 § 43.52.910. Prior: 1957 c 295 § 12.]

Chapter 43.52A

**ELECTRIC POWER AND CONSERVATION
PLANNING COUNCIL—STATE'S MEMBERS**

Sections

- 43.52A.010 State agreement to participate in Pacific Northwest Electric Power and Conservation Planning Council.
- 43.52A.020 Definitions.
- 43.52A.030 Appointment of members.
- 43.52A.040 Terms of members—Vacancies—Residence of members.
- 43.52A.050 Sufficient time on council activities required—Technical assistance—Reimbursement—Liaison—Report—Compensation—Travel expenses.

43.52A.010 State agreement to participate in Pacific Northwest Electric Power and Conservation Planning Council. The state of Washington agrees to participate in the Pacific Northwest Electric Power and Conservation Planning Council pursuant to the Pacific Northwest Electric Power Planning and Conservation Act. [1981 c 14 § 1.]

43.52A.020 Definitions. As used in this chapter:

- (1) The term "the act" means the Pacific Northwest Electric Power Planning and Conservation Act.
- (2) The term "council" means the Pacific Northwest Electric Power and Conservation Planning Council. [1981 c 14 § 2.]

43.52A.030 Appointment of members. The governor, with the consent of the senate, shall appoint two residents of Washington state to the council pursuant to the act. These persons shall undertake the functions and duties of members of the council as specified in the act and in appropriate state law. Upon appointment by the governor to the council, the nominee shall make available to the senate such disclosure information as is requested for the confirmation process, including that required in RCW 42.17.241. [1984 c 34 § 8; 1981 c 14 § 3.]

43.52A.040 Terms of members—Vacancies—Residence of members. (1) Unless removed at the governor's pleasure, council members shall serve a term ending January 15 of the third year following appointment except that, with respect to members initially appointed, the governor shall designate one member to serve a term ending January 15 of the second year following appointment. Initial appointments to the council shall be made within thirty days of March 9, 1981.

(2) Each member shall serve until a successor is appointed, but if a successor is not appointed within sixty days of the beginning of a new term, the member shall be considered reappointed, subject to the consent of the senate.

(3) A vacancy on the council shall be filled for the unexpired term by the governor, with the consent of the senate.

(4) For the first available appointment and at all times thereafter, one member of Washington's delegation to the council shall reside east of the crest of the Cascade Mountains and one member shall reside west of the crest of the Cascade Mountains. [1984 c 223 § 1; 1981 c 14 § 4.]

43.52A.050 Sufficient time on council activities required—Technical assistance—Reimbursement—Liaison—Report—Compensation—Travel expenses. (1) Council members shall spend sufficient time on council activities to fully represent the state of Washington in carrying out the purposes of the act.

(2) State agencies shall provide technical assistance to council members upon request. The council members shall request that the council request the administrator of the Bonneville Power Administration to reimburse the state for the expenses associated with such assistance as provided in the act.

(3) The members of the council shall maintain liaison with the governor or his designees and the committees on energy and utilities, or their successor entities, of the senate and house of representatives.

(4) The members of the council shall submit to the governor and legislature an annual report describing the activities and plans of the council.

(5) Each member of the council shall receive compensation to be determined by the governor and applicable federal law and shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060, as now or hereafter amended. [1981 c 14 § 5.]

Chapter 43.56

UNIFORM LEGISLATION COMMISSION

Sections

- 43.56.010 Appointment of commissioners.
- 43.56.020 Duties of commission.
- 43.56.040 Travel expenses of members.

43.56.010 Appointment of commissioners. The governor shall appoint three suitable persons as a board of commissioners for the promotion of uniformity of legislation in the United States. Any vacancy on the board shall be filled by appointment by the governor. [1965 c 8 § 43.56.010. Prior: 1905 c 59 § 1; RRS § 8204.]

43.56.020 Duties of commission. The board shall examine the subjects of marriage and divorce, insolvency, the descent and distribution of property, the execution and probate of wills, and other subjects upon which uniformity of legislation in the various states is desirable, but which are outside of the jurisdiction of the congress of the United States.

It shall confer upon these matters with the commissioners appointed by other states for the same purpose and consider and draft uniform laws to be submitted for approval and adoption by the several states; and generally devise and recommend such other and further course of action as shall accomplish such uniformity. [1965 c 8 § 43.56.020. Prior: 1905 c 59 § 2; RRS § 8205.]

43.56.040 Travel expenses of members. No member of the board shall receive any compensation for his services, but each member shall be paid travel expenses incurred in the discharge of official duty in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter

amended, after the account thereof has been audited by the board.

The board shall keep a full account of its expenditures and shall report it in each report. There shall be allowed such expenses for only one annual meeting of the board within this state, and for the members in attendance, not oftener than once in each year, at any conference of commissioners outside of this state. [1975-'76 2nd ex.s. c 34 § 118; 1965 c 8 § 43.56.040. Prior: 1955 c 91 § 1; 1905 c 59 § 4; RRS § 8207.]

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

Chapter 43.58

WASHINGTON-OREGON BOUNDARY COMMISSION

Sections

- 43.58.050 Oregon-Washington Columbia River boundary compact—Ratification.
- 43.58.060 Oregon-Washington Columbia River boundary compact—Terms and provisions.
- 43.58.070 Oregon-Washington Columbia River boundary compact—Transfer of records, etc., to division of archives.
- 43.58.090 Oregon-Washington Columbia River boundary compact—Repeal of RCW 43.58.010 through 43.58.040, when.

43.58.050 Oregon-Washington Columbia River boundary compact—Ratification. The interstate compact determining the Oregon-Washington boundary on the Columbia River which was executed on the 21st day of December, 1956 by the Oregon commission on interstate cooperation for the state of Oregon and the Washington-Oregon boundary commission for the state of Washington is hereby ratified and approved. [1965 c 8 § 43.58.050. Prior: 1957 c 90 § 1.]

Reviser's note: The effective date of RCW 43.58.050 was March 13, 1957. State Constitution, Amendment 33, recognizing the modification of the state's boundaries through appropriate compact procedure, was approved by the voters on November 4th, 1958, and the governor's proclamation relating thereto was issued on December 4th, 1958.

The Oregon legislature has ratified the compact, see Oregon Revised Statutes §§ 186.510 and 186.520, effective April 4, 1957. See also, Article XVI of the Oregon Constitution relating to state boundaries which was adopted by the people November 4, 1958, effective December 3, 1958.

Congressional ratification is contained in Public Law 85-575, dated July 31, 1958.

43.58.060 Oregon-Washington Columbia River boundary compact—Terms and provisions. The terms and provisions of the compact referred to in RCW 43.58.050 are as follows:

INTERSTATE COMPACT DETERMINING OREGON-WASHINGTON BOUNDARY ON THE COLUMBIA RIVER

ARTICLE I. PURPOSE

The boundary between the states of Oregon and Washington along the course of the Columbia River has not been easy to ascertain because of changes in the main channel of the river with a result that a state of confusion and dispute exists and the enforcement and administration of the laws of the two states has been rendered difficult.

The purpose of this compact is to fix with precision by reference to stations of longitude and latitude the boundary between the states of Oregon and Washington from one marine league due west of the mouth of the Columbia River to the most easterly point at which the 46th parallel of North latitude crosses said river, at which point the river ceases to form the boundary between the two states.

ARTICLE II. DESCRIPTION

The boundary between the states of Oregon and Washington from one marine league due west of the mouth of the Columbia River to the point at which the last described point number (# 191) of the boundary as herein determined meets the 46th parallel of North latitude at 118° 59' 10".12 of West longitude shall be as follows:

Beginning one marine league at sea off the mouth of the Columbia river at north latitude 46° 15'00".00; running thence due east to point number 1 of this description, which point is at north latitude 46° 15'00".00, west longitude 124° 05'00".00; thence from point number 1 continuing upstream in the channel of the Columbia river by a series of straight lines connecting the following numbered and described points in consecutive order.

Point Number	North Latitude	West Longitude	Description of Location
1	46°15'00".00	124°05'00".00	
2	46°15'51".00	124°02'02".75	
3	46°16'17".00	124°01'45".80	
4	46°16'59".50	124°02'14".40	
5	46°17'28".00	124°02'07".00	
6	46°17'33".25	124°01'12".25	
7	46°16'41".50	124°00'00".00	
8	46°16'03".00	123°58'11".80	
9	46°14'19".80	123°55'42".00	
10	46°14'06".00	123°52'14".50	
11	46°16'09".50	123°44'20".50	
12	46°15'01".00	123°41'12".70	
13	46°15'33".30	123°38'52".80	
14	46°15'23".90	123°35'05".00	
15	46°15'38".00	123°32'23".00	
16	46°16'14".60	123°30'00".00	
17	46°15'46".70	123°27'51".40	
18	46°14'23".50	123°25'51".60	
19	46°13'10".50	123°25'20".50	
20	46°11'29".00	123°25'43".60	
21	46°10'47".80	123°25'38".00	
22	46°09'01".00	123°23'21".50	
23	46°08'33".00	123°18'45".60	
24	46°09'04".50	123°15'47".20	
25	46°10'00".00	123°13'51".20	
26	46°11'20".80	123°09'55".50	
27	46°11'11".30	123°07'10".90	
28	46°09'40".00	123°04'23".50	
29	46°09'24".00	123°03'22".40	
30	46°08'38".40	123°02'00".00	
31	46°08'06".00	123°00'16".00	
32	46°06'20".02	122°57'44".28	
33	46°06'17".36	122°57'38".295	a point on the center line of the Longview Bridge at center of main span
34	46°06'14".71	122°57'32".31	
35	46°05'02".70	122°54'11".00	
36	46°03'37".50	122°52'59".50	
37	46°01'53".50	122°52'35".50	
38	46°00'52".25	122°51'17".20	
39	45°58'52".00	122°50'11".80	
40	45°57'40".00	122°48'46".80	
41	45°55'57".00	122°48'18".00	
42	45°54'47".00	122°48'36".75	
43	45°53'05".00	122°47'48".30	

44	45°52'06".00	122°47'01".50		96	45°39'43".85	121°53'58".48	a point on center line of bridge at Cascade Locks, known as "The Bridge of the Gods" and in the center of the main span of said bridge
45	45°50'40".00	122°47'04".50					
46	45°49'31".20	122°47'41".00					
47	45°48'37".00	122°47'40".00					
48	45°46'51".00	122°46'06".30					
49	45°45'34".20	122°45'37".00		97	45°39'44".81	121°53'58".16	
50	45°44'04".70	122°45'32".00		98	45°39'45".77	121°53'57".84	
51	45°42'05".00	122°46'16".00		99	45°40'15".00	121°54'02".00	
52	45°40'50".80	122°46'24".00		100	45°41'36".80	121°51'57".00	
53	45°39'26".75	122°45'46".00		101	45°42'24".75	121°48'36".00	
54	45°38'40".00	122°44'13".00		102	45°41'39".00	121°44'02".00	
55	45°38'17".00	122°42'47".50		103	45°41'42".00	121°42'22".00	
56	45°37'35".37	122°41'35".14		104	45°42'19".00	121°40'02".00	
57	45°37'29".47	122°41'23".855	a point on the center line of Northern Pacific Railroad Bridge across Columbia River, which point is at center of 3rd pier south of the draw span	105	45°42'17".50	121°37'48".50	
				106	45°43'36".00	121°31'54".30	
				107	45°43'15".275	121°29'52".445	
				108	45°43'07".02	121°29'36".615	a point on the center line of the Hood River Bridge at the center of the draw span of said bridge
58	45°37'26".52	122°41'18".215		109	45°43'04".075	121°29'30".96	
59	45°37'07".85	122°40'33".42		110	45°42'05".20	121°27'41".80	
60	45°37'05".938	122°40'26".939	a point on the center line of the west highway bridge crossing the Columbia River between Portland, Ore. and Vancouver, Wash., said point being 12.0 ft. south from the center of pier No. 6 of said bridge	111	45°41'39".25	121°25'22".00	
				112	45°41'35".00	121°24'02".00	
				113	45°42'11".50	121°22'17".00	
				114	45°42'18".00	121°20'11".50	
				115	45°42'00".00	121°18'40".00	
				116	45°41'13".30	121°17'10".00	
				117	45°40'40".50	121°14'52".00	
61	45°37'05".62	122°40'25".86	a point on the center line of the east highway bridge crossing the Columbia River between Portland, Ore. and Vancouver, Wash., said point being 12.0 ft. south from the center of pier No. 6 of said bridge	118	45°40'17".00	121°12'52".50	
				119	45°39'00".00	121°11'57".00	
				120	45°37'47".00	121°11'38".40	
				121	45°37'00".25	121°11'43".00	
				122	45°36'23".80	121°10'57".00	
				123	45°36'22".50	121°10'00".00	
				124	45°36'29".175	121°08'39".84	
				125	45°36'40".89	121°08'22".135	a point on the center line of the Dallas Bridge across the Columbia River at the center of the main span of said bridge
62	45°37'03".71	122°40'19".38					
63	45°36'34".00	122°38'27".00					
64	45°36'29".80	122°36'21".30					
65	45°36'20".00	122°35'20".00					
66	45°35'47".90	122°32'48".00		126	45°36'43".94	121°08'17".53	
67	45°35'23".50	122°31'24".20		127	45°36'35".69	121°07'50".34	
68	45°35'01".00	122°29'30".00		128	45°36'58".44	121°07'16".41	
69	45°34'42".80	122°28'20".50		129	45°37'06".095	121°06'57".58	
70	45°34'03".00	122°27'09".30		130	45°37'14".85	121°07'02".75	a point on the axis of the Dalles Dam at Station 48+79 of the center line survey of said dam
71	45°33'49".00	122°26'15".80					
72	45°34'03".30	122°24'36".50					
73	45°34'29".50	122°23'25".80					
74	45°34'33".40	122°22'44".00		131	45°37'23".97	121°07'08".14	
75	45°34'10".00	122°21'04".00		132	45°38'53".13	121°05'01".25	
76	45°32'55".20	122°19'49".00		133	45°39'09".54	121°03'47".80	
77	45°32'38".00	122°17'43".70		134	45°39'04".04	121°01'57".51	
78	45°32'38".80	122°15'56".70		135	45°39'12".08	121°00'22".28	
79	45°33'03".25	122°14'24".50		136	45°38'54".66	120°58'56".33	
80	45°33'55".00	122°11'58".50		137	45°38'55".91	120°58'49".52	a point on the center line of the Oregon Trunk Railroad Bridge and in the center of the 4th pier from the north end of said bridge
81	45°34'37".00	122°10'54".00					
82	45°35'03".00	122°08'25".50					
83	45°34'53".40	122°06'40".00					
84	45°35'00".00	122°06'02".00					
85	45°36'35".00	122°02'35".00		138	45°38'58".405	120°58'35".90	
86	45°36'53".80	122°01'11".50		139	45°39'24".84	120°57'06".97	
87	45°36'58".00	122°00'08".50		140	45°39'23".58	120°56'34".22	
88	45°37'23".00	121°58'54".50		141	45°38'24".54	120°54'44".75	
89	45°37'59".00	121°57'42".80		142	45°38'35".09	120°53'40".72	
90	45°38'37".50	121°57'16".50		143	45°40'18".79	120°51'15".26	
91	45°38'42".00	121°57'01".80		144	45°41'11".69	120°47'14".64	
92	45°38'40".35	121°56'37".34		145	45°42'19".71	120°43'38".83	
93	45°38'40".13	121°56'22".57	a point at the intersection of the axis of Bonneville Dam and the center line of center pier of the spillway of said dam	146	45°42'42".58	120°42'10".70	
				147	45°42'57".18	120°41'18".11	
				148	45°43'48".14	120°40'05".19	
				149	45°44'45".12	120°38'01".97	
				150	45°44'47".00	120°37'17".91	
94	45°38'39".82	121°56'01".46		151	45°44'47".99	120°35'23".91	
95	45°39'17".00	121°54'25".00		152	45°44'18".49	120°33'29".23	
				153	45°42'37".59	120°31'17".65	

154	45°42'00".37	120°30'16".48
155	45°41'40".42	120°28'53".22
156	45°41'58".55	120°24'08".96
157	45°42'41".66	120°19'30".62
158	45°43'16".74	120°16'56".18
159	45°43'33".84	120°12'34".62
160	45°45'43".67	120°10'10".01
161	45°46'24".09	120°08'25".17
162	45°47'07".10	120°04'08".70
163	45°48'26".17	120°00'49".27
164	45°49'28".29	119°57'52".64
165	45°49'41".97	119°54'21".95
166	45°50'25".18	119°50'53".51
167	45°50'52".00	119°48'05".62
168	45°50'45".15	119°46'18".16
169	45°51'25".40	119°40'07".80
170	45°54'20".70	119°37'20".96
171	45°55'10".82	119°35'58".28
172	45°55'32".25	119°34'13".67
173	45°54'31".37	119°31'24".18
174	45°54'23".43	119°29'13".01
175	45°55'03".10	119°26'57".35
176	45°55'18".10	119°21'48".12
177	45°55'51".37	119°19'52".71
178	45°55'54".48	119°19'39".28
179	45°55'59".59	119°19'17".20
180	45°56'10".26	119°17'47".60
181	45°56'15".24	119°17'05".76
182	45°56'24".05	119°15'21".40
183	45°55'58".60	119°13'28".22
184	45°55'40".97	119°11'39".82
185	45°55'40".26	119°10'05".04
186	45°55'58".55	119°07'30".72
187	45°56'34".25	119°05'32".00
188	45°57'31".28	119°03'37".36
189	45°58'09".33	119°01'33".95
190	45°58'45".73	119°00'27".12
191	46°00'00".00	118°59'10".12

a point on the center line of the Umatilla Bridge at the center of the north main span of said bridge

a point on the axis of McNary Dam at the north face of the south nonoverflow section

ARTICLE III. RATIFICATION AND EFFECTIVE DATE

This compact shall become operative when it has been ratified by the legislatures of the states of Oregon and Washington and approved by the Congress of the United States and the Constitutions of the states of Oregon and Washington have been amended to authorize the establishment of the boundary as herein provided. [1965 c 8 § 43.58.060. Prior: 1957 c 90 § 2.]

43.58.070 Oregon-Washington Columbia River boundary compact—Transfer of records, etc., to division of archives. Upon ratification by the state of Oregon and approval by the Congress of the United States of the compact set forth in RCW 43.58.060, the secretary of the Washington-Oregon boundary commission is hereby directed to transmit all records, work sheets, maps, minutes and other papers of said commission to the division of archives and records management of the office of the secretary of state. [1981 c 115 § 3; 1965 c 8 § 43.58.070. Prior: 1957 c 90 § 3.]

Effective date—1981 c 115: See note following RCW 40.14.020.

43.58.090 Oregon-Washington Columbia River boundary compact—Repeal of RCW 43.58.010 through 43.58.040, when. Chapter 27, Laws of 1937, as amended by chapter 6, Laws of 1955 extraordinary session and chapter 43.58 RCW [RCW 43.58.010 through 43.58.040] each shall be repealed when the compact set forth in RCW 43.58.060 has been ratified by the state of Oregon and approved by the Congress of the United States. [1965 c 8 § 43.58.090. Prior: 1957 c 90 § 5.]

Reviser's note: See note following RCW 43.58.050.

Chapter 43.59

TRAFFIC SAFETY COMMISSION

Sections

43.59.010	Purpose.
43.59.020	Governor responsible for administration of traffic safety program—Acceptance and disbursal of federal funds.
43.59.030	Members of commission—Appointment—Vacancies—Governor's designee to act during governor's absence.
43.59.040	Powers and duties of commission.
43.59.050	Meetings—Travel expenses of members.
43.59.060	Director of commission—Appointment—Salary.
43.59.070	Director's duties—Staff—Rules and regulations.
43.59.080	Governor's duties as chairman.
43.59.130	Report to legislative transportation committee.
43.59.140	Driving while under the influence of intoxicating liquor or any drug—Information and education.

43.59.010 Purpose. The purpose of this chapter is to establish a new agency of state government to be known as the Washington traffic safety commission. The functions and purpose of this commission shall be to find solutions to the problems that have been created as a result of the tremendous increase of motor vehicles on our highways and the attendant traffic death and accident tolls; to plan and supervise programs for the prevention of accidents on streets and highways including but not limited to educational campaigns designed to reduce traffic accidents in cooperation with all official and unofficial organizations interested in traffic safety; to coordinate the activities at the state and local level in the development of state-wide and local traffic safety programs; to promote a uniform enforcement of traffic safety laws and establish standards for investigation and reporting of traffic accidents; to promote and improve driver education; and to authorize the governor to perform all functions required to be performed by him under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731). [1967 ex.s. c 147 § 1.]

Driver education courses: Chapter 28A.220 RCW.

Drivers' training schools: Chapter 46.82 RCW.

43.59.020 Governor responsible for administration of traffic safety program—Acceptance and disbursal of federal funds. The governor shall be responsible for the administration of the traffic safety program of the state and shall be the official of the state having ultimate responsibility for dealing with the federal government with respect to all programs and activities of the state and local governments pursuant to the Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731). The governor is authorized and empowered to accept and disburse federal grants or other funds or donations from any source for the purpose of improving

traffic safety programs in the state of Washington, and is hereby empowered to contract and to do all other things necessary in behalf of this state to secure the full benefits available to this state under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731) and in so doing, to cooperate with federal and state agencies, agencies private and public, interested organizations, and with individuals, to effectuate the purposes of that enactment, and any and all subsequent amendments thereto. [1967 ex.s. c 147 § 2.]

43.59.030 Members of commission—Appointment—Vacancies—Governor's designee to act during governor's absence. The governor shall be assisted in his duties and responsibilities by the Washington state traffic safety commission. The Washington traffic safety commission shall be composed of the governor as chairman, the superintendent of public instruction, the director of licensing, the secretary of transportation, the chief of the state patrol, the secretary of health, the secretary of social and health services, a representative of the association of Washington cities to be appointed by the governor, a member of the association of counties to be appointed by the governor, and a representative of the judiciary to be appointed by the governor. Appointments to any vacancies among appointee members shall be as in the case of original appointment.

The governor may designate an employee of the governor's office to act on behalf of the governor during the absence of the governor at one or more of the meetings of the commission. The vote of the designee shall have the same effect as if cast by the governor if the designation is in writing and is presented to the person presiding at the meetings included within the designation.

The governor may designate a member to preside during the governor's absence. [1991 c 3 § 298; 1982 c 30 § 1; 1979 c 158 § 105; 1971 ex.s. c 85 § 7; 1969 ex.s. c 105 § 1; 1967 ex.s. c 147 § 3.]

43.59.040 Powers and duties of commission. In addition to other responsibilities set forth in this chapter the commission shall:

(1) Advise and confer with the governing authority of any political subdivision of the state deemed eligible under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731) for participation in the aims and programs and purposes of that act;

(2) Advise and confer with all agencies of state government whose programs and activities are within the scope of the Highway Safety Act including those agencies that are not subject to direct supervision, administration, and control by the governor under existing laws;

(3) Succeed to and be vested with all powers, duties, and jurisdictions previously vested in the Washington state safety council;

(4) Carry out such other responsibilities as may be consistent with this chapter. [1983 1st ex.s. c 14 § 1; 1967 ex.s. c 147 § 4.]

43.59.050 Meetings—Travel expenses of members. The commission shall meet at least quarterly and shall have such special meetings as may be required. Members of the commission shall receive no additional compensation for

their services except that which shall be allowed as travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 120; 1967 ex.s. c 147 § 6.]

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

43.59.060 Director of commission—Appointment—Salary. The governor as chairman of the commission shall appoint a person to be director of the Washington traffic safety commission which director shall be paid such salary as shall be deemed reasonable and shall serve at the pleasure of the governor. [1967 ex.s. c 147 § 7.]

43.59.070 Director's duties—Staff—Rules and regulations. The director shall be secretary of the commission and shall be responsible for carrying into effect the commission's orders and rules and regulations promulgated by the commission. The director shall also be authorized to employ such staff as is necessary pursuant to the provisions of chapter 41.06 RCW. The commission shall adopt such rules and regulations as shall be necessary to carry into effect the purposes of this chapter. [1967 ex.s. c 147 § 8.]

43.59.080 Governor's duties as chairman. The governor as chairman of said commission shall have the authority to appoint advisory committees as he may deem advisable to aid, advise and assist the commission in carrying out the purposes of this chapter. All actions and decisions, however, shall be made by the commission. [1967 ex.s. c 147 § 9.]

43.59.130 Report to legislative transportation committee. The Washington state traffic safety commission shall submit a report each biennium outlining programs planned and steps taken toward improving traffic safety to the chair of the legislative transportation committee. [1987 c 505 § 31; 1971 ex.s. c 195 § 5; 1967 ex.s. c 147 § 14.]

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

43.59.140 Driving while under the influence of intoxicating liquor or any drug—Information and education. The Washington traffic safety commission shall produce and disseminate through all possible media, informational and educational materials explaining the extent of the problems caused by drinking drivers, the need for public involvement in their solution, and the penalties of existing and new laws against driving while under the influence of intoxicating liquor or any drug. [1991 c 290 § 4; 1983 c 165 § 42.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Chapter 43.60A

DEPARTMENT OF VETERANS AFFAIRS

Sections

43.60A.010 Definitions.

43.60A.020 Department created—Transfer of powers, duties, and functions to department.

43.60A.030 Director—Qualifications—Salary—Vacancy.

- 43.60A.040 General powers and duties of director.
 43.60A.050 Assistants—Executive staff—Deputy.
 43.60A.060 Delegation of powers and duties.
 43.60A.070 Additional powers and duties of director.
 43.60A.075 Powers as to state soldiers' home and Washington veterans' home.
 43.60A.080 Veterans affairs advisory committee—Created—Membership—Terms—Powers and duties.
 43.60A.100 Counseling services—War-affected veterans.
 43.60A.110 Counseling—Coordination of programs.
 43.60A.120 Counseling—Priority.
 43.60A.130 Counseling—Posttraumatic stress disorder and combat stress program.
 43.60A.900 Transfer of personnel of department of social and health services engaged in veterans' services—Rights preserved.
 43.60A.901 Transfer of property, records, funds, assets of agencies whose functions are transferred to department.
 43.60A.902 Rules and regulations, pending business, contracts, of agencies whose functions are transferred to department to be continued—Savings.
 43.60A.903 Certification when apportionments of budgeted funds required because of transfers.
 43.60A.904 Federal programs—Rules and regulations—Internal reorganization to meet federal requirements—Construction to comply with federal law—Conflicting parts inoperative.
 43.60A.905 Savings—1975-'76 2nd ex.s. c 115.
 43.60A.906 Collective bargaining units or agreements not altered.
 43.60A.907 Liberal construction—1975-'76 2nd ex.s. c 115.
 43.60A.908 Severability—1975-'76 2nd ex.s. c 115.

Veterans and veterans' affairs: Title 73 RCW.

43.60A.010 Definitions. As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

- (1) "Department" means the department of veterans affairs;
- (2) "Director" means the director of the department of veterans affairs;
- (3) "Committee" means the veterans affairs advisory committee. [1975-'76 2nd ex.s. c 115 § 1.]

43.60A.020 Department created—Transfer of powers, duties, and functions to department. There is hereby created a department of state government to be known as the department of veterans affairs. All powers, duties, and functions now or through action of this legislature vested by law in the department of social and health services relating to veterans and veteran affairs are transferred to the department, except those powers, duties, and functions which are expressly directed elsewhere by law. Powers, duties, and functions to be transferred shall include, but not be limited to, all those powers, duties, and functions involving cooperation with other governmental units, such as cities and counties, or with the federal government, in particular those concerned with participation in federal grants-in-aid programs. Also transferred to the department shall be the powers, duties, and functions of the bonus division of the treasurer's office: PROVIDED, That such transfer shall not occur until the bonus division completes its current duties of accepting and processing bonus claims arising from the Vietnam conflict. This section shall not be construed to continue the powers, duties and functions of said bonus division beyond a time when such powers, duties or functions would otherwise cease. [1975-'76 2nd ex.s. c 115 § 2.]

43.60A.030 Director—Qualifications—Salary—Vacancy. The executive head and appointing authority of the department shall be the director of veterans affairs. The director shall be an honorably discharged or retired veteran of the armed forces of the United States and shall be appointed by the governor with the consent of the senate and shall serve at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when the governor shall present the nomination for the office to that body. [1975-'76 2nd ex.s. c 115 § 3.]

43.60A.040 General powers and duties of director. The director of the department of veterans affairs shall have the power and it shall be the director's duty:

- (1) To conduct, control, and supervise the department;
- (2) To appoint and employ and to determine the powers and duties together with the salaries and other expenses of such clerical and other personnel, subject to the provisions of chapter 41.06 RCW, as are necessary to carry out the duties of the department; and

- (3) To perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this chapter. [1975-'76 2nd ex.s. c 115 § 4.]

43.60A.050 Assistants—Executive staff—Deputy. The director may appoint such assistants and executive staff as shall be needed to administer the department, all of whom shall be veterans. The director shall designate a deputy from the executive staff who shall have charge and general supervision of the department in the absence or disability of the director, and in case of a vacancy in the office of director, shall continue in charge of the department until a successor is appointed and qualified, or until the governor shall appoint an acting director. [1975-'76 2nd ex.s. c 115 § 5.]

Certain personnel of department exempted from state civil service law: RCW 41.06.077.

43.60A.060 Delegation of powers and duties. The director may delegate any power or duty vested in or transferred to the director by law or executive order to a deputy director or to any other assistant or subordinate, but the director shall be responsible for the official acts of the officers and employees of the department. [1975-'76 2nd ex.s. c 115 § 6.]

43.60A.070 Additional powers and duties of director. In addition to other powers and duties, the director is authorized:

- (1) To cooperate with officers and agencies of the United States in all matters affecting veterans affairs;
- (2) To accept grants, donations, and gifts on behalf of this state for veterans affairs from any person, corporation, government, or governmental agency, made for the benefit of a former member of the armed forces of this or any other country;

(3) To be custodian of all the records and files of the selective service system in Washington that may be turned over to this state by the United States or any department, bureau, or agency thereof; and to adopt and promulgate such rules and regulations as may be necessary for the preservation of such records and the proper use thereof in keeping with their confidential nature;

(4) To act without bond as conservator of the estate of a beneficiary of the veterans administration when the director determines no other suitable person will so act;

(5) To extend on behalf of the state of Washington such assistance as the director shall determine to be reasonably required to any veteran and to the dependents of any such veteran;

(6) To adopt rules pursuant to chapter 34.05 RCW, the Administrative Procedure Act, with respect to all matters of administration to carry into effect the purposes of this section. Such proposed rules shall be submitted by the department at the time of filing notice with the code reviser as required by RCW 34.05.320 to the respective legislative committees of the senate and of the house of representatives dealing with the subject of veteran affairs legislation through the offices of the secretary of the senate and chief clerk of the house of representatives. [1989 c 175 § 108; 1975-'76 2nd ex.s. c 115 § 8.]

Effective date—1989 c 175: See note following RCW 34.05.010.

43.60A.075 Powers as to state soldiers' home and Washington veterans' home. The director of the department of veterans affairs shall have full power to manage and govern the state soldiers' home and colony and the Washington veterans' home. [1977 c 31 § 5.]

43.60A.080 Veterans affairs advisory committee—Created—Membership—Terms—Powers and duties. (1) There is hereby created a veterans affairs advisory committee which shall serve in an advisory capacity to the governor and the director of the department of veterans affairs. The committee shall be composed of seventeen members to be appointed by the governor, and shall consist of the following:

(a) One representative of the Washington soldiers' home and colony at Orting and one representative of the Washington veterans' home at Retsil. Each home's resident council may nominate up to three individuals whose names are to be forwarded by the director to the governor. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(b) One representative each from the three congressionally chartered or nationally recognized veterans service organizations as listed in the current "Directory of Veterans Service Organizations" published by the United States department of veterans affairs with the largest number of active members in the state of Washington as determined by the director. The organizations' state commanders may each submit a list of three names to be forwarded to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(c) Ten members shall be chosen to represent those congressionally chartered or nationally recognized veterans

service organizations listed in the directory under (b) of this subsection and having at least one active chapter within the state of Washington. Up to three nominations may be forwarded from each organization to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(d) Two members shall be veterans at large. Any individual or organization may nominate a veteran for an at-large position. Organizational affiliation shall not be a prerequisite for nomination or appointment. All nominations for the at-large positions shall be forwarded by the director to the governor.

(e) No organization shall have more than one official representative on the committee at any one time.

(f) In making appointments to the committee, care shall be taken to ensure that members represent all geographical portions of the state and minority viewpoints, and that the issues and views of concern to women veterans are represented.

(2) All members shall have terms of four years. In the case of a vacancy, appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member may serve more than two consecutive terms, with vacancy appointments to an unexpired term not considered as a term. Members appointed before June 11, 1992, shall continue to serve until the expiration of their current terms; and then, subject to the conditions contained in this section, are eligible for reappointment.

(3) The committee shall adopt an order of business for conducting its meetings.

(4) The committee shall have the following powers and duties:

(a) To serve in an advisory capacity to the governor and the director on matters pertaining to the department of veterans affairs;

(b) To acquaint themselves fully with the operations of the department and recommend such changes to the governor and the director as they deem advisable.

(5) Members of the committee shall receive no compensation for the performance of their duties but shall receive a per diem allowance and mileage expense according to the provisions of chapter 43.03 RCW. [1995 c 25 § 1; 1992 c 35 § 1; 1987 c 59 § 1; 1985 c 63 § 1; 1983 c 34 § 1; 1977 ex.s. c 285 § 1; 1975-'76 2nd ex.s. c 115 § 14.]

43.60A.100 Counseling services—War-affected veterans. The department of veterans affairs, to the extent funds are made available, shall: (1) Contract with professional counseling specialists to provide a range of direct treatment services to war-affected state veterans and to those national guard and reservists who served in the Middle East, and their family members; (2) provide additional treatment services to Washington state Vietnam veterans for post traumatic stress disorder, particularly for those veterans whose post traumatic stress disorder has intensified or initially emerged due to the war in the Middle East; (3) provide an educational program designed to train primary care professionals, such as mental health professionals, about the effects of war-related stress and trauma; (4) provide informational and counseling services for the purpose of

establishing and fostering peer-support networks throughout the state for families of deployed members of the reserves and the Washington national guard; (5) provide for veterans' families, a referral network of community mental health providers who are skilled in treating deployment stress, combat stress, and post traumatic stress. [1991 c 55 § 1.]

43.60A.110 Counseling—Coordination of programs.

The department shall coordinate the programs contained in RCW 43.60A.100 with the services offered by the department of social and health services, local mental health organizations; and the federal department of veterans affairs to minimize duplication. [1991 c 55 § 2.]

43.60A.120 Counseling—Priority. The department of veterans affairs shall give priority in its counseling and instructional programs to treating state veterans located in rural areas of the state, especially those who are members of traditionally underserved minority groups, and women veterans. [1991 c 55 § 3.]

43.60A.130 Counseling—Posttraumatic stress disorder and combat stress program. The department of veterans affairs shall design its posttraumatic stress disorder and combat stress programs and related activities to provide veterans with as much privacy and confidentiality as possible and yet consistent with sound program management. [1991 c 55 § 4.]

43.60A.900 Transfer of personnel of department of social and health services engaged in veterans' services—Rights preserved. All employees and personnel of the department of social and health services directly engaged in services to veterans shall, on June 25, 1976, be transferred to the jurisdiction of the department of veterans affairs. All employees classified under chapter 41.06 RCW, the state civil service law, shall be assigned to the department to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state civil service law. [1975-'76 2nd ex.s. c 115 § 9.]

43.60A.901 Transfer of property, records, funds, assets of agencies whose functions are transferred to department. All reports, documents, surveys, books, records, files, papers, or other writings in the possession of all departments and agencies of state government concerned with veterans services, and pertaining to the functions affected by this chapter, shall be delivered to the custody of the department of veterans affairs. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the powers and duties transferred by this chapter shall be made available to the department. All funds, credits, or other assets held in connection with the functions transferred by this chapter shall be assigned to the department.

Any appropriations made to the department of social and health services or other departments or agencies affected by this chapter for the purpose of carrying out the powers and duties transferred by this chapter, shall on June 25,

1976, be transferred and credited to the department of veterans affairs for the purpose of carrying out such transferred powers and duties.

Whenever any question arises as to the transfer of any funds, including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or any other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred under this chapter, the director of financial management or successor thereto shall make a determination as to the proper allocation and certify the same to the state departments and agencies concerned. [1979 c 151 § 125; 1975-'76 2nd ex.s. c 115 § 10.]

43.60A.902 Rules and regulations, pending business, contracts, of agencies whose functions are transferred to department to be continued—Savings. All rules and regulations, and all pending business before the departments and agencies or divisions thereof affected by this chapter pertaining to matters transferred by this chapter, as of June 25, 1976, shall be continued and acted upon by the department. All existing contracts and obligations pertaining to the functions transferred by this chapter shall remain in full force and effect, and shall be performed by the department. Neither the transfer of any department or agency, or division thereof, nor any transfer of powers, duties, and functions, shall affect the validity of any act performed by such department or agency or division thereof or any officer or employee thereof prior to June 25, 1976. [1975-'76 2nd ex.s. c 115 § 11.]

43.60A.903 Certification when apportionments of budgeted funds required because of transfers. If apportionments of budgeted funds are required because of the transfers authorized by this chapter, the director of financial management shall certify such apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with such certification. [1979 c 151 § 126; 1975-'76 2nd ex.s. c 115 § 12.]

43.60A.904 Federal programs—Rules and regulations—Internal reorganization to meet federal requirements—Construction to comply with federal law—Conflicting parts inoperative. In furtherance of the policy of the state to cooperate with the federal government in all of the programs included in this chapter, such rules and regulations as may become necessary to entitle the state to participate in federal funds may be adopted, unless the same be expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements which are a necessary condition to state receipt of federal funds. Any section or provision of this chapter which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. If any part of this chapter is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any departments or

agencies thereof, such conflicting part of this chapter is declared to be inoperative solely to the extent of the conflict. [1975-'76 2nd ex.s. c 115 § 13.]

43.60A.905 Savings—1975-'76 2nd ex.s. c 115. Nothing in this chapter shall be construed to affect any existing rights acquired under RCW 43.17.010, 43.17.020, 43.61.030, 43.61.040, or 43.61.070, as now or hereafter amended, except as to the governmental agencies referred to and their officials and employees, nor as affecting any actions, activities, or proceedings validated thereunder, nor as affecting any civil or criminal proceedings instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor any administrative action taken thereunder; and neither the abolition of any agency or division thereof nor any transfer of powers, duties, and functions as provided herein, shall affect the validity of any act performed by such agency or division thereof or any officer thereof prior to June 25, 1976. [1983 c 3 § 112; 1975-'76 2nd ex.s. c 115 § 15.]

43.60A.906 Collective bargaining units or agreements not altered. Nothing contained in this chapter shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until any such agreement has expired or until any such bargaining unit has been modified by action of the Washington personnel resources board as provided by law. [1993 c 281 § 52; 1975-'76 2nd ex.s. c 115 § 16.]

Effective date—1993 c 281: See note following RCW 41.06.022.

43.60A.907 Liberal construction—1975-'76 2nd ex.s. c 115. The rule of strict construction shall have no application to this chapter and it shall be liberally construed in order to carry out the objective for which it is designed, in accordance with the legislative intent to give the director the maximum possible freedom in carrying the provisions of this chapter into effect. [1975-'76 2nd ex.s. c 115 § 17.]

43.60A.908 Severability—1975-'76 2nd ex.s. c 115. If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 115 § 25.]

Chapter 43.61

VETERANS' REHABILITATION COUNCIL

Sections

- 43.61.030 Contracts with veterans' organizations to provide veterans services—Use of funds.
- 43.61.040 Director of veterans affairs to make rules and regulations—Veteran services—Annual report.
- 43.61.060 Donations may be accepted—Procedure for allotment and use.
- 43.61.070 Payments to veterans' organizations—Approval by director of veterans affairs.

Department of veterans affairs: Chapter 43.60A RCW.

43.61.030 Contracts with veterans' organizations to provide veterans services—Use of funds. The director of veterans affairs is empowered to contract with any veterans' organizations, now or hereafter chartered by act of congress to provide veterans services. All sums paid to veterans' organizations under contract shall be used by the organizations as specified in the contract in the maintenance of a rehabilitation service and to assist veterans in the prosecution of their claims and the solution of their problems arising out of military service. Such service and assistance shall be rendered all veterans and their dependents and also all beneficiaries of any military claim, and shall include but not be limited to those services now rendered by the service departments of the respective member organizations. [1983 c 260 § 1; 1975-'76 2nd ex.s. c 115 § 21; 1971 ex.s. c 189 § 5; 1970 ex.s. c 18 § 33; 1965 c 8 § 43.61.030. Prior: 1947 c 110 § 6; RRS § 10758-105.]

Savings—Construction—Severability—1975-'76 2nd ex.s. c 115: See RCW 43.60A.905, 43.60A.907, 43.60A.908.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

43.61.040 Director of veterans affairs to make rules and regulations—Veteran services—Annual report. The director of veterans affairs shall make such rules and regulations as may be necessary to carry out the purposes of this chapter. The department shall furnish information, advice, and assistance to veterans and coordinate all programs and services in the field of veterans' claims service, education, health, vocational guidance and placement, and services not provided by some other agency of the state or by the federal government. The director shall submit a report of the departments' activities hereunder each year to the governor. [1977 c 75 § 60; 1975-'76 2nd ex.s. c 115 § 22; 1971 ex.s. c 189 § 6; 1970 ex.s. c 18 § 34; 1965 c 8 § 43.61.040. Prior: 1947 c 110 § 3; RRS § 10758-102.]

Savings—Construction—Severability—1975-'76 2nd ex.s. c 115: See RCW 43.60A.905, 43.60A.907, 43.60A.908.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

43.61.060 Donations may be accepted—Procedure for allotment and use. The department of veterans affairs may receive gifts, donations, and grants from any person or agency and all such gifts, donations, and grants shall be placed in the general fund and may be allotted and used in accordance with the donors' instructions as an unanticipated receipt pursuant to RCW 43.79.270 through 43.79.282 as now existing or hereafter amended. [1979 ex.s. c 59 § 1; 1971 ex.s. c 189 § 7; 1965 c 8 § 43.61.060. Prior: 1947 c 110 § 5; RRS § 10758-104.]

43.61.070 Payments to veterans' organizations—Approval by director of veterans affairs. Payments to any veterans' organization shall first be approved by the director of veterans affairs and insofar as possible shall be made on an equitable basis for work done. [1975-'76 2nd ex.s. c 115 § 24; 1970 ex.s. c 18 § 36; 1965 c 8 § 43.61.070. Prior: 1947 c 110 § 7; RRS § 10758-106.]

Savings—Construction—Severability—1975-'76 2nd ex.s. c 115: See RCW 43.60A.905, 43.60A.907, 43.60A.908.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

Chapter 43.62

DETERMINATION OF POPULATIONS—STUDENT ENROLLMENTS

Sections

- 43.62.010 Office of financial management—Population studies—Expenditures.
- 43.62.020 Method of allocating state funds to cities and towns prescribed.
- 43.62.030 Determination of population—Cities and towns—Certificate—Allocation of state funds.
- 43.62.035 Determining population—Projections.
- 43.62.040 Assistance to office of financial management—Determination by office of financial management conclusive.
- 43.62.050 Student enrollment forecasts—Report.

43.62.010 Office of financial management—Population studies—Expenditures. If the state or any of its political subdivisions, or other agencies, use the population studies services of the office of financial management or the successor thereto, the state, its political subdivision, or other agencies utilizing such services shall pay for the cost of rendering such services. Expenditures shall be paid out of funds allocated to cities and towns under RCW 82.44.155 and shall be paid from said fund before any allocations or payments are made to cities and towns under RCW 82.44.155. [1990 c 42 § 317; 1979 c 151 § 127; 1975-'76 2nd ex.s. c 34 § 121; 1965 c 8 § 43.62.010. Prior: 1957 c 175 § 1; 1951 c 96 § 1; 1947 c 51 § 2; RRS § 5508-11.]

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

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

43.62.020 Method of allocating state funds to cities and towns prescribed. Whenever cities and towns of the state are, by law, allocated and entitled to be paid any funds or state moneys from any source, and the allocation and payment is required to be made on a populations basis, notwithstanding the provisions of any other law to the contrary, all such allocations shall be made on the basis of the population of the respective cities and towns as last determined by the office of financial management: **PROVIDED,** That the regular federal decennial census figures released for cities and towns shall be considered by the office of financial management in determining the population of cities and towns. [1979 c 151 § 128; 1965 c 8 § 43.62.020. Prior: 1957 c 175 § 2; prior: (i) 1949 c 60 § 1; RRS § 5508-3. (ii) 1947 c 51 § 1; RRS § 5508-10.]

43.62.030 Determination of population—Cities and towns—Certificate—Allocation of state funds. The office of financial management shall annually as of April 1st, determine the populations of all cities and towns of the state; and on or before July 1st of each year, shall file with the secretary of state a certificate showing its determination as to the populations of cities and towns of the state. A copy of such certificate shall be forwarded by the agency to each state official or department responsible for making alloca-

tions or payments, and on and after January 1st next following the date when such certificate or certificates are filed, the population determination shown in such certificate or certificates shall be used as the basis for the allocation and payment of state funds, to cities and towns until the next January 1st following the filing of successive certificates by the agency: **PROVIDED,** That whenever territory is annexed to a city or town, the population of the annexed territory shall be added to the population of the annexing city or town upon the effective date of the annexation as specified in the relevant ordinance, and upon approval of the agency as provided in RCW 35.13.260, as now or hereafter amended, a revised certificate reflecting the determination of the population as increased from such annexation shall be forwarded by the agency to each state official or department responsible for making allocations or payments, and upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for allocation and payment of state funds to such city or town until the next annual population determination becomes effective: **PROVIDED FURTHER,** That whenever any city or town becomes incorporated subsequent to the determination of such population, the populations of such cities and towns as shown in the records of incorporation filed with the secretary of state shall be used in determining the amount of allocation and payments, and the agency shall so notify the proper state officials or departments, and such cities and towns shall be entitled to participate in allocations thereafter made: **PROVIDED FURTHER,** That in case any incorporated city or town disincorporates subsequent to the filing of such certificate or certificates, the agency shall promptly notify the proper state officials or departments thereof, and such cities and towns shall cease to participate in allocations thereafter made, and all credit accrued to such incorporated city or town shall be distributed to the credit of the remaining cities and towns. The secretary of state shall promptly notify the agency of the incorporation of each new city and town and of the disincorporation of any cities or towns.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate due to an annexation is forwarded by the agency thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

Armed forces shipboard population, on-base naval group quarter population, and military dependents living in housing under United States navy jurisdiction, shall be determined quarterly by the office of financial management on the first days of January, April, July, and October. These counts shall be used to increase or decrease the armed forces component of the resident population determinations in the cities of Bremerton and Everett for the purpose of allocating state revenues according to this section. Counts on the first day of the quarterly periods commencing with January, April, July, and October shall be used to adjust the total population for the following quarter, in the same manner adjustments are made for population changes due to annexation as specified in RCW 35.13.260 and 35A.14.700.

Population determinations made under this section shall include only those persons who meet resident population criteria as defined by the federal bureau of the census. [1988 c 260 § 1; 1979 c 151 § 129; 1977 c 75 § 61; 1969 ex.s. c 50 § 2; 1965 c 8 § 43.62.030. Prior: 1957 c 175 § 3; 1951 c 96 § 2.]

Determination of population of area annexed to city: RCW 35.13.260.

43.62.035 Determining population—Projections.

The office of financial management shall determine the population of each county of the state annually as of April 1st of each year and on or before July 1st of each year shall file a certificate with the secretary of state showing its determination of the population for each county. The office of financial management also shall determine the percentage increase in population for each county over the preceding ten-year period, as of April 1st, and shall file a certificate with the secretary of state by July 1st showing its determination. At least once every ten years the office of financial management shall prepare twenty-year growth management planning population projections required by RCW 36.70A.110 for each county that adopts a comprehensive plan under RCW 36.70A.040 and shall review these projections with such counties and the cities in those counties before final adoption. The county and its cities may provide to the office such information as they deem relevant to the office's projection, and the office shall consider and comment on such information before adoption. Each projection shall be expressed as a reasonable range developed within the standard state high and low projection. The middle range shall represent the office's estimate of the most likely population projection for the county. If any city or county believes that a projection will not accurately reflect actual population growth in a county, it may petition the office to revise the projection accordingly. The office shall complete the first set of ranges for every county by December 31, 1995.

A comprehensive plan adopted or amended before December 31, 1995, shall not be considered to be in non-compliance with the twenty-year growth management planning population projection if the projection used in the comprehensive plan is in compliance with the range later adopted under this section. [1995 c 162 § 1; 1991 sp.s. c 32 § 30; 1990 1st ex.s. c 17 § 32.]

Effective date—1995 c 162: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 27, 1995]." [1995 c 162 § 2.]

Section headings not law—1991 sp.s. c 32: See RCW 36.70A.902.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

43.62.040 Assistance to office of financial management—Determination by office of financial management conclusive. The department of revenue or any other state officer or officials of cities, towns, or counties shall upon request of the office of financial management furnish such information, aid, and assistance as may be required by the office of financial management in the performance of its population studies. The action of the office of financial management in determining the population shall be final and conclusive. [1979 c 151 § 130; 1975 1st ex.s. c 278 § 25;

1965 c 8 § 43.62.040. Prior: 1957 c 175 § 4; 1951 c 96 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

43.62.050 Student enrollment forecasts—Report.

The office of financial management shall develop and maintain student enrollment forecasts of Washington schools, including both public and private, elementary schools, junior high schools, high schools, colleges, and universities. A current report of such forecasts shall be submitted to the standing committees on ways and means of the house and the senate on or before the fifteenth day of November of each even-numbered year. [1979 c 151 § 131; 1977 c 75 § 62; 1975 1st ex.s. c 293 § 2; 1965 c 8 § 43.62.050. Prior: 1959 c 171 § 1; 1957 c 229 § 1.]

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

Review of reported FTE students: RCW 28A.150.260.

Chapter 43.63A

DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

(Formerly: Department of community development)

Sections

- 43.63A.021 Definitions.
- 43.63A.066 Child abuse and neglect prevention training for participants in head start or early childhood education assistance programs—Department's duties.
- 43.63A.067 Early childhood assistance programs, department's duties.
- 43.63A.075 Community development finance program.
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- 43.63A.115 Community action agency network—Delivery system for federal and state anti-poverty programs.
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 - 43.63A.740 Prostitution prevention and intervention account.
 - 43.63A.900 Severability—1967 c 74.
 - 43.63A.901 Severability—1984 c 125.
 - 43.63A.902 Headings—1984 c 125.
 - 43.63A.903 Effective date—1984 c 125.
- Annexations to cities or towns, annexation certificate submitted to the department of community, trade, and economic development: RCW 35.13.260.*
- Center for volunteerism and citizen service within department of community, trade, and economic development: RCW 43.150.040.*
- Community and technical college board to assist in enrollment projections: RCW 28B.50.090.*
- Local governmental organizations, actions affecting boundaries, etc., review by boundary review board: Chapter 3693 RCW.*
- Scenic and recreational highway act, planning and design standards established by department of community, trade, and economic development: RCW 47.39.040.*
- State occupational forecast—Other agencies consulted prior to: RCW 50.38.030.*

43.63A.021 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Dislocated forest products worker" means a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(2) "Forest products worker" means a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The

workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c).

(3) "Dislocated salmon fishing worker" means a salmon products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(4) "Salmon fishing worker" means a worker in the salmon industry affected by 1994 or future salmon disasters. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries involved in the commercial and recreational harvesting of salmon including buying and processing salmon. The commissioner may adopt rules further interpreting these definitions. [1995 c 226 § 11.]

Sunset Act application: See note following RCW 43.31.601.

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

43.63A.066 Child abuse and neglect prevention training for participants in head start or early childhood education assistance programs—Department's duties. The department of community, trade, and economic development shall have primary responsibility for providing child abuse and neglect prevention training to preschool age children participating in the federal head start program or the early childhood education and assistance program established under RCW 28A.215.010 through 28A.215.200 and 28A.215.900 through 28A.215.908. [1993 c 280 § 58; 1990 c 33 § 579; 1987 c 489 § 4.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Intent—1987 c 489: See note following RCW 28A.300.150.

43.63A.067 Early childhood assistance programs, department's duties. See chapter 28A.215 RCW.

43.63A.075 Community development finance program. The department shall establish a community development finance program. Pursuant to this program, the department shall: (1) Develop expertise in federal, state, and local community and economic development programs; and

(2) assist communities and businesses to secure available financing. To the extent permitted by federal law, the department is encouraged to use federal community block grants to make urban development action grants to communities which have not been eligible to receive such grants prior to June 30, 1984. [1993 c 280 § 59; 1985 c 466 § 53; 1984 c 125 § 6.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

43.63A.105 Considerations in designating local community action and community service agencies. In designating local community action agencies or local community service agencies, the department shall give special consideration to (1) agencies previously funded under any community services or antipoverty program; (2) agencies meeting state and federal program and fiscal requirements; and (3) successors to such agencies. [1984 c 125 § 10.]

43.63A.115 Community action agency network—Delivery system for federal and state anti-poverty programs. (1) The community action agency network, established initially under the federal economic opportunity act of 1964 and subsequently under the federal community services block grant program of 1981, as amended, shall be a delivery system for federal and state anti-poverty programs in this state, including but not limited to the community services block grant program, the low-income energy assistance program, and the federal department of energy weatherization program.

(2) Local community action agencies comprise the community action agency network. The community action agency network shall serve low-income persons in the counties. Each community action agency and its service area shall be designated in the state federal community service block grant plan as prepared by the department of community, trade, and economic development.

(3) Funds for anti-poverty programs may be distributed to the community action agencies by the department of community, trade, and economic development and other state agencies in consultation with the authorized representatives of community action agency networks. [1993 c 280 § 60; 1990 c 156 § 1.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

43.63A.150 State census board abolished. The state census board is hereby abolished. [1967 ex.s. c 42 § 3.]

Effective date—1967 ex.s. c 42: See note following RCW 3.30.010.

Savings—1967 ex.s. c 42: See note following RCW 3.30.010.

Population determinations, office financial management: Chapter 43.62 RCW.

43.63A.155 Local government bond information—Publication—Rules. The department of community, trade, and economic development shall retain the bond information it receives under RCW 39.44.210 and 39.44.230 and shall publish summaries of local government bond issues at least once a year.

The department of community, trade, and economic development shall adopt rules under chapter 34.05 RCW to implement RCW 39.44.210 and 39.44.230. [1993 c 280 § 61; 1989 c 225 § 5; 1985 c 130 § 6.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

43.63A.190 Distribution of funds for border areas. Funds appropriated by the legislature as supplemental resources for border areas shall be distributed by the state treasurer pursuant to the formula for distributing funds from the liquor revolving fund to border areas, and expenditure requirements for such distributions, under RCW 66.08.196. [1995 c 159 § 5; 1984 c 125 § 11; 1981 c 269 § 2.]

Effective date—1995 c 159: See note following RCW 66.08.190.

Legislative declaration—1981 c 269: "The legislature finds and declares that certain counties and municipalities near international borders are subjected to a constant volume and flow of travelers and visitors for whom local government services must be provided. The legislature further finds that it is in the public interest and for the protection of the health, property, and welfare of the residents and visitors to provide supplemental resources to augment and maintain existing levels of police protection in these areas." [1981 c 269 § 1.]

43.63A.215 Accessory apartments—Development and placement—Local governments. (1) The department shall, in consultation with the affordable housing advisory board created in RCW 43.185B.020, report to the legislature on the development and placement of accessory apartments. The department shall produce a written report by December 15, 1993, which:

(a) Identifies local governments that allow the siting of accessory apartments in areas zoned for single-family residential use; and

(b) Makes recommendations to the legislature designed to encourage the development and placement of accessory apartments in areas zoned for single-family residential use.

(2) The recommendations made under subsection (1) of this section shall not take effect before ninety days following adjournment of the 1994 regular legislative session.

(3) Unless provided otherwise by the legislature, by December 31, 1994, local governments shall incorporate in their development regulations, zoning regulations, or official controls the recommendations contained in subsection (1) of this section. The accessory apartment provisions shall be part of the local government's development regulation, zoning regulation, or official control. To allow local flexibility, the recommendations shall be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority.

(4) As used in this section, "local government" means:

(a) A city or code city with a population that exceeds twenty thousand;

(b) A county that is required to or has elected to plan under the state growth management act; and

(c) A county with a population that exceeds one hundred twenty-five thousand. [1993 c 478 § 7.]

43.63A.220 Encouragement and assistance to the formation of employee stock ownership plans—Study and plan—Report. (1) The department of community, trade, and economic development is directed to undertake a study

as to the best means of providing encouragement and assistance to the formulation of employee stock ownership plans providing for the partial or total acquisition, through purchase, distribution in lieu of compensation, or a combination of these means or any other lawful means, of shares of stock or other instruments of equity in facilities by persons employed at these facilities in cases in which operations at these facilities would, absent employee equity ownership, be terminated, relocated outside of the state, or so reduced in volume as to entail the permanent layoff of a substantial number of the employees.

(2) In conducting its study, the department shall:

(a) Consider federal and state law relating directly or indirectly to plans proposed under subsection (1) of this section, and to the organization and operation of any trusts established pursuant to the plans, including but not limited to, the federal internal revenue code and any regulations promulgated under the internal revenue code, the federal securities act of 1933 as amended and other federal statutes providing for regulation of the issuance of securities, the federal employee retirement income and security act of 1974 as amended, the Chrysler loan guarantee legislation enacted by the United States congress in 1979, and other federal and state laws relating to employment, compensation, taxation, and retirement;

(b) Consult with relevant persons in the public sector, relevant persons in the private sector, including trustees of any existing employee stock ownership trust, and employees of any firm operating under an employee stock ownership trust, and with members of the academic community and of relevant branches of the legal profession;

(c) Examine the experience of trusts organized pursuant to an employee stock ownership plan in this state or in any other state; and

(d) Make other investigations as it may deem necessary in carrying out the purposes of this section.

(3) Pursuant to the findings and conclusions of the study conducted under subsection (2) of this section, the department of community, trade, and economic development shall develop a plan to encourage and assist the formulation of employee stock ownership plans providing for the acquisition of stock by employees of facilities in this state which are subject to closure or drastically curtailed operation. The department shall determine the amount of any costs of implementing the plan.

(4) The director of community, trade, and economic development shall, within one year of July 28, 1985, report the findings and conclusion of the study, together with details of the plan developed pursuant to the study, to the legislature, and shall include in the report any recommendations for legislation which the director deems appropriate.

(5) The department of community, trade, and economic development shall carry out its duties under this section using available resources. [1993 c 280 § 62; 1987 c 505 § 34; 1985 c 263 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative declaration—1985 c 263: "The legislature declares it to be the policy of this state to encourage the broadening of the base of capital ownership among wider numbers of Washington citizens, and to encourage the use of employee stock ownership plans as one means of broadening the ownership of capital." [1985 c 263 § 1.]

43.63A.230 Employee ownership program—Advisory panel—Reports—When employee stock ownership plans qualify. (1) The department of community, trade, and economic development shall integrate an employee ownership program within its existing technical assistance programs. The employee ownership program shall provide technical assistance to cooperatives authorized under chapter 23.78 RCW and conduct educational programs on employee ownership and self-management. The department shall include information on the option of employee ownership wherever appropriate in its various programs.

(2) The department shall maintain a list of firms and individuals with expertise in the field of employee ownership and utilize such firms and individuals, as appropriate, in delivering and coordinating the delivery of technical, managerial, and educational services. In addition, the department shall work with and rely on the services of the employment security department and state institutions of higher education to promote employee ownership.

(3) The department shall report to the governor, the appropriate economic development committees of the senate and the house of representatives, and the ways and means committees of each house by December 1 of 1988, and each year thereafter, on the accomplishments of the employee-ownership program. Such reports shall include the number and types of firms assisted, the number of jobs created by such firms, the types of services, the number of workshops presented, the number of employees trained, and the results of client satisfaction surveys distributed to those using the services of the program.

(4) For purposes of this section, an employee stock ownership plan qualifies as a cooperative if at least fifty percent, plus one share, of its voting shares of stock are voted on a one-person-one-vote basis. [1993 c 280 § 63; 1988 c 186 § 17; 1987 c 457 § 15.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—1988 c 186 § 17: "Section 17 of this act shall take effect June 30, 1993." [1988 c 186 § 18.]

Severability—1987 c 457: See RCW 23.78.902.

43.63A.240 Senior environmental corps—Finding. The legislature finds that:

Enhancement and protection of the state's environment demands more resources than government funding can provide;

A critical underutilized asset to society is the knowledge, skills, abilities, and wisdom of our expanding, able senior population;

Central to the well-being and continued connection to society of Washington's senior citizens is the opportunity for them to voluntarily continue to provide meaningful contributions and to share their professional training, lifelong skills, talents, and wisdom with Washington state's citizens;

It will benefit all the citizens of the state of Washington to create a partnership between our senior citizens and the state's natural resource agencies to augment our capability to protect, enhance, and appreciate the environment. [1992 c 63 § 1.]

Severability—1992 c 63: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of

the act or the application of the provision to other persons or circumstances is not affected." [1992 c 63 § 16.]

43.63A.245 Senior environmental corps—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.63A.240 through 43.63A.270.

"Agency" means one of the agencies or organizations participating in the activities of the senior environmental corps.

"Coordinator" means the person designated by the director of community, trade, and economic development with the advice of the council to administer the activities of the senior environmental corps.

"Corps" means the senior environmental corps.

"Council" means the senior environmental corps coordinating council.

"Department" means the department of community, trade, and economic development.

"Director" means the director of community, trade, and economic development or the director's authorized representative.

"Representative" means the person who represents an agency on the council and is responsible for the activities of the senior environmental corps in his or her agency.

"Senior" means any person who is fifty-five years of age or over.

"Volunteer" means a person who is willing to work without expectation of salary or financial reward, and who chooses where he or she provides services and the type of services he or she provides. [1993 c 280 § 64; 1992 c 63 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.247 Senior environmental corps—Created. The senior environmental corps is created within the department of community, trade, and economic development. The departments of agriculture, community, trade, and economic development, employment security, ecology, fish and wildlife, health, and natural resources, the parks and recreation commission, and the *Puget Sound water quality authority shall participate in the administration and implementation of the corps and shall appoint representatives to the council. [1994 c 264 § 25; 1993 c 280 § 65; 1992 c 63 § 3.]

***Reviser's note:** The Puget Sound water quality authority and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1995, and repealed June 30, 1996. See 1990 c 115 §§ 11 and 12. Powers, duties, and functions of the Puget Sound water quality authority pertaining to cleanup and protection of Puget Sound transferred to the Puget Sound action team by 1996 c 138 § 11. See RCW 90.71.903.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.249 Senior environmental corps—Goals. The goals of the corps shall be to:

Provide resources and a support structure to facilitate corps activities and accomplish goals;

Carry out professional and paraprofessional projects that focus on conservation, protection, rehabilitation, and enhancement of the state's natural, environmental, and recreational resources and that otherwise would not be implemented because of limited financial resources;

Provide meaningful opportunities for senior volunteers to continue to utilize their professional training, lifelong skills, abilities, experience, and wisdom through participation in corps projects;

Assist agencies in carrying out statutory assignments with limited funding resources;

Enhance community understanding of environmental issues through educational outreach; and

Enhance the state's ability to provide needed public services in both urban and rural settings. [1992 c 63 § 4.]

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.260 Senior environmental corps—Coordinating council—Duties. The department shall convene a senior environmental corps coordinating council to meet as needed to establish and assess policies, define standards for projects, evaluate and select projects, develop recruitment, training, and placement procedures, receive and review project status and completion reports, and provide for recognition of volunteer activity. The council shall include representatives appointed by the departments of agriculture, community, trade, and economic development, ecology, fish and wildlife, health, and natural resources, the parks and recreation commission, and the *Puget Sound water quality authority. The council shall develop bylaws, policies and procedures to govern its activities.

The council shall advise the director on distribution of available funding for corps activities. [1994 c 264 § 26; 1993 c 280 § 66; 1992 c 63 § 5.]

***Reviser's note:** The Puget Sound water quality authority and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1995, and repealed June 30, 1996. See 1990 c 115 §§ 11 and 12. Powers, duties, and functions of the Puget Sound water quality authority pertaining to cleanup and protection of Puget Sound transferred to the Puget Sound action team by 1996 c 138 § 11. See RCW 90.71.903.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.265 Senior environmental corps—Department duties—Volunteers may not displace currently employed workers. (1) Contingent upon available funding, the department shall:

Provide a coordinator and staff support to the council as needed;

Provide support to the agencies for recruitment of volunteers;

Develop a budget and allocate available funds with the advice of the council;

Develop a written volunteer agreement;

Collect and maintain project and volunteer records;

Provide reports to the legislature and the council as requested;

Provide agency project managers and volunteers with orientation to the corps program and training in the use of volunteers;

Act as a liaison with and provide information to other states and jurisdictions on the corps program and program activities;

Appoint a representative to the coordinating council;

Develop project proposals;

Administer project activities within the agency;

Develop appropriate procedures for the use of volunteers;

Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;

Maintain project records and provide project reports;

Apply for and accept grants or contributions for corps approved projects; and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers. [1992 c 63 § 6.]

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.270 Senior environmental corps—Volunteer activity to be governed by agreement. All volunteer activity must be performed under the terms of a written master agreement approved by the council and the attorney general. As a minimum, the volunteer agreement must include a description of the work that the volunteer is to perform, including the standards of performance required, any expenses or other benefits to which the volunteer is to be entitled, such as mileage, lodging, state industrial coverage, uniforms, or other clothing or supplies, training or other support to be provided to the volunteer by the agency, the duration of the agreement, and the terms under which the agreement may be canceled. [1992 c 63 § 7.]

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.275 Retired senior volunteer programs (RSVP)—Funds distribution. (1) Each biennium the department of community, trade, and economic development shall distribute such funds as are appropriated for retired senior volunteer programs (RSVP) as follows:

(a) At least sixty-five percent of the moneys may be distributed according to formulae and criteria to be determined by the department of community, trade, and economic development in consultation with the RSVP directors association.

(b) Up to twenty percent of the moneys may be distributed by competitive grant process to develop RSVP projects in counties not presently being served, or to expand existing RSVP services into counties not presently served.

(c) Ten percent of the moneys may be used by the department of community, trade, and economic development for administration, monitoring of the grants, and providing technical assistance to the RSVP projects.

(d) Up to five percent of the moneys may be used to support projects that will benefit RSVPs state-wide.

(2) Grants under subsection (1) of this section shall give priority to programs in the areas of education, tutoring, English as a second language, combating of and education

on drug abuse, housing and homeless, and respite care, and shall be distributed in accordance with the following:

(a) None of the grant moneys may be used to displace any paid employee in the area being served.

(b) Grants shall be made for programs that focus on:

(i) Developing new roles for senior volunteers in nonprofit and public organizations with special emphasis on areas targeted in section 1, chapter 65, Laws of 1992. The roles shall reflect the diversity of the local senior population and shall respect their life experiences;

(ii) Increasing the expertise of volunteer managers and RSVP managers in the areas of communication, recruitment, motivation, and retention of today's over-sixty population;

(iii) Increasing the number of senior citizens recruited, referred, and placed with nonprofit and public organizations; and

(iv) Providing volunteer support such as: Mileage to and from the volunteer assignment, recognition, and volunteer insurance. [1993 c 280 § 67; 1992 c 65 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1992 c 65: "The legislature finds that there is a growing number of citizens in the state over the age of sixty who have much to offer their fellow citizens and communities through volunteer service. The legislature further finds that public programs for education, at-risk youth, adult literacy, and combating drug abuse have benefited from and are still in need of the assistance of skilled retired senior volunteer programs. In addition the legislature further finds that public programs for developmentally disabled, environmental protection, corrections, crime prevention, mental health, long-term and respite care, and housing and homeless, among others, are also in need of volunteer assistance from the retired senior volunteer program.

Therefore, the legislature intends to encourage the increased involvement of senior volunteers by providing funding throughout Washington to promote the development and enhancement of such programs." [1992 c 65 § 1.]

43.63A.400 Grants to public broadcast stations.

The department of community, trade, and economic development shall distribute grants to eligible public radio and television broadcast stations under RCW 43.63A.410 and 43.63A.420 to assist with programming, operations, and capital needs. [1993 c 280 § 72; 1987 c 308 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings—1987 c 308: "The legislature finds that public broadcasting creates a cultural and educational environment that is important to the citizens of the state. The legislature also finds that it is in the public interest to provide state support to bring cultural, educational, and public affairs broadcasting services to the citizens of the state." [1987 c 308 § 1.]

43.63A.410 Grants to broadcast stations eligible for grants from corporation for public broadcasting—Formula—Annual financial statements. (1) Eligibility for grants under this section shall be limited to broadcast stations which are:

(a) Licensed to Washington state organizations, nonprofit corporations, or other entities under section 73.621 of the regulations of the federal communications commission; and

(b) Qualified to receive community service grants from the federally chartered corporation for public broadcasting. Eligibility shall be established as of February 28th of each year.

(2) The formula in this subsection shall be used to compute the amount of each eligible station's grant under this section.

(a) Appropriations under this section shall be divided into a radio fund, which shall be twenty-five percent of the total appropriation under this section, and a television fund, which shall be seventy-five percent of the total appropriation under this section. Each of the two funds shall be divided into a base grant pool, which shall be fifty percent of the fund, and an incentive grant pool, which shall be the remaining fifty percent of the fund.

(b) Each eligible participating public radio station shall receive an equal share of the radio base grant pool, plus a share of the radio incentive grant pool equal to the proportion its nonfederal financial support bears to the sum of all participating radio stations' nonfederal financial support as most recently reported to the corporation for public broadcasting.

(c) Each eligible participating public television station shall receive an equal share of the television base grant pool, plus a share of the television incentive grant pool equal to the proportion its nonfederal financial support bears to the sum of all participating television stations' nonfederal financial support as most recently reported to the corporation for public broadcasting.

(3) Annual financial reports to the corporation for public broadcasting by eligible stations shall also be submitted by the stations to the department of community, trade, and economic development. [1993 c 280 § 73; 1987 c 308 § 3.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings—1987 c 308: See note following RCW 43.63A.400.

43.63A.420 Grants to other broadcast stations—Eligibility—Amounts. (1) Eligibility for grants under this section shall be limited to broadcast stations that:

(a) Have a noncommercial educational license granted by the federal communications commission;

(b) Are not eligible under RCW 43.63A.410;

(c) Have a permanent employee who is assigned operational management responsibility for the station and who is not compensated with moneys granted under this section;

(d) Meet the operating schedule requirements of the station's federal broadcast license;

(e) Have facilities and equipment that allow for program origination and production;

(f) Have a daily broadcast schedule devoted primarily to serving the educational, informational, and cultural needs of the community within its primary service area. The programming shall be intended for a general audience and not designed to further a particular religious philosophy or political organization;

(g) Originate a locally produced program service designed to serve the community;

(h) Maintain financial records in accordance with generally accepted accounting principles; and

(i) Complete an eligibility criteria statement and annual financial survey pursuant to rules adopted by the *department of community development.

(2)(a) A grant of up to ten thousand dollars per year may be made under this section to those eligible stations operating at least twelve hours per day, three hundred sixty-five days each year, with transmitting facilities developed to the maximum combination of effective radiated power and antenna height possible under the station's federal communications commission license.

(b) A grant of up to eight thousand dollars per year may be made under this section to those eligible stations operating at least twelve hours per day, three hundred sixty-five days each year, with transmitting facilities not fully developed under federal communications commission rules.

(c) A grant of up to five thousand dollars per year may be made under this section to those eligible stations operating less than twelve hours per day, three hundred sixty-five days each year, with transmitting facilities developed to the maximum combination of effective radiated power and antenna height possible under the station's federal communications commission license.

(d) A grant of up to one thousand five hundred dollars per year may be made under this section to those eligible stations not meeting the requirements of (a), (b), or (c) of this subsection.

(3) Funding received under this section is specifically for the support of public broadcast operations and facilities improvements which benefit the general community. No funds received under this section may be used for any other purposes by licensees of eligible stations.

(4) Any portion of the appropriation not expended under this section shall be transferred for expenditure under RCW 43.63A.410. [1987 c 308 § 4.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Legislative findings—1987 c 308: See note following RCW 43.63A.400.

43.63A.440 Assistance to communities adversely impacted by reductions in timber harvests and reductions in salmon fishing. The department of community, trade, and economic development shall provide technical and financial assistance to communities adversely impacted by reductions in timber harvested from federal, state, and private lands and reduction of salmon fishing caused by efforts to maintain the long-term viability of salmon stocks. This assistance shall include the formation and implementation of community economic development plans. The department of community, trade, and economic development shall utilize existing state technical and financial assistance programs, and shall aid communities in seeking private and federal financial assistance for the purposes of this section. The department may contract for services provided for under this section. [1995 c 226 § 13; 1993 c 280 § 74; 1989 c 424 § 7.]

Sunset Act application: See note following RCW 43.31.601.

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—1989 c 424: See note following RCW 76.12.200.

43.63A.450 Community diversification program.

The community diversification program is created in the department of community, trade, and economic development. The program shall include:

(1) The monitoring and forecasting of shifts in the economic prospects of major defense employers in the state. This shall include but not be limited to the monitoring of defense contract expenditures, other federal contracts, defense employment shifts, the aircraft and aerospace industry, computer products, and electronics;

(2) The identification of cities, counties, or regions within the state that are primarily dependent on defense or other federal contracting and the identification of firms dependent on federal defense contracts;

(3) Assistance to communities in broadening the local economic base through the provision of management assistance, assistance in financing, entrepreneurial training, and assistance to businesses in using off-the-shelf technology to start new production processes or introduce new products;

(4) Formulating a state plan for diversification in defense dependent communities in collaboration with the employment security department and the office of financial management. The plan shall use the information made available through carrying out subsections (1) and (2) of this section; and

(5) The identification of diversification efforts conducted by other states, the federal government, and other nations, and the provision of information on these efforts, as well as information gained through carrying out subsections (1) and (2) of this section, to firms, communities, and work forces that are defense dependent.

The department shall, beginning January 1, 1992, report annually to the governor and the legislature on the activities of the community diversification program. [1993 c 280 § 75; 1990 c 278 § 2.]

Reviser's note—Sunset Act application: The community diversification program is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.367. RCW 43.63A.450 is scheduled for future repeal under RCW 43.131.368.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative finding—1990 c 278: "The legislature finds that the industrial and manufacturing base of the Washington economy has undergone tremendous change during the past two decades. The challenge facing Washington firms is to become as productive and efficient as possible to survive in an increasingly competitive world market. Many of the state's communities are dependent on one or two industries. Many firms are heavily reliant on the defense expenditures of the federal government. It is the intent of the legislature to assist communities in planning for economic change, developing a broader economic base, and preparing for any shift in federal priorities that could cause a reduction in federal expenditures, and assist firms by providing information and technical assistance necessary for them to introduce new products or production processes." [1990 c 278 § 1.]

Severability—1990 c 278: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 278 § 6.]

43.63A.460 Manufactured housing—Department duties. Beginning on July 1, 1991, the department of community, trade, and economic development shall be responsible for performing all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations

established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The department of community, trade, and economic development may enter into state or local interagency agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

The department of labor and industries shall transfer all records, files, books, and documents necessary for the department of community, trade, and economic development to assume these new functions.

The directors of community, trade, and economic development and the department of labor and industries shall immediately take such steps as are necessary to ensure that *this act is implemented on June 7, 1990. [1993 c 280 § 76; 1990 c 176 § 2.]

***Reviser's note:** For codification of "this act" [1990 c 176], see note following RCW 43.22.495.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Transfer of duties from the department of labor and industries: RCW 43.22.495.

43.63A.465 Manufactured housing—Federal standards—Enforcement. (Contingent expiration date.)

The director of the department of community, trade, and economic development shall enforce manufactured housing safety and construction standards adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Furthermore, the director may make agreements with the United States government, state agencies, or private inspection organizations to implement the development and enforcement of applicable provisions of this chapter and the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) regarding the state administrative agency program. [1995 c 399 § 74; 1993 c 124 § 1.]

Contingent expiration date—RCW 43.63A.465 through 43.63A.490: See RCW 43.63A.490.

43.63A.4651 Manufactured housing—Contingent expiration date—RCW 43.63A.465.

The 1995 amendments to RCW 43.63A.465 shall expire and be of no force and effect on January 1 in any year following the failure of the United States department of housing and urban development to reimburse the state for the duties described in chapter 124, Laws of 1993. [1995 c 399 § 219.]

43.63A.470 Manufactured housing—Inspections, investigations. (Contingent expiration date.)

(1) The director or the director's authorized representative shall conduct such inspections and investigations as may be necessary to implement or enforce manufactured housing rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For the purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge shall:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which manufactured homes are manufactured, stored, or held for sale; and

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Each inspection shall be commenced and completed with reasonable promptness.

(3) For the purpose of carrying out the provisions of this chapter, the director or the director's authorized representative is authorized:

(a) To require, by general or special orders, any factory, warehouse, or establishment in which manufactured homes are manufactured, to file, in such form as prescribed, reports or answers in writing to specific questions relating to any function of the department under this chapter. Such reports and answers shall be made under oath or otherwise, and shall be filed with the department within such reasonable time periods as prescribed by the department; and

(b) To hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records, as the director or such officer or employee deems advisable.

(4) In carrying out the inspections authorized by this section the director shall establish by rule, under chapter 34.05 RCW, and impose on manufactured home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by the director in conducting the inspections, provided these fees are set in accordance with guidelines established by the United States secretary of housing and urban development. [1993 c 124 § 5.]

Contingent expiration date—RCW 43.63A.465 through 43.63A.490: See RCW 43.63A.490.

43.63A.475 Manufactured housing—Rules. (*Contingent expiration date.*) The department shall adopt all rules under chapter 34.05 RCW necessary to implement chapter 124, Laws of 1993, giving due consideration to standards and regulations adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) for manufactured housing construction and safety standards. [1993 c 124 § 2.]

Contingent expiration date—RCW 43.63A.465 through 43.63A.490: See RCW 43.63A.490.

43.63A.480 Manufactured housing—Hearing procedures. (*Contingent expiration date.*) The department shall adopt appropriate hearing procedures under chapter

34.05 RCW for the holding of formal and informal presentation of views, giving due consideration to hearing procedures adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). [1993 c 124 § 3.]

Contingent expiration date—RCW 43.63A.465 through 43.63A.490: See RCW 43.63A.490.

43.63A.485 Manufactured housing—Violations—Fines. (*Contingent expiration date.*) (1) A person who violates any of the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) applicable to RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 is liable to the state of Washington for a civil penalty of not to exceed one thousand dollars for each such violation. Each violation of the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) applicable to RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480, shall constitute a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

(2) An individual or a director, officer, or agent of a corporation who knowingly and willfully violates any of the provisions of RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480, in a manner that threatens the health or safety of any purchaser, shall be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(3) Any legal fees, court costs, expert witness fees, and staff costs expended by the state in successfully pursuing violators of RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 shall be reimbursed in full by the violators. [1993 c 124 § 4.]

Contingent expiration date—RCW 43.63A.465 through 43.63A.490: See RCW 43.63A.490.

43.63A.490 Manufactured housing—Contingent expiration date. RCW 43.63A.465 through 43.63A.490 shall expire and be of no force and effect on January 1 in any year following the failure of the United States department of housing and urban development to reimburse the state for the duties described in RCW 43.63A.465 through 43.63A.490. [1993 c 124 § 6.]

43.63A.500 Farmworker housing construction manuals and plans. The department shall develop, and make available to the public, model or prototype construction plans and manuals for several types of farmworker housing, including but not limited to seasonal housing for individuals and families, campgrounds, and recreational vehicle parks. Any person or organization intending to construct

farmworker housing may adopt one or more of these models as the plan for the proposed housing. [1990 c 253 § 5.]

Legislative finding and purpose—1990 c 253: See note following RCW 43.70.330.

43.63A.510 Affordable housing—Inventory of state-owned land. (1) The department shall work with the departments of natural resources, transportation, social and health services, corrections, and general administration to identify and catalog under-utilized, state-owned land and property suitable for the development of affordable housing for very low-income, low-income or moderate-income households. The departments of natural resources, transportation, social and health services, corrections, and general administration shall provide an inventory of real property that is owned or administered by each agency and is available for lease or sale. The inventories shall be provided to the department by November 1, 1993, with inventory revisions provided each November 1 thereafter.

(2) Upon written request, the department shall provide a copy of the inventory of state-owned and publicly owned lands and buildings to parties interested in developing the sites for affordable housing.

(3) As used in this section:

(a) "Affordable housing" means residential housing that is rented or owned by a person who qualifies as a very low-income, low-income, or moderate-income household or who is from a special needs population, and whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.

(b) "Very low-income household" means a single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income, adjusted for household size, for the county where the affordable housing is located.

(c) "Low-income household" means a single person, family, or unrelated persons living together whose income is more than fifty percent but is at or below eighty percent of the median income where the affordable housing is located.

(d) "Moderate-income household" means a single person, family, or unrelated persons living together whose income is more than eighty percent but is at or below one hundred fifteen percent of the median income where the affordable housing is located. [1993 c 461 § 2; 1990 c 253 § 6.]

Finding—1993 c 461: "(1) The legislature finds that:

(a) The lack of affordable housing for very low-income, low-income, or moderate-income households and special needs populations is intensified by the rising cost of land and construction; and

(b) There are publicly owned land and buildings which may be suitable to be marketed, sold, leased, or exchanged for the development of affordable housing.

(2) The legislature declares that the purpose of this act is to:

(a) Provide for an analysis of the inventory of state-owned lands and buildings prepared by the departments of natural resources, transportation, corrections, and general administration;

(b) Identify other publicly owned land and buildings that may be suitable for the development of affordable housing for very-low income, low-income, or moderate-income households and special needs populations;

(c) Provide a central location of inventories of state and publicly owned land and buildings that may be suitable to be marketed, sold, leased, or exchanged for the development of affordable housing; and

(d) Encourage an effective use of publicly owned surplus and underutilized land and buildings suitable for the development of affordable

housing for very low-income, low-income, or moderate-income households and special needs populations." [1993 c 461 § 1.]

Legislative finding and purpose—1990 c 253: See note following RCW 43.70.330.

43.63A.550 Growth management—Inventorying and collecting data. (1) The department shall assist in the process of inventorying and collecting data on public and private land for the acquisition of data describing land uses, demographics, infrastructure, critical areas, transportation corridors physical features, housing, and other information useful in managing growth throughout the state. For this purpose the department shall contract with the department of information services and shall form an advisory group consisting of representatives from state, local, and federal agencies, colleges and universities, and private firms with expertise in land planning, and geographic information systems.

(2) The department shall establish a sequence for acquiring data, giving priority to rapidly growing areas. The data shall be retained in a manner to facilitate its use in preparing maps, aggregating with data from multiple jurisdictions, and comparing changes over time. Data shall further be retained in a manner which permits its access via computer.

(3) By December 1, 1990, the department shall report to the appropriate committees of the house of representatives and senate on the availability of existing data; specific data which is needed but not currently available; data compatibility across jurisdictions; the suitability of various types of data for retention on computer; the cost of collecting, storing, updating, mapping, and manipulating data on a computer; and recommendations on how to maintain an inventory of data which is accessible to any user and whether to maintain the data at a central repository or decentralized repositories.

(4) The department shall work with other state agencies, local governments, and private organizations that are inventorying public and private lands to ensure close coordination and to ensure that duplication of efforts does not occur. [1990 1st ex.s. c 17 § 21.]

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

43.63A.600 Emergency mortgage and rental assistance program—Rural natural resources impact areas—Grants and loans—Goals. (1) The department of community, trade, and economic development, as a member of the agency rural community assistance task force shall establish and administer the emergency mortgage and rental assistance program. The department shall identify the communities most adversely affected by reductions in timber and salmon harvest levels and shall prioritize assistance under this program to these communities. The department shall work with the department of social and health services and the *rural community assistance recovery coordinator to develop the program in rural natural resources impact areas. Organizations eligible to receive grant funds for distribution under the program are those organizations that are eligible to receive assistance through the Washington housing trust fund. The department shall disburse the funds to eligible local organizations as grants. The local organizations shall

use the funds to make grants or loans as specified in RCW 43.63A.600 through 43.63A.640. If funds are disbursed as loans, the local organization shall establish a revolving grant and loan fund with funds received as loan repayments and shall continue to make grants or loans or both grants and loans from funds received as loan repayments to dislocated forest products and dislocated salmon fishing workers eligible under the provisions of RCW 43.63A.600 through 43.63A.640 and to other persons residing in rural natural resources impact areas who meet the requirements of RCW 43.63A.600 through 43.63A.640.

(2) The goals of the program are to:

(a) Provide temporary emergency mortgage loans or rental assistance grants or loans on behalf of dislocated forest products and dislocated salmon fishing workers in rural natural resources impact areas who are unable to make mortgage, property tax, or rental payments on their permanent residences and are subject to immediate eviction for nonpayment of mortgage installments, property taxes, or nonpayment of rent;

(b) Prevent the dislocation of individuals and families from their permanent residences and their communities; and

(c) Maintain economic and social stability in rural natural resources impact areas. [1995 c 226 § 12; 1994 c 114 § 1; 1993 c 280 § 77; 1991 c 315 § 23.]

***Reviser's note:** "Timber recovery coordinators" renamed "rural community assistance coordinators" by 1995 c 226.

Sunset Act application: See note following RCW 43.31.601.

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

Effective date—1994 c 114: "This act shall take effect July 1, 1994." [1994 c 114 § 6.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

43.63A.610 Emergency mortgage assistance—Guidelines. Emergency mortgage assistance shall be provided under the following general guidelines:

(1) Loans provided under the program shall not exceed an amount equal to twenty-four months of mortgage payments.

(2) The maximum loan amount allowed under the program shall not exceed twenty thousand dollars.

(3) Loans shall be made to applicants who meet specific income guidelines established by the department.

(4) Loan payments shall be made directly to the mortgage lender.

(5) Loans shall be granted on a first-come, first-served basis.

(6) Repayment of loans provided under the program shall be made to eligible local organizations, and must not take more than twenty years. Funds repaid to the program shall be used as grants or loans under the provisions of RCW 43.63A.600 through 43.63A.640. [1994 c 114 § 2; 1991 c 315 § 24.]

Effective date—1994 c 114: See note following RCW 43.63A.600.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

43.63A.620 Emergency rental assistance—Guidelines. Emergency rental assistance shall be provided under the following general guidelines:

(1) Rental assistance provided under the program may be in the form of loans or grants and shall not exceed an amount equal to twenty-four months of rental payments.

(2) Rental assistance shall be made to applicants who meet specific income guidelines established by the department.

(3) Rental payments shall be made directly to the landlord.

(4) Rental assistance shall be granted on a first-come, first-served basis. [1994 c 114 § 3; 1991 c 315 § 25.]

Effective date—1994 c 114: See note following RCW 43.63A.600.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

43.63A.630 Emergency mortgage and rental assistance program—Eligibility. To be eligible for assistance under the program, an applicant must:

(1) Be unable to keep mortgage or rental payments current, due to a loss of employment, and shall be at significant risk of eviction;

(2) Have his or her permanent residence located in an eligible community;

(3) If requesting emergency mortgage assistance, be the owner of an equitable interest in the permanent residence and intend to reside in the home being financed;

(4) Be actively seeking new employment or be enrolled in a training program approved by the director; and

(5) Submit an application for assistance to an organization eligible to receive funds under RCW 43.63A.600. [1994 c 114 § 4; 1991 c 315 § 26.]

Effective date—1994 c 114: See note following RCW 43.63A.600.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

43.63A.640 Emergency mortgage and rental assistance program—Duties—Interest rate, assignment, eligibility. The department shall carry out the following duties:

(1) Administer the program;

(2) Identify organizations eligible to receive funds to implement the program;

(3) Develop and adopt the necessary rules and procedures for implementation of the program and for dispersal of program funds to eligible organizations;

(4) Establish the interest rate for repayment of loans at two percent below the market rate;

(5) Work with lending institutions and social service providers in the eligible communities to assure that all eligible persons are informed about the program;

(6) Utilize federal and state programs that complement or facilitate carrying out the program;

(7) Ensure that local eligible organizations that dissolve or become ineligible assign their program funds, rights to loan repayments, and loan security instruments, to the government of the county in which the local organization is located. If the county government accepts the program

assets described in this subsection, it shall act as a local eligible organization under the provisions of RCW 43.63A.600 through 43.63A.640. If the county government declines to participate, the program assets shall revert to the department. [1994 c 114 § 5; 1991 c 315 § 27.]

Effective date—1994 c 114: See note following RCW 43.63A.600.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

43.63A.650 Housing—Department's coordination duties. (1) The department shall be the principal state department responsible for coordinating federal and state resources and activities in housing, except for programs administered by the Washington state housing finance commission under chapter 43.180 RCW, and for evaluating the operations and accomplishments of other state departments and agencies as they affect housing.

(2) The department shall work with local governments, tribal organizations, local housing authorities, nonprofit community or neighborhood-based organizations, and regional or state-wide nonprofit housing assistance organizations, for the purpose of coordinating federal and state resources with local resources for housing. [1993 c 478 § 13.]

43.63A.660 Housing—Technical assistance and information, affordable housing. The department shall provide technical assistance and information to state agencies and local governments to assist in the identification and removal of regulatory barriers to the development and placement of affordable housing. In providing assistance the department may:

(1) Analyze the costs and benefits of state legislation, rules, and administrative actions and their impact on the development and placement of affordable housing;

(2) Analyze the costs and benefits of local legislation, rules, and administrative actions and their impact on the development and placement of affordable housing;

(3) Assist state agencies and local governments in determining the impact of existing and anticipated actions, legislation, and rules on the development and placement of affordable housing;

(4) Investigate techniques and opportunities for reducing the life-cycle housing costs through regulatory reform;

(5) Develop model standards and ordinances designed to reduce regulatory barriers to affordable housing and assisting in their adoption and use at the state and local government level;

(6) Provide technical assistance and information to state agencies and local governments for implementation of legislative and administrative reform programs to remove barriers to affordable housing;

(7) Prepare state regulatory barrier removal strategies;

(8) Provide staffing to the affordable housing advisory board created in RCW 43.185B.020; and

(9) Perform other activities as the director deems necessary to assist the state, local governments, and the housing industry in meeting the affordable housing needs of the state. [1993 c 478 § 14.]

43.63A.670 Home-matching program—Finding, purpose. (1) The legislature finds that:

(a) The trend toward smaller household sizes will continue into the foreseeable future;

(b) Many of these households are in housing units that contain more bedrooms than occupants;

(c) There are older homeowners on relatively low, fixed income who are experiencing difficulties maintaining their homes; and

(d) There are single parents, recently widowed persons, people in the midst of divorce or separation, and handicapped that are faced with displacement due to the high cost of housing.

(2) The legislature declares that the purpose of RCW 43.63A.680 is to develop a pilot program designed to:

(a) Provide home-matching services that can enable people to continue living in their homes while promoting continuity of home ownership and community stability; and

(b) Counter the problem of displacement among people on relatively low, fixed incomes by linking people offering living space with people seeking housing. [1993 c 478 § 18.]

43.63A.680 Home-matching program—Pilot programs. (1) The department may develop and administer a home-matching program for the purpose of providing grants and technical assistance to eligible organizations to operate local home-matching programs. For purposes of this section, "eligible organizations" are those organizations eligible to receive assistance through the Washington housing trust fund, chapter 43.185 RCW.

(2) The department may select up to five eligible organizations for the purpose of implementing a local home-matching program. The local home-matching programs are designed to facilitate: (a) Intergenerational homesharing involving older homeowners sharing homes with younger persons; (b) homesharing arrangements that involve an exchange of services such as cooking, housework, gardening, or babysitting for room and board or some financial consideration such as rent; and (c) the more efficient use of available housing.

(3) In selecting local pilot programs under this section, the department shall consider:

(a) The eligible organization's ability, stability, and resources to implement the local home-matching program;

(b) The eligible organization's efforts to coordinate other support services needed by the individual or family participating in the local home-matching program; and

(c) Other factors the department deems appropriate.

(4) The eligible organizations shall establish criteria for participation in the local home-matching program. The eligible organization shall make a determination of eligibility regarding the individuals' or families' participation in the local home-matching program. The determination shall include, but is not limited to a verification of the individual's or family's history of making rent payments in a consistent and timely manner. [1993 c 478 § 19.]

43.63A.690 Minority and women-owned business enterprises—Linked deposit program. (1) The department shall provide technical assistance and loan packaging ser-

vices that enable minority and women-owned business enterprises to obtain financing under the linked deposit program created under RCW 43.86A.060.

(2) The department shall, in consultation with the state treasurer, monitor the performance of loans made to minority and women-owned business enterprises under RCW 43.86A.060. [1993 c 512 § 31.]

Sunset Act application: See note following RCW 43.86A.060.

Finding—Intent—1993 c 512: See note following RCW 43.86A.060.

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.63A.700 Community empowerment zone—

Application. (1) The department, in cooperation with the department of revenue, the employment security department, and the office of financial management, shall approve applications submitted by local governments for designation as a community empowerment zone under this section. The application shall be in the form and manner and contain such information as the department may prescribe, provided that the application for designation shall:

(a) Contain information sufficient for the director to determine if the criteria established in RCW 43.63A.710 have been met.

(b) Be submitted on behalf of the local government by its chief elected official, or, if none, by the governing body of the local government.

(c) Contain a five-year community empowerment plan that describes the proposed designated community empowerment zone's community development needs and present a strategy for meeting those needs. The plan shall address the following categories: Housing needs; public infrastructure needs, such as transportation, water, sanitation, energy, and drainage/flood control; other public facilities needs, such as neighborhood facilities or facilities for provision of health, education, recreation, public safety, or other services; community economic development needs, such as commercial/industrial revitalization, job creation and retention considering the unemployment and underemployment of area residents, accessibility to financial resources by area residents and businesses, investment within the area, or other related components of community economic development; and social service needs.

The local government is required to provide a description of its strategy for meeting the needs identified in this subsection (1)(c). As part of the strategy, the local government is required to identify the needs for which specific plans are currently in place and the source of funds expected to be used. For the balance of the area's needs, the local government must identify the source of funds expected to become available during the next two-year period and actions the local government will take to acquire those funds.

(d) Certify that neighborhood residents were given the opportunity to participate in the development of the five-year community empowerment strategy required under (c) of this subsection.

(2) No local government shall submit more than two neighborhoods to the department for possible designation as a designated community empowerment zone under this section.

(3)(a) Within ninety days after January 1, 1994, the director may designate up to six designated community empowerment zones from among the applications eligible for designation as a designated community empowerment zone.

(b) The director shall make determinations of designated community empowerment zones on the basis of the following factors:

(i) The strength and quality of the local government commitments to meet the needs identified in the five-year community empowerment plan required under this section.

(ii) The level of private commitments by private entities of additional resources and contribution to the designated community empowerment zone.

(iii) The potential for revitalization of the area as a result of designation as a designated community empowerment zone.

(iv) Other factors the director deems necessary.

(c) The determination of the director as to the areas designated as community empowerment zones shall be final. [1994 sp.s. c 7 § 702; 1993 sp.s. c 25 § 401.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25: See notes following RCW 82.04.230.

43.63A.710 Community empowerment zone—

Requirements. (1) The director may not designate an area as a designated community empowerment zone unless that area meets the following requirements:

(a) The area must be designated by the legislative authority of the local government as an area to receive federal, state, and local assistance designed to increase economic, physical, or social activity in the area;

(b) The area must have at least fifty-one percent of the households in the area with incomes at or below eighty percent of the county's median income, adjusted for household size;

(c) The average unemployment rate for the area, for the most recent twelve-month period for which data is available must be at least one hundred twenty percent of the average unemployment rate of the county; and

(d) A five-year community empowerment plan for the area that meets the requirements of RCW 43.63A.700(1)(c) and as further defined by the director must be adopted.

(2) The director may establish, by rule, such other requirements as the director may reasonably determine necessary and appropriate to assure that the purposes of this section are satisfied.

(3) In determining if an area meets the requirements of this section, the director may consider data provided by the United States bureau of the census from the most recent census or any other reliable data that the director determines to be acceptable for the purposes for which the data is used. [1994 sp.s. c 7 § 703; 1993 sp.s. c 25 § 402.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25: See notes following RCW 82.04.230.

43.63A.720 Prostitution prevention and intervention services—Grant program. There is established in the department of community, trade, and economic development

a grant program to enhance funding for prostitution prevention and intervention services. Activities that can be funded through this grant program shall provide effective prostitution prevention and intervention services, such as counseling, parenting, housing relief, education, and vocational training, that:

- (1) Comprehensively address the problems of persons who are prostitutes; and
- (2) Enhance the ability of persons to leave or avoid prostitution. [1995 c 353 § 7.]

43.63A.725 Prostitution prevention and intervention grants—Eligibility. (1) Applications for funding under this chapter must:

- (a) Meet the criteria in RCW 43.63A.720; and
- (b) Contain evidence of active participation of the community and its commitment to providing effective prevention and intervention services for prostitutes through the participation of local governments, tribal governments, networks under chapter 70.190 RCW, human service and health organizations, and treatment entities and through meaningful involvement of others, including citizen groups.

(2) Local governments, networks under chapter 70.190 RCW, nonprofit community groups, and nonprofit treatment providers including organizations that provide services, such as emergency housing, counseling, and crisis intervention shall, among others, be eligible for grants established under RCW 43.63A.720. [1995 c 353 § 8.]

43.63A.730 Prostitution prevention and intervention grants—Applications, contents. At a minimum, grant applications must include the following:

- (1) The proposed geographic service area;
- (2) A description of the extent and effect of the needs for prostitution prevention and intervention within the relevant geographic area;
- (3) An explanation of how the funds will be used, their relationship to existing services available within the community, and the need that they will fulfill;
- (4) An explanation of what organizations were involved in the development of the proposal; and
- (5) The methods that will be employed to measure the success of the program. [1995 c 353 § 9.]

43.63A.735 Prostitution prevention and intervention grants—Award and use. (1) Subject to funds appropriated by the legislature, including funds in the prostitution prevention and intervention account, the department of community, trade, and economic development shall make awards under the grant program established by RCW 43.63A.720.

(2) Awards shall be made competitively based on the purposes of and criteria in RCW 43.63A.720 through 43.63A.730.

(3) Activities funded under this section may be considered for funding in future years, but shall be considered under the same terms and criteria as new activities. Funding of a program or activity under this chapter shall not constitute an obligation by the state of Washington to provide ongoing funding.

(4) The department of community, trade, and economic development may receive such gifts, grants, and endowments

from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the grant program established under RCW 43.63A.720 and expend the same or any income from these sources according to the terms of the gifts, grants, or endowments.

(5) The department of community, trade, and economic development may expend up to five percent of the funds appropriated for the grant program for administrative costs and grant supervision. [1995 c 353 § 10.]

43.63A.740 Prostitution prevention and intervention account. The prostitution prevention and intervention account is created in the state treasury. All designated receipts from fees under RCW 9.68A.105 and 9A.88.120 shall be deposited into the account. Expenditures from the account may be used only for funding the grant program to enhance prostitution prevention and intervention services under RCW 43.63A.720. [1995 c 353 § 11.]

43.63A.900 Severability—1967 c 74. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected. [1967 c 74 § 16.]

43.63A.901 Severability—1984 c 125. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 125 § 23.]

43.63A.902 Headings—1984 c 125. Headings as used in this act constitute no part of the law. [1984 c 125 § 24.]

43.63A.903 Effective date—1984 c 125. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1984. [1984 c 125 § 25.]

Chapter 43.63B

MOBILE AND MANUFACTURED HOME INSTALLATION

Sections

- 43.63B.005 Purpose.
- 43.63B.010 Definitions.
- 43.63B.020 Installer certification—Application—Training.
- 43.63B.030 Installer certification—Training course—Examination.
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 43.63B.160 Notice as determination.
 43.63B.170 Penalty.
 43.63B.800 Rule adoption—Enforcement.
 43.63B.900 Severability—1994 c 284.
 43.63B.901 Effective date—1994 c 284.

43.63B.005 Purpose. The purpose of this chapter is to ensure that all mobile and manufactured homes are installed by a certified manufactured home installer in accordance with the state installation code, chapter 296-150B WAC, in order to provide greater protections to consumers and make the warranty requirement of *RCW 46.70.134 easier to achieve. [1994 c 284 § 14.]

***Reviser's note:** The reference in 1994 c 284 § 14 to "section 2 of this act" was erroneous. Section 10 of that act, codified as RCW 46.70.134, was apparently intended.

Dispute mediation: RCW 46.70.136.

43.63B.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Authorized representative" means an employee of a state agency, city, or county acting on behalf of the department.

(2) "Certified manufactured home installer" means a person who is in the business of installing mobile or manufactured homes and who has been issued a certificate by the department as provided in this chapter.

(3) "Department" means the department of community, trade, and economic development.

(4) "Director" means the director of community, trade, and economic development.

(5) "Manufactured home" means a single-family dwelling built in accordance with the department of housing and urban development manufactured home construction and safety standards act, which is a national, preemptive building code.

(6) "Mobile or manufactured home installation" means all on-site work necessary for the installation of a manufactured home, including:

- (a) Construction of the foundation system;
- (b) Installation of the support piers;
- (c) Required connection to foundation system and support piers;
- (d) Skirting;
- (e) Connections to the on-site water and sewer systems that are necessary for the normal operation of the home; and
- (f) Extension of the pressure relief valve for the water heater.

(7) "Manufactured home standards" means the manufactured home construction and safety standards as promulgated by the United States department of housing and urban development (HUD).

(8) "Mobile home" means a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since introduction of the HUD manufactured home construction and safety standards act.

(9) "Training course" means the education program administered by the department as a prerequisite to taking the examination for certification. [1994 c 284 § 15.]

43.63B.020 Installer certification—Application—Training. A person desiring to be issued a certificate of manufactured home installation as provided in this chapter shall make application to the department, in such a form as required by the department.

Upon receipt of the application and evidence required in this chapter, the director shall review the information and make a determination as to whether the applicant is eligible to take the training course and examination for the certificate of manufactured home installation. An applicant must furnish written evidence of six months of experience under the direct supervision of a certified manufactured home installer, or other equivalent experience, in order to be eligible to take the training course and examination. The director shall establish reasonable rules for the training course and examinations to be given to applicants for certificates of manufactured home installation. Upon determining that the applicant is eligible to take the training course and examination, the director shall notify the applicant, indicating the time and place for taking the training course and examination.

The requirement that an applicant must be under the direct supervision of a certified manufactured home installer for six months only applies to applications made on or after July 1, 1996. For applications made before July 1, 1996, the department shall require evidence of experience to satisfy this requirement.

The director may allow other persons to take the training course and examination on manufactured home installation, without certification. [1994 c 284 § 17.]

43.63B.030 Installer certification—Training course—Examination. The department shall prepare a written training course and examination to be administered to applicants for manufactured home installer certification. The examination shall be constructed to determine whether the applicant:

- (1) Possesses general knowledge of the technical information and practical procedures that are necessary for manufactured home installation;
- (2) Is familiar with the federal and state codes and administrative rules pertaining to manufactured homes; and
- (3) Is familiar with the local government regulations as related to manufactured home installations.

The department shall certify the results of the examination and shall notify the applicant in writing whether the applicant has passed or failed the examination. An applicant who failed the examination may retake the training course and examination. The director may not limit the number of times that a person may take the training course and examination. [1994 c 284 § 18.]

43.63B.040 Installer certification—Issuance of certificate—Renewal—Exclusive. (1) The department shall issue a certificate of manufactured home installation to an applicant who has taken the training course, passed the examination, paid the fees, and in all other respects meet[s]

the qualifications. The certificate shall bear the date of issuance, a certification identification number, and is renewable every three years upon application and completion of a continuing education program as determined by the department. A renewal fee shall be assessed for each certificate. If a person fails to renew a certificate by the renewal date, the person must retake the examination and pay the examination fee.

(2) The certificate of manufactured home installation provided for in this chapter grants the holder the right to engage in manufactured home installation throughout the state, without any other installer certification. [1994 c 284 § 19.]

43.63B.050 Installer certification—Revocation. (1) The department may revoke a certificate of manufactured home installation upon the following grounds:

- (a) The certificate was obtained through error or fraud;
- (b) The holder of the certificate is judged to be incompetent as a result of multiple infractions of the state installation code, WAC 296-150B-200 through 296-150B-255; or
- (c) The holder has violated a provision of this chapter or a rule adopted to implement this chapter.

(2) Before a certificate of manufactured home installation is revoked, the holder must be given written notice of the department's intention to revoke the certificate, sent by registered mail, return receipt requested, to the holder's last known address. The notice shall enumerate the allegations against the holder, and shall give the holder the opportunity to request a hearing. At the hearing, the department and the holder may produce witnesses and give testimony. The hearing shall be conducted in accordance with the provisions of chapter 34.05 RCW. [1994 c 284 § 21.]

43.63B.060 Local government installation application and permit requirements. Any local government mobile or manufactured home installation application and permit shall state the name and certification identification number of the certified manufactured home installer supervising such installation. A local government may not issue a permit to install a manufactured home unless: (1) The installer submits a copy of the certificate of manufactured home installation to the local government; or (2) work is being performed that does not require a certified installer. When work must be performed by a certified manufactured home installer, no work may commence until the installer or the installer's agent has posted or otherwise made available, with the inspection record card at the set-up site, a copy of the certified manufactured home installer's certificate of manufactured home installation. [1994 c 284 § 20.]

43.63B.070 Fees—Certification program. The department shall charge reasonable fees to cover the costs to administer the certification program which shall include but not be limited to the issuance, renewal, and reinstatement of all certificates, training courses, and examinations required under this chapter. All fees collected under this chapter shall be deposited in the manufactured home installation training account created in RCW 43.63B.080 and used only for the purposes specified in this chapter.

The fees shall be limited to covering the direct cost of issuing the certificates, administering the examinations, and administering and enforcing this chapter. The costs shall include only essential travel, per diem, and administrative support costs. [1994 c 284 § 22.]

43.63B.080 Manufactured home installation training account. The manufactured home installation training account is created in the state treasury. All receipts collected under this chapter and any legislative appropriations for manufactured home installation training shall be deposited into the account. Moneys in the account may only be spent after appropriation. Expenditures from the account may only be used for the purposes of this chapter. Unexpended and unencumbered moneys that remain in the account at the end of the fiscal year do not revert to the state general fund but remain in the account, separately accounted for, as a contingency reserve. [1994 c 284 § 23.]

43.63B.090 Certified installer required on-site—Infraction—Exceptions. After July 1, 1995, a mobile or manufactured home may not be installed without a certified manufactured home installer providing on-site supervision whenever installation work is being performed. The certified manufactured home installer is responsible for the reading, understanding, and following [of] the manufacturer's installation instructions and performance of noncertified workers engaged in the installation of the home. There shall be at least one certified manufactured home installer on the installation site whenever installation work is being performed.

A manufactured home installer certification shall not be required for:

- (1) Site preparation;
- (2) Sewer and water connections outside of the building site;
- (3) Specialty trades that are responsible for constructing accessory structures such as garages, carports, and decks;
- (4) Pouring concrete into forms;
- (5) Painting and dry wall finishing;
- (6) Carpet installation;
- (7) Specialty work performed within the scope of their license by licensed plumbers or electricians. This provision does not waive or lessen any state regulations related to licensing or permits required for electricians or plumbers;
- (8) A mobile or manufactured home owner performing installation work on their own home; and
- (9) A manufacturer's mobile home installation crew installing a mobile or manufactured home sold by the manufacturer except for the on-site supervisor.

Violation of this section is an infraction. [1994 c 284 § 16.]

43.63B.100 Certified installer required on-site—Infraction—Notice. An authorized representative of the department may issue a notice of infraction if the person supervising the manufactured home installation work fails to produce evidence of having a certificate issued by the department in accordance with this chapter. A notice of infraction issued under this chapter shall be personally served on or sent by certified mail to the person named in

the notice by the authorized representative. [1994 c 284 § 25.]

43.63B.110 Violations—Investigations—Inspections.

An authorized representative may investigate alleged or apparent violations of this chapter. Upon presentation of credentials, an authorized representative, including a local government building official, may inspect sites at which manufactured home installation work is undertaken to determine whether such work is being done under the supervision of a certified manufactured home installer. Upon request of the authorized representative, a person performing manufactured home installation work shall identify the person holding the certificate issued by the department in accordance with this chapter. [1994 c 284 § 24.]

43.63B.120 Violations—Separate infraction for each day, each worksite. Each day in which a person engages in the installation of manufactured homes in violation of this chapter is a separate infraction. Each worksite at which a person engages in the trade of manufactured home installation in violation of this chapter is a separate infraction. [1994 c 284 § 27.]

43.63B.130 Violation—Use of uncertified installer. It is a violation of this chapter for any contractor, manufactured home dealer, manufacturer, or home dealer's or manufacturer's agent to engage any person to install a manufactured home who is not certified in accordance with this chapter. [1994 c 284 § 28.]

43.63B.140 Notice of infraction. (1) The department shall prescribe the form of the notice of infraction issued under this chapter.

(2) The notice of infraction shall include the following:

(a) A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;

(b) A statement that the infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;

(c) A statement of the specific infraction for which the notice was issued;

(d) A statement of a monetary penalty that has been established for the infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that, at a hearing to contest the determination, the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed, and that the person may subpoena witnesses including the authorized representative who issued and served the notice of the infraction;

(g) A statement, that the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter;

(h) A statement that refusal to sign the infraction as directed in (g) of this subsection is a misdemeanor; and

(i) A statement that failure to respond to a notice of infraction as promised is a misdemeanor and may be punished by a fine or imprisonment in jail. [1994 c 284 § 26.]

43.63B.150 Infractions adjudicated under administrative procedure act. All violations designated as an infraction shall be adjudicated in accordance with the administrative procedure act, chapter 34.05 RCW. [1994 c 284 § 29.]

43.63B.160 Notice as determination. Unless contested in accordance with this chapter, the notice of infraction represents a determination that the person to whom the notice was issued committed the infraction. [1994 c 284 § 30.]

43.63B.170 Penalty. (1) A person found to have committed an infraction under this chapter shall be assessed a monetary penalty of one thousand dollars.

(2) The administrative law judge may waive, reduce, or suspend the monetary penalty imposed for the infraction.

(3) Monetary penalties collected under this chapter shall be remitted as provided in chapter 3.62 RCW. [1994 c 284 § 31.]

43.63B.800 Rule adoption—Enforcement. The director may adopt rules in accordance with chapter 34.05 RCW, make specific decisions, orders, and rulings, include demands and findings within the decisions, orders, and rulings, and take other necessary action for the implementation and enforcement of duties under this chapter. [1994 c 284 § 32.]

43.63B.900 Severability—1994 c 284. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1994 c 284 § 34.]

43.63B.901 Effective date—1994 c 284. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1994]. [1994 c 284 § 35.]

Chapter 43.70

DEPARTMENT OF HEALTH

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- Registration of adult family home providers and resident managers: Chapter 18.48 RCW.*
- Visual and auditory screening of pupils, data transferred to secretary: RCW 28A.210.030.*

43.70.005 Intent. The legislature finds and declares that it is of importance to the people of Washington state to live in a healthy environment and to expect a minimum standard of quality in health care. The legislature further finds that the social and economic vitality of the state depend[s] on a healthy and productive population. The legislature further declares where it is a duty of the state to assure a healthy environment and minimum standards of quality in health care facilities and among health care professionals, the ultimate responsibility for a healthy society lies with the citizens themselves.

For these reasons, the legislature recognizes the need for a strong, clear focus on health issues in state government and among state health agencies to give expression to the needs of individual citizens and local communities as they seek to preserve the public health. It is the intent of the legislature to form such focus by creating a single department in state government with the primary responsibilities for the preservation of public health, monitoring health care

costs, the maintenance of minimal standards for quality in health care delivery, and the general oversight and planning for all the state's activities as they relate to the health of its citizenry.

Further, it is the intent of the legislature to improve illness and injury prevention and health promotion, and restore the confidence of the citizenry in the expenditure of public funds on health activities, and to ensure that this new health agency delivers quality health services in an efficient, effective, and economical manner that is faithful and responsive to policies established by the legislature. [1989 1st ex.s. c 9 § 101.]

43.70.010 Definitions. As used in this chapter, unless the context indicates otherwise:

(1) "Assessment" means the regular collection, analysis, and sharing of information about health conditions, risks, and resources in a community. Assessment activities identify trends in illness, injury, and death and the factors that may cause these events. They also identify environmental risk factors, community concerns, community health resources, and the use of health services. Assessment includes gathering statistical data as well as conducting epidemiologic and other investigations and evaluations of health emergencies and specific ongoing health problems;

(2) "Board" means the state board of health;

(3) "Department" means the department of health;

(4) "Policy development" means the establishment of social norms, organizational guidelines, operational procedures, rules, ordinances, or statutes that promote health or prevent injury, illness, or death; and

(5) "Secretary" means the secretary of health. [1995 c 269 § 2201; 1994 sp.s. c 7 § 206; 1989 1st ex.s. c 9 § 102.]

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.70.020 Department created. (1) There is hereby created a department of state government to be known as the department of health. The department shall be vested with all powers and duties transferred to it by chapter 9, Laws of 1989 1st ex. sess. and such other powers and duties as may be authorized by law. The main administrative office of the department shall be located in the city of Olympia. The secretary may establish administrative facilities in other locations, if deemed necessary for the efficient operation of the department, and if consistent with the principles set forth in subsection (2) of this section.

(2) The department of health shall be organized consistent with the goals of providing state government with a focus in health and serving the people of this state. The legislature recognizes that the secretary needs sufficient organizational flexibility to carry out the department's various duties. To the extent practical, the secretary shall consider the following organizational principles:

(a) Clear lines of authority which avoid functional duplication within and between subelements of the department;

(b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public;

(c) Maximum span of control without jeopardizing adequate supervision;

(d) A substate or regional organizational structure for the department's health service delivery programs and activities that encourages joint working agreements with local health departments and that is consistent between programs;

(e) Decentralized authority and responsibility, with clear accountability;

(f) A single point of access for persons receiving like services from the department which would limit the number of referrals between divisions.

(3) The department shall provide leadership and coordination in identifying and resolving threats to the public health by:

(a) Working with local health departments and local governments to strengthen the state and local governmental partnership in providing public protection;

(b) Developing intervention strategies;

(c) Providing expert advice to the executive and legislative branches of state government;

(d) Providing active and fair enforcement of rules;

(e) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing health preservation measures;

(f) Providing information to the public; and

(g) Carrying out such other related actions as may be appropriate to this purpose.

(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the department shall ensure an opportunity for consultation, review, and comment by the department's clients before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the secretary may create such administrative divisions, offices, bureaus, and programs within the department as the secretary deems necessary. The secretary shall have complete charge of and supervisory powers over the department, except where the secretary's authority is specifically limited by law.

(6) The secretary shall appoint such personnel as are necessary to carry out the duties of the department in accordance with chapter 41.06 RCW.

(7) The secretary shall appoint the state health officer and such deputy secretaries, assistant secretaries, and other administrative positions as deemed necessary consistent with the principles set forth in subsection (2) of this section. All persons who administer the necessary divisions, offices, bureaus, and programs, and five additional employees shall be exempt from the provisions of chapter 41.06 RCW. The officers and employees appointed under this subsection shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the state civil service law.

(8) The secretary shall administer family services and programs to promote the state's policy as provided in RCW 74.14A.025. [1992 c 198 § 8; 1989 1st ex.s. c 9 § 103.]

Severability—Effective date—1992 c 198: See RCW 70.190.910 and 70.190.920.

43.70.030 Secretary of health. The executive head and appointing authority of the department shall be the secretary of health. The secretary shall be appointed by, and serve at the pleasure of, the governor in accordance with RCW 43.17.020. The secretary shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. [1989 1st ex.s. c 9 § 104.]

43.70.040 Secretary's powers—Rule-making authority. In addition to any other powers granted the secretary, the secretary may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess.: PROVIDED, That for rules adopted after July 23, 1995, the secretary may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The secretary and the board of health shall review each advisory committee within their jurisdiction and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed. The criteria specified in RCW 43.131.070 shall be used to determine whether or not each advisory committee shall be continued;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess. in accordance with RCW 43.70.050;

(4) Delegate powers, duties, and functions of the department to employees of the department as the secretary deems necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess.;

(5) Enter into contracts on behalf of the department to carry out the purposes of chapter 9, Laws of 1989 1st ex. sess.;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program to the purposes of chapter 9, Laws of 1989 1st ex. sess.; or

(7) Accept gifts, grants, or other funds. [1995 c 403 § 105; 1989 1st ex.s. c 9 § 106.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

43.70.045 Warren Featherstone Reid Award for Excellence in Health Care. There is created an award to honor and recognize cost-effective and quality health care services. This award shall be known as the "Warren Featherstone Reid Award for Excellence in Health Care." [1994 c 7 § 2.]

Finding—1994 c 7: "The legislature recognizes the critical importance of ensuring that all Washington residents have access to quality and affordable health care. The legislature further recognizes that substantial improvements can be made in health care delivery when providers, including health care facilities, are encouraged to continuously strive for excellence in quality management practices, value, and consumer satisfaction. The legislature finds that when centers of quality are highlighted and

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honored publicly they become examples for other health care providers to emulate, thereby further promoting the implementation of improved health care delivery processes." [1994 c 7 § 1.]

43.70.047 Warren Featherstone Reid Award for Excellence in Health Care. The governor, in conjunction with the secretary of health, shall identify and honor health care providers and facilities in Washington state who exhibit exceptional quality and value in the delivery of health services. The award shall be given annually consistent with the availability of qualified nominees. The secretary may appoint an advisory committee to assist in the selection of nominees, if necessary. [1994 c 7 § 3.]

43.70.050 Collection, utilization, and accessibility of health-related data. (1) The legislature intends that the department, board, and *council promote and assess the quality, cost, and accessibility of health care throughout the state as their roles are specified in chapter 9, Laws of 1989 1st ex. sess. in accordance with the provisions of this chapter. In furtherance of this goal, the secretary shall create an ongoing program of data collection, storage, assessability, and review. The legislature does not intend that the department conduct or contract for the conduct of basic research activity. The secretary may request appropriations for studies according to this section from the legislature, the federal government, or private sources.

(2) All state agencies which collect or have access to population-based, health-related data are directed to allow the secretary access to such data. This includes, but is not limited to, data on needed health services, facilities, and personnel; future health issues; emerging bioethical issues; health promotion; recommendations from state and national organizations and associations; and programmatic and statutory changes needed to address emerging health needs. Private entities, such as insurance companies, health maintenance organizations, and private purchasers are also encouraged to give the secretary access to such data in their possession. The secretary's access to and use of all data shall be in accordance with state and federal confidentiality laws and ethical guidelines. Such data in any form where the patient or provider of health care can be identified shall not be disclosed, subject to disclosure according to chapter 42.17 RCW, discoverable or admissible in judicial or administrative proceedings. Such data can be used in proceedings in which the use of the data is clearly relevant and necessary and both the department and the patient or provider are parties.

(3) The department shall serve as the clearinghouse for information concerning innovations in the delivery of health care services, the enhancement of competition in the health care marketplace, and federal and state information affecting health care costs.

(4) The secretary shall review any data collected, pursuant to this chapter, to:

(a) Identify high-priority health issues that require study or evaluation. Such issues may include, but are not limited to:

(i) Identification of variations of health practice which indicate a lack of consensus of appropriateness;

(ii) Evaluation of outcomes of health care interventions to assess their benefit to the people of the state;

(iii) Evaluation of specific population groups to identify needed changes in health practices and services;

(iv) Evaluation of the risks and benefits of various incentives aimed at individuals and providers for both preventing illnesses and improving health services;

(v) Identification and evaluation of bioethical issues affecting the people of the state; and

(vi) Other such objectives as may be appropriate;

(b) Further identify a list of high-priority health study issues for consideration by the board or *council, within their authority, for inclusion in the state health report required by RCW 43.20.050. The list shall specify the objectives of each study, a study timeline, the specific improvements in the health status of the citizens expected as a result of the study, and the estimated cost of the study; and

(c) Provide background for the state health report required by RCW 43.20.050.

(5) Any data, research, or findings may also be made available to the general public, including health professions, health associations, the governor, professional boards and regulatory agencies and any person or group who has allowed the secretary access to data.

(6) The secretary may charge a fee to persons requesting copies of any data, research, or findings. The fee shall be no more than necessary to cover the cost to the department of providing the copy. [1989 1st ex.s. c 9 § 107.]

***Reviser's note:** RCW 70.170.030, which created the health care access and cost control council, was repealed by 1995 c 269 § 2204, effective July 1, 1995.

43.70.052 Hospital discharge data—Financial reports—Data retrieval—American Indian health data.

(1) To promote the public interest consistent with the purposes of chapter 492, Laws of 1993 as amended by chapter 267, Laws of 1995, the department shall continue to require hospitals to submit hospital financial and patient discharge information, which shall be collected, maintained, analyzed, and disseminated by the department. The department shall, if deemed cost-effective and efficient, contract with a private entity for any or all parts of data collection. Data elements shall be reported in conformance with a uniform reporting system established by the department. This includes data elements identifying each hospital's revenues, expenses, contractual allowances, charity care, bad debt, other income, total units of inpatient and outpatient services, and other financial information reasonably necessary to fulfill the purposes of this section. Data elements relating to use of hospital services by patients shall be the same as those currently compiled by hospitals through inpatient discharge abstracts. The department shall encourage and permit reporting by electronic transmission or hard copy as is practical and economical to reporters.

(2) In identifying financial reporting requirements, the department may require both annual reports and condensed quarterly reports from hospitals, so as to achieve both accuracy and timeliness in reporting, but shall craft such requirements with due regard of the data reporting burdens of hospitals.

(3) The health care data collected, maintained, and studied by the department shall only be available for retrieval in original or processed form to public and private requestors and shall be available within a reasonable period

of time after the date of request. The cost of retrieving data for state officials and agencies shall be funded through the state general appropriation. The cost of retrieving data for individuals and organizations engaged in research or private use of data or studies shall be funded by a fee schedule developed by the department that reflects the direct cost of retrieving the data or study in the requested form.

(4) The department shall, in consultation and collaboration with the federally recognized tribes, urban or other Indian health service organizations, and the federal area Indian health service, design, develop, and maintain an American Indian-specific health data, statistics information system. The department rules regarding confidentiality shall apply to safeguard the information from inappropriate use or release.

(5) All persons subject to the data collection requirements of this section shall comply with departmental requirements established by rule in the acquisition of data. [1995 c 267 § 1.]

Captions not law—1995 c 267: "Captions as used in this act constitute no part of the law." [1995 c 267 § 16.]

Severability—1995 c 267: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 267 § 17.]

Effective dates—1995 c 267: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995, except sections 8 through 11 of this act which shall take effect immediately [May 8, 1995]." [1995 c 267 § 18.]

43.70.054 Health care data standards—Submittal of standards to legislature.

(1) To promote the public interest consistent with chapter 267, Laws of 1995, the department of health, in cooperation with the health care policy board and the information services board established under RCW 43.105.032, shall develop health care data standards to be used by, and developed in collaboration with, consumers, purchasers, health carriers, providers, and state government as consistent with the intent of chapter 492, Laws of 1993 as amended by chapter 267, Laws of 1995, to promote the delivery of quality health services that improve health outcomes for state residents. The data standards shall include content, coding, confidentiality, and transmission standards for all health care data elements necessary to support the intent of this section, and to improve administrative efficiency and reduce cost. Purchasers, as allowed by federal law, health carriers, health facilities and providers as defined in chapter 48.43 RCW, and state government shall utilize the data standards. The information and data elements shall be reported as the department of health directs by rule in accordance with data standards developed under this section.

(2) The health care data collected, maintained, and studied by the department under this section, the health care policy board, or any other entity: (a) Shall include a method of associating all information on health care costs and services with discrete cases; (b) shall not contain any means of determining the personal identity of any enrollee, provider, or facility; (c) shall only be available for retrieval in original or processed form to public and private requestors; (d) shall be available within a reasonable period of time after

the date of request; and (e) shall give strong consideration to data standards that achieve national uniformity.

(3) The cost of retrieving data for state officials and agencies shall be funded through state general appropriation. The cost of retrieving data for individuals and organizations engaged in research or private use of data or studies shall be funded by a fee schedule developed by the department that reflects the direct cost of retrieving the data or study in the requested form.

(4) All persons subject to this section shall comply with departmental requirements established by rule in the acquisition of data, however, the department shall adopt no rule or effect no policy implementing the provisions of this section without an act of law.

(5) The department shall submit developed health care data standards to the appropriate committees of the legislature by December 31, 1995. [1995 c 267 § 2.]

Captions not law—Severability—Effective dates—1995 c 267: See notes following RCW 43.70.052.

43.70.060 Duties of department—Promotion of health care cost-effectiveness. It is the intent of the legislature to promote appropriate use of health care resources to maximize access to adequate health care services. The legislature understands that the rapidly increasing costs of health care are limiting access to care. To promote health care cost-effectiveness, the department shall:

- (1) Implement the certificate of need program;
- (2) Monitor and evaluate health care costs;
- (3) Evaluate health services and the utilization of services for outcome and effectiveness; and
- (4) Recommend strategies to encourage adequate and cost-effective services and discourage ineffective services. [1989 1st ex.s. c 9 § 108.]

43.70.064 Health care quality—Findings and intent—Requirements for conducting study under RCW 43.70.066. The legislature finds that it is difficult for consumers of health care services to determine the quality of health care prior to purchase or utilization of medical care. The legislature also finds that accountability is a key component in promoting quality assurance and quality improvement throughout the health care delivery system, including public programs. Quality assurance and improvement standards are necessary to promote the public interest, contribute to cost efficiencies, and improve the ability of consumers to ascertain quality health care purchases.

The legislature intends to have consumers, health carriers, health care providers and facilities, and public agencies participate in the development of quality assurance and improvement standards that can be used to develop a uniform quality assurance program for use by all public and private health plans, providers, and facilities. To that end, in conducting the study required under RCW 43.70.066, the department of health shall:

- (1) Consider the needs of consumers, employers, health care providers and facilities, and public and private health plans;
- (2) Take full advantage of existing national standards of quality assurance to extend to middle-income populations the

protections required for state management of health programs for low-income populations;

(3) Consider the appropriate minimum level of quality assurance standards that should be disclosed to consumers and employers by health care providers and facilities, and public and private health plans; and

(4) Consider standards that permit health care providers and facilities to share responsibility for participation in a uniform quality assurance program. [1995 c 267 § 3.]

Captions not law—Severability—Effective dates—1995 c 267: See notes following RCW 43.70.052.

43.70.066 Study—Uniform quality assurance and improvement program—Reports to legislature—Limitation on rule making. (1) The department of health in consultation with the health policy board shall study the feasibility of a uniform quality assurance and improvement program for use by all public and private health plans and health care providers and facilities. In this study, the department shall consult with:

- (a) Public and private purchasers of health care services;
- (b) Health carriers;
- (c) Health care providers and facilities; and
- (d) Consumers of health services.

(2) In conducting the study, the department shall propose standards that meet the needs of affected persons and organizations, whether public or private, without creation of differing levels of quality assurance. All consumers of health services should be afforded the same level of quality assurance.

(3) At a minimum, the study shall include but not be limited to the following program components and indicators appropriate for consumer disclosure:

- (a) Health care provider training, credentialing, and licensure standards;
- (b) Health care facility credentialing and recredentialing;
- (c) Staff ratios in health care facilities;
- (d) Annual mortality and morbidity rates of cases based on a defined set of procedures performed or diagnoses treated in health care facilities, adjusted to fairly consider variable factors such as patient demographics and case severity;
- (e) The average total cost and average length of hospital stay for a defined set of procedures and diagnoses;
- (f) The total number of the defined set of procedures, by specialty, performed by each physician at a health care facility within the previous twelve months;
- (g) Utilization performance profiles by provider, both primary care and specialty care, that have been adjusted to fairly consider variable factors such as patient demographics and severity of case;
- (h) Health plan fiscal performance standards;
- (i) Health care provider and facility recordkeeping and reporting standards;
- (j) Health care utilization management that monitors trends in health service underutilization, as well as overutilization of services;
- (k) Health monitoring that is responsive to consumer, purchaser, and public health assessment needs; and

(l) Assessment of consumer satisfaction and disclosure of consumer survey results.

(4) In conducting the study, the department shall develop standards that permit each health care facility, provider group, or health carrier to assume responsibility for and determine the physical method of collection, storage, and assimilation of quality indicators for consumer disclosure. The study may define the forms, frequency, and posting requirements for disclosure of information.

In developing proposed standards under this subsection, the department shall identify options that would minimize provider burden and administrative cost resulting from duplicative private sector data submission requirements.

(5) The department shall submit a preliminary report to the legislature by December 31, 1995, including recommendations for initial legislation pursuant to subsection (6) of this section, and shall submit supplementary reports and recommendations as completed, consistent with appropriated funds and staffing.

(6) The department shall not adopt any rule implementing the uniform quality assurance program or consumer disclosure provisions unless expressly directed to do so by an act of law. [1995 c 267 § 4.]

Captions not law—Severability—Effective dates—1995 c 267: See notes following RCW 43.70.052.

43.70.068 Quality assurance—Interagency cooperation—Elimination and coordination of rules and programs. No later than July 1, 1995, the health care policy board together with the department of health, the health care authority, the department of social and health services, the office of the insurance commissioner, and the department of labor and industries shall form an interagency group for coordination and consultation on quality assurance activities and collaboration on final recommendations for the study required under RCW 43.70.066. By December 31, 1996, the group shall review all state agency programs governing health service quality assurance, in light of legislative actions pursuant to RCW 43.70.066(6), and shall recommend to the legislature, the consolidation, coordination, or elimination of rules and programs that would be made unnecessary pursuant to the development of a uniform quality assurance and improvement program. [1995 c 267 § 5.]

Captions not law—Severability—Effective dates—1995 c 267: See notes following RCW 43.70.052.

43.70.070 Duties of department—Analysis of health services. The department shall evaluate and analyze readily available data and information to determine the outcome and effectiveness of health services, utilization of services, and payment methods. This section should not be construed as allowing the department access to proprietary information.

(1) The department shall make its evaluations available to the board for use in preparation of the state health report required by RCW 43.20.050, and to consumers, purchasers, and providers of health care.

(2) The department shall use the information to:

(a) Develop guidelines which may be used by consumers, purchasers, and providers of health care to encourage necessary and cost-effective services; and

(b) Make recommendations to the governor on how state government and private purchasers may be prudent purchas-

ers of cost-effective, adequate health services. [1995 c 269 § 2202; 1989 1st ex.s. c 9 § 109.]

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

43.70.075 Identity of whistleblower protected—Remedy for retaliatory action—Definitions—Rules. (1) The identity of a whistleblower who complains, in good faith, to the department of health about the improper quality of care by a health care provider, or in a health care facility, as defined in *RCW 43.72.010, shall remain confidential. The provisions of RCW 4.24.500 through 4.24.520, providing certain protections to persons who communicate to government agencies, shall apply to complaints filed under this section. The identity of the whistleblower shall remain confidential unless the department determines that the complaint was not made in good faith. An employee who is a whistleblower, as defined in this section, and who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action has the remedies provided under chapter 49.60 RCW.

(2)(a) "Improper quality of care" means any practice, procedure, action, or failure to act that violates any state law or rule of the applicable state health licensing authority under Title 18 or chapters 70.41, 70.96A, 70.127, 70.175, 71.05, 71.12, and 71.24 RCW, and enforced by the department of health. Each health disciplinary authority as defined in RCW 18.130.040 may, with consultation and interdisciplinary coordination provided by the state department of health, adopt rules defining accepted standards of practice for their profession that shall further define improper quality of care. Improper quality of care shall not include good faith personnel actions related to employee performance or actions taken according to established terms and conditions of employment.

(b) "Reprisal or retaliatory action" means but is not limited to: Denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unwarranted and unsubstantiated report of misconduct pursuant to Title 18 RCW; letters of reprimand or unsatisfactory performance evaluations; demotion; reduction in pay; denial of promotion; suspension; dismissal; denial of employment; and a supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower.

(c) "Whistleblower" means a consumer, employee, or health care professional who in good faith reports alleged quality of care concerns to the department of health.

(3) Nothing in this section prohibits a health care facility from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower.

(4) The department shall adopt rules to implement procedures for filing, investigation, and resolution of whistleblower complaints that are integrated with complaint procedures under Title 18 RCW for health professionals or health care facilities. [1995 c 265 § 19.]

***Reviser's note:** RCW 43.72.010 was repealed by 1995 c 265 § 27. RCW 48.43.005 was enacted by chapter 265, Laws of 1995, and includes a definition of "health care facility."

Captions not law—Effective dates—Savings—Severability—1995 c 265: See notes following RCW 70.47.015.

43.70.080 Transfer of powers and duties from the department of social and health services. The powers and duties of the department of social and health services and the secretary of social and health services under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 16.70, 18.20, 18.46, 18.71, 18.73, 18.76, 69.30, 70.28, 70.30, 70.32, 70.33, 70.50, 70.58, 70.62, 70.83, *70.83B, 70.90, 70.98, 70.104, 70.116, 70.118, 70.119, 70.119A, 70.121, 70.127, 70.142, and 80.50 RCW. More specifically, the following programs and services presently administered by the department of social and health services are hereby transferred to the department of health:

(1) Personal health and protection programs and related management and support services, including, but not limited to: Immunizations; tuberculosis; sexually transmitted diseases; AIDS; diabetes control; primary health care; cardiovascular risk reduction; kidney disease; regional genetic services; newborn metabolic screening; sentinel birth defects; cytogenetics; communicable disease epidemiology; and chronic disease epidemiology;

(2) Environmental health protection services and related management and support services, including, but not limited to: Radiation, including x-ray control, radioactive materials, uranium mills, low-level waste, emergency response and reactor safety, and environmental radiation protection; drinking water; toxic substances; on-site sewage; recreational water contact facilities; food services sanitation; shellfish; and general environmental health services, including schools, vectors, parks, and camps;

(3) Public health laboratory;

(4) Public health support services, including, but not limited to: Vital records; health data; local public health services support; and health education and information;

(5) Licensing and certification services including, but not limited to: Health and personal care facility survey, construction review, emergency medical services, laboratory quality assurance, and accommodations surveys; and

(6) Effective January 1, 1991, parent and child health services and related management support services, including, but not limited to: Maternal and infant health; child health; parental health; nutrition; handicapped children's services; family planning; adolescent pregnancy services; high priority infant tracking; early intervention; parenting education; prenatal regionalization; and power and duties under RCW 43.20A.635. The director of the office of financial management may recommend to the legislature a delay in this transfer, if it is determined that this time frame is not adequate. [1989 1st ex.s. c 9 § 201.]

*Reviser's note: Chapter 70.83B RCW expired June 30, 1993, pursuant to 1988 c 276 § 12.

43.70.090 Authority to administer oaths and issue subpoenas—Provisions governing subpoenas. (1) The secretary shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before the secretary together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses

of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings shall be governed by RCW 34.05.588(1).

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by RCW 34.05.588(2). [1989 1st ex.s. c 9 § 252.]

43.70.095 Civil fines. This section governs the assessment of a civil fine against a person by the department. This section does not govern actions taken under chapter 18.130 RCW.

(1) The department shall give written notice to the person against whom it assesses a civil fine. The notice shall state the reasons for the adverse action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in an other [another] manner that shows proof of receipt.

(2) Except as otherwise provided in subsection (4) of this section, the civil fine is due and payable twenty-eight days after receipt. The department may make the date the fine is due later than twenty-eight days after receipt. When the department does so, it shall state the effective date in the written notice given the person against whom it assesses the fine.

(3) The person against whom the department assesses a civil fine has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the fine, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the person's receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(4) If the person files a timely and sufficient appeal, the department shall not implement the action until the final order has been served. The presiding or reviewing officer may permit the department to implement part or all of the action while the proceedings are pending if the appellant causes an unreasonable delay in the proceedings or for other good cause. [1991 c 3 § 378.]

43.70.097 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the director or the department shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 626.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

43.70.100 Reports of violations by secretary—Duty to institute proceedings—Notice to alleged violator. (1) It shall be the duty of each assistant attorney general, prosecuting attorney, or city attorney to whom the secretary reports any violation of chapter 43.20 or 43.70 RCW, or regulations promulgated under them, to cause appropriate

proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of chapter 43.20 or 43.70 RCW is reported by the secretary to the prosecuting attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his or her views to the secretary, either orally or in writing, with regard to such contemplated proceeding. [1989 1st ex.s. c 9 § 262.]

43.70.110 License fees—Exemption—Waiver. (1) The secretary shall charge fees to the licensee for obtaining a license. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees. [1993 sp.s. c 24 § 918; 1989 1st ex.s. c 9 § 263.]

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

43.70.115 Licenses—Denial, suspension, revocation, modification. This section governs the denial of an application for a license or the suspension, revocation, or modification of a license by the department. This section does not govern actions taken under chapter 18.130 RCW.

(1) The department shall give written notice of the denial of an application for a license to the applicant or his or her agent. The department shall give written notice of revocation, suspension, or modification of a license to the licensee or his or her agent. The notice shall state the reasons for the action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in an other [another] manner that shows proof of receipt.

(2) Except as otherwise provided in this subsection and in subsection (4) of this section, revocation, suspension, or modification is effective twenty-eight days after the licensee or the agent receives the notice.

(a) The department may make the date the action is effective later than twenty-eight days after receipt. If the department does so, it shall state the effective date in the written notice given the licensee or agent.

(b) The department may make the date the action is effective sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice given to the licensee or agent.

(3) A license applicant or licensee who is aggrieved by a department denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the license applicant's or licensee's receiving the adverse notice, and be served in a manner that shows proof of receipt.

(4)(a) If the department gives a licensee twenty-eight or more days notice of revocation, suspension, or modification and the licensee files an appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than twenty-eight days notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause. [1991 c 3 § 377.]

43.70.120 Federal programs—Rules—Statutes to be construed to meet federal law. In furtherance of the policy of this state to cooperate with the federal government in the public health programs, the department of health shall adopt such rules and regulations as may become necessary to entitle this state to participate in federal funds unless the same be expressly prohibited by law. Any section or provision of the public health laws of this state which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy federal laws entitling this state to receive federal funds for the various programs of public health. [1989 1st ex.s. c 9 § 264.]

43.70.130 Powers and duties of secretary—General. The secretary of health shall:

(1) Exercise all the powers and perform all the duties prescribed by law with respect to public health and vital statistics;

(2) Investigate and study factors relating to the preservation, promotion, and improvement of the health of the people, the causes of morbidity and mortality, and the effects of the environment and other conditions upon the public health, and report the findings to the state board of health for such action as the board determines is necessary;

(3) Strictly enforce all laws for the protection of the public health and the improvement of sanitary conditions in the state, and all rules, regulations, and orders of the state board of health;

(4) Enforce the public health laws of the state and the rules and regulations promulgated by the department or the

board of health in local matters, when in its opinion an emergency exists and the local board of health has failed to act with sufficient promptness or efficiency, or is unable for reasons beyond its control to act, or when no local board has been established, and all expenses so incurred shall be paid upon demand of the secretary of the department of health by the local health department for which such services are rendered, out of moneys accruing to the credit of the municipality or the local health department in the current expense fund of the county;

(5) Investigate outbreaks and epidemics of disease that may occur and advise local health officers as to measures to be taken to prevent and control the same;

(6) Exercise general supervision over the work of all local health departments and establish uniform reporting systems by local health officers to the state department of health;

(7) Have the same authority as local health officers, except that the secretary shall not exercise such authority unless the local health officer fails or is unable to do so, or when in an emergency the safety of the public health demands it, or by agreement with the local health officer or local board of health;

(8) Cause to be made from time to time, personal health and sanitation inspections at state owned or contracted institutions and facilities to determine compliance with sanitary and health care standards as adopted by the department, and require the governing authorities thereof to take such action as will conserve the health of all persons connected therewith, and report the findings to the governor;

(9) Review and approve plans for public water system design, engineering, operation, maintenance, financing, and emergency response, as required under state board of health rules;

(10) Take such measures as the secretary deems necessary in order to promote the public health, to establish or participate in the establishment of health educational or training activities, and to provide funds for and to authorize the attendance and participation in such activities of employees of the state or local health departments and other individuals engaged in programs related to or part of the public health programs of the local health departments or the state department of health. The secretary is also authorized to accept any funds from the federal government or any public or private agency made available for health education training purposes and to conform with such requirements as are necessary in order to receive such funds; and

(11) Establish and maintain laboratory facilities and services as are necessary to carry out the responsibilities of the department. [1990 c 132 § 2; 1989 1st ex.s. c 9 § 251; 1985 c 213 § 2; 1979 c 141 § 46; 1967 ex.s. c 102 § 1; 1965 c 8 § 43.20.010. Prior: (i) 1909 c 208 § 2; RRS § 6004. (ii) 1921 c 7 § 59; RRS § 10817. Formerly RCW 43.20A.600 and 43.20.010.]

Legislative findings—Severability—1990 c 132: See note following RCW 43.20.240.

Savings—Effective date—1985 c 213: See notes following RCW 43.20.050.

Severability—1967 ex.s. c 102: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 ex.s. c 102 § 13.]

Public water systems—Complaint process: RCW 43.20.240.

43.70.140 Annual conference of health officers. In order to receive the assistance and advice of local health officers in carrying out the secretary's duties and responsibilities, the secretary of health shall hold annually a conference of local health officers, at such place as the secretary deems convenient, for the discussion of questions pertaining to public health, sanitation, and other matters pertaining to the duties and functions of the local health departments, which shall continue in session for such time not exceeding three days as the secretary deems necessary.

The health officer of each county, district, municipality and county-city department shall attend such conference during its entire session, and receive therefor his or her actual and necessary traveling expenses, to be paid by his or her county, district, and municipality or county-city department. No claim for such expenses shall be allowed or paid unless it is accompanied by a certificate from the secretary of health attesting the attendance of the claimant. [1989 1st ex.s. c 9 § 253; 1979 c 141 § 50; 1967 ex.s. c 102 § 10; 1965 c 8 § 43.20.060. Prior: 1915 c 75 § 1; RRS § 6005. Formerly RCW 43.20A.615 and 43.20.060.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.70.150 Registration of vital statistics. The secretary of health shall have charge of the state system of registration of births, deaths, fetal deaths, marriages, and decrees of divorce, annulment and separate maintenance, and shall prepare the necessary rules, forms, and blanks for obtaining records, and insure the faithful registration thereof. [1989 1st ex.s. c 9 § 254; 1979 c 141 § 51; 1967 c 26 § 1; 1965 c 8 § 43.20.070. Prior: 1907 c 83 § 1; RRS § 6018. Formerly RCW 43.20A.620 and 43.20.070.]

Effective date—1967 c 26: "This act shall take effect on January 1, 1968." [1967 c 26 § 12.]

Vital statistics: Chapter 70.58 RCW.

43.70.160 Duties of registrar. The state registrar of vital statistics shall prepare, print, and supply to all registrars all blanks and forms used in registering, recording, and preserving the returns, or in otherwise carrying out the purposes of Title 70 RCW; and shall prepare and issue such detailed instructions as may be required to secure the uniform observance of its provisions and the maintenance of a perfect system of registration. No other blanks shall be used than those supplied by the state registrar. The state registrar shall carefully examine the certificates received monthly from the local registrars, county auditors, and clerks of the court and, if any are incomplete or unsatisfactory, the state registrar shall require such further information to be furnished as may be necessary to make the record complete and satisfactory, and shall cause such further information to be incorporated in or attached to and filed with the certificate. The state registrar shall furnish, arrange, bind, and make a permanent record of the certificate in a systematic manner, and shall prepare and maintain a comprehensive index of all births, deaths, fetal deaths, marriages, and decrees of divorce, annulment and separate maintenance registered. [1989 1st ex.s. c 9 § 255; 1967 c 26 § 2; 1965 c 8 § 43.20.080. Prior: 1961 ex.s. c 5 § 2; 1951 c 106 § 1;

1915 c 180 § 9; 1907 c 83 § 17; RRS § 6034. Formerly RCW 43.20A.625 and 43.20.080.]

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

Vital statistics: Chapter 70.58 RCW.

43.70.170 Threat to public health—Investigation, examination or sampling of articles or conditions constituting—Access—Subpoena power. The secretary on his or her own motion or upon the complaint of any interested party, may investigate, examine, sample or inspect any article or condition constituting a threat to the public health including, but not limited to, outbreaks of communicable diseases, food poisoning, contaminated water supplies, and all other matters injurious to the public health. When not otherwise available, the department may purchase such samples or specimens as may be necessary to determine whether or not there exists a threat to the public health. In furtherance of any such investigation, examination or inspection, the secretary or the secretary's authorized representative may examine that portion of the ledgers, books, accounts, memorandums, and other documents and other articles and things used in connection with the business of such person relating to the actions involved.

For purposes of such investigation, the secretary or the secretary's representative shall at all times have free and unimpeded access to all buildings, yards, warehouses, storage and transportation facilities or any other place. The secretary may also, for the purposes of such investigation, issue subpoenas to compel the attendance of witnesses, as provided for in RCW 43.70.090 or the production of books and documents anywhere in the state. [1989 1st ex.s. c 9 § 256; 1979 c 141 § 53; 1967 ex.s. c 102 § 3. Formerly RCW 43.20A.640 and 43.20.150.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.70.180 Threat to public health—Order prohibiting sale or disposition of food or other items pending investigation. Pending the results of an investigation provided for under RCW 43.70.170, the secretary may issue an order prohibiting the disposition or sale of any food or other item involved in the investigation. The order of the secretary shall not be effective for more than fifteen days without the commencement of a legal action as provided for under RCW 43.70.190. [1989 1st ex.s. c 9 § 257; 1979 c 141 § 54; 1967 ex.s. c 102 § 4. Formerly RCW 43.20A.645 and 43.20.160.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.70.185 Inspection of property where marine species located—Prohibitions on harvest or landing—Penalties. (1) The department may enter and inspect any property, lands, or waters, of this state in or on which any marine species are located or from which such species are harvested, whether recreationally or for sale or barter, and any land or water of this state which may cause or contribute to the pollution of areas in or on which such species are harvested or processed. The department may take any reasonably necessary samples to determine whether such species or any lot, batch, or quantity of such species is safe for human consumption.

(2) If the department determines that any species or any lot, batch, or other quantity of such species is unsafe for human consumption because consumption is likely to cause actual harm or because consumption presents a potential risk of substantial harm, the department may, by order under chapter 34.05 RCW, prohibit or restrict the commercial or recreational harvest or landing of any marine species except the recreational harvest of shellfish as defined in chapter 69.30 RCW if taken from privately owned tidelands.

(3) It is unlawful to harvest any marine species in violation of a departmental order prohibiting or restricting such harvest under this section or to possess or sell any marine species so harvested.

(4) Any person who sells any marine species taken in violation of this section is subject to the penalties provided in RCW 69.30.140 and 69.30.150. Any person who harvests or possesses marine species taken in violation of this section is guilty of a civil infraction and is subject to the penalties provided in RCW 69.30.150. Notwithstanding this section, any person who harvests, possesses, sells, offers to sell, culls, shucks, or packs shellfish is subject to the penalty provisions of chapter 69.30 RCW. Charges shall not be brought against a person under both chapter 69.30 RCW and this section in connection with this same action, incident, or event.

(5) The criminal provisions of this section are subject to enforcement by fish and wildlife enforcement officers or ex officio fish and wildlife enforcement patrol officers as defined in *RCW 75.08.011.

(6) As used in this section, marine species include all fish, invertebrate or plant species which are found during any portion of the life cycle of those species in the marine environment. [1995 c 147 § 7.]

*Reviser's note: RCW 75.08.011 defines "fisheries patrol officer" and "ex officio fisheries patrol officer."

43.70.190 Violations—Injunctions and legal proceedings authorized. The secretary of health or local health officer may bring an action to enjoin a violation or the threatened violation of any of the provisions of the public health laws of this state or any rules or regulation made by the state board of health or the department of health pursuant to said laws, or may bring any legal proceeding authorized by law, including but not limited to the special proceedings authorized in Title 7 RCW, in the superior court in the county in which such violation occurs or is about to occur, or in the superior court of Thurston county. Upon the filing of any action, the court may, upon a showing of an immediate and serious danger to residents constituting an emergency, issue a temporary injunctive order ex parte. [1990 c 133 § 3; 1989 1st ex.s. c 9 § 258; 1979 c 141 § 55; 1967 ex.s. c 102 § 5. Formerly RCW 43.20A.650 and 43.20.170.]

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.70.195 Public water systems—Receivership actions brought by secretary—Plan for disposition. (1) In any action brought by the secretary of health or by a local health officer pursuant to chapter 7.60 RCW to place a public water system in receivership, the petition shall include

the names of one or more suitable candidates for receiver who have consented to assume operation of the water system. The department shall maintain a list of interested and qualified individuals, municipal entities, special purpose districts, and investor-owned water companies with experience in the provision of water service and a history of satisfactory operation of a water system. If there is no other person willing and able to be named as receiver, the court shall appoint the county in which the water system is located as receiver. The county may designate a county agency to operate the system, or it may contract with another individual or public water system to provide management for the system. If the county is appointed as receiver, the secretary of health and the county health officer shall provide regulatory oversight for the agency or other person responsible for managing the water system.

(2) In any petition for receivership under subsection (1) of this section, the department shall recommend that the court grant to the receiver full authority to act in the best interests of the customers served by the public water system. The receiver shall assess the capability, in conjunction with the department and local government, for the system to operate in compliance with health and safety standards, and shall report to the court and the petitioning agency its recommendations for the system's future operation, including the formation of a water district or other public entity, or ownership by another existing water system capable of providing service.

(3) If a petition for receivership and verifying affidavit executed by an appropriate departmental official allege an immediate and serious danger to residents constituting an emergency, the court shall set the matter for hearing within three days and may appoint a temporary receiver *ex parte* upon the strength of such petition and affidavit pending a full evidentiary hearing, which shall be held within fourteen days after receipt of the petition.

(4) A bond, if any is imposed upon a receiver, shall be minimal and shall reasonably relate to the level of operating revenue generated by the system. Any receiver appointed pursuant to this section shall not be held personally liable for any good faith, reasonable effort to assume possession of, and to operate, the system in compliance with the court's orders.

(5) The court shall authorize the receiver to impose reasonable assessments on a water system's customers to recover expenditures for improvements necessary for the public health and safety.

(6) No later than twelve months after appointment of a receiver, the petitioning agency, in conjunction with the county in which the system is located, and the appropriate state and local health agencies, shall develop and present to the court a plan for the disposition of the system. The report shall include the recommendations of the receiver made pursuant to subsection (2) of this section. The report shall include all reasonable and feasible alternatives. After receiving the report, the court shall provide notice to interested parties and conduct such hearings as are necessary. The court shall then order the parties to implement one of the alternatives, or any combination thereof, for the disposition of the system. Such order shall include a date, or proposed date, for the termination of the receivership. Nothing in this section authorizes a court to require a city,

town, public utility district, water district, or irrigation district to accept a system that has been in receivership unless the city, town, public utility district, water district, or irrigation district agrees to the terms and conditions outlined in the plan adopted by the court.

(7) The court shall not terminate the receivership, and order the return of the system to the owners, unless the department of health approves of such an action. The court may impose reasonable conditions upon the return of the system to the owner, including the posting of a bond or other security, routine performance and financial audits, employment of qualified operators and other staff or contracted services, compliance with financial viability requirements, or other measures sufficient to ensure the ongoing proper operation of the system.

(8) If, as part of the ultimate disposition of the system, an eminent domain action is commenced by a public entity to acquire the system, the court shall oversee any appraisal of the system conducted under Title 7 RCW to assure that the appraised value properly reflects any reduced value because of the necessity to make improvements to the system. The court shall have the authority to approve the appraisal, and to modify it based on any information provided at an evidentiary hearing. The court's determination of the proper value of the system, based on the appraisal, shall be final, and only appealable if not supported by substantial evidence. If the appraised value is appealed, the court may order that the system's ownership be transferred upon payment of the approved appraised value. [1994 c 292 § 3; 1990 c 133 § 4.]

Findings—Intent—1994 c 292: See note following RCW 57.04.050.

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

43.70.200 Enforcement of health laws and state or local rules and regulations upon request of local health officer. Upon the request of a local health officer, the secretary of health is hereby authorized and empowered to take legal action to enforce the public health laws and rules and regulations of the state board of health or local rules and regulations within the jurisdiction served by the local health department, and may institute any civil legal proceeding authorized by the laws of the state of Washington, including a proceeding under Title 7 RCW. [1990 c 133 § 5; 1989 1st ex.s. c 9 § 259; 1979 c 141 § 56; 1967 ex.s. c 102 § 6. Formerly RCW 43.20A.655 and 43.20.180.]

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.70.210 Right of person to rely on prayer to alleviate ailments not abridged. Nothing in chapter 43.20 or 43.70 RCW, or RCW 43.70.120 shall be construed to abridge the right of any person to rely exclusively on spiritual means alone through prayer to alleviate human ailments, sickness or disease, in accordance with the tenets and practice of the Church of Christ, Scientist, nor shall anything in chapters 43.20, 43.70 RCW, or RCW 43.70.120 be deemed to prohibit a person so relying who is inflicted with a contagious or communicable disease from being isolated or quarantined in a private place of his own choice, provided,

it is approved by the local health officer, and all laws, rules and regulations governing control, sanitation, isolation and quarantine are complied with. [1989 1st ex.s. c 9 § 260; 1979 c 141 § 59; 1967 ex.s. c 102 § 14. Formerly RCW 43.20A.665 and 43.20.210.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

Prayer: RCW 18.50.030, 70.127.040, 70.128.170, 71.05.070, 74.09.190.

43.70.220 Transfer of powers and duties from the department of licensing. The powers and duties of the department of licensing and the director of licensing under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 18.06, 18.19, 18.22, 18.25, 18.29, 18.32, 18.34, 18.35, 18.36A, 18.50, 18.52, 18.52C, 18.53, 18.54, 18.55, 18.57, 18.57A, 18.59, 18.71, 18.71A, 18.74, 18.83, 18.84, 18.79, 18.89, 18.92, 18.108, 18.135, and 18.138 RCW. More specifically, the health professions regulatory programs and services presently administered by the department of licensing are hereby transferred to the department of health. [1994 sp.s. c 9 § 727; 1989 1st ex.s. c 9 § 301.]

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

43.70.230 Office of health consumer assistance created—Duties. There is created in the department an office of health consumer assistance. The office shall establish a state-wide hotline and shall assist and serve as an advocate for consumers who are complainants or witnesses in a licensing or disciplinary proceeding. [1989 1st ex.s. c 9 § 303.]

43.70.240 Written operating agreements. The secretary and each of the professional licensing and disciplinary boards under the administration of the department shall enter into written operating agreements on administrative procedures with input from the regulated profession and the public. The intent of these agreements is to provide a process for the department to consult each board on administrative matters and to ensure that the administration and staff functions effectively enable each board to fulfill its statutory responsibilities. The agreements shall include, but not be limited to, the following provisions:

- (1) Administrative activities supporting the board's policies, goals, and objectives;
- (2) Development and review of the agency budget as it relates to the board; and
- (3) Board related personnel issues.

The agreements shall be reviewed and revised in like manner if appropriate at the beginning of each fiscal year, and at other times upon written request by the secretary or the board.

The secretary shall report to the health care committees of the legislature, on or before February 28, 1990, on the implementation of the written operating agreement and the need, if any, for modification of this section. [1989 1st ex.s. c 9 § 304.]

43.70.250 License fees for professions, occupations, and businesses. It shall be the policy of the state of Washington that the cost of each professional, occupational,

or business licensing program be fully borne by the members of that profession, occupation, or business. The secretary shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations, or businesses administered by the department. In fixing said fees, the secretary shall set the fees for each program at a sufficient level to defray the costs of administering that program. All such fees shall be fixed by rule adopted by the secretary in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW. [1996 c 191 § 1; 1989 1st ex.s. c 9 § 319.]

43.70.260 Appointment of temporary additional members of boards and committees for administration and grading of examinations. The secretary may, at the request of a board or committee established under Title 18 RCW under the administrative authority of the department of health, appoint temporary additional members for the purpose of participating as members during the administration and grading of practical examinations for licensure, certification, or registration. The appointment shall be for the duration of the examination specified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board or committee, including the requirement to be licensed, certified, or registered. While serving as board or committee members, persons so appointed have all the powers, duties, and immunities and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the board or committee. This authority is intended to provide for more efficient, economical, and effective examinations. [1989 1st ex.s. c 9 § 320.]

43.70.270 License moratorium for persons in the service. Notwithstanding any provision of law to the contrary, the license of any person licensed by the secretary of health to practice a profession or engage in an occupation, if valid and in force and effect at the time the licensee entered service in the armed forces or the merchant marine of the United States, shall continue in full force and effect so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The secretary shall renew the license of every such person who applies for renewal thereof within six months after being honorably discharged from service upon payment of the renewal fee applicable to the then current year or other license period. [1989 1st ex.s. c 9 § 321.]

43.70.280 Procedure for issuance, renewal, or reissuance of credentials—Extension or modification of licensing, certification, or registration period authorized—Authority transfers to respective board or commission. (1) The secretary, in consultation with health profession boards and commissions, shall establish by rule the administrative procedures, administrative requirements, and fees for initial issue, renewal, and reissue of a credential for professions under RCW 18.130.040, including procedures and requirements for late renewals and uniform application

of late renewal penalties. Failure to renew invalidates the credential and all privileges granted by the credential. Administrative procedures and administrative requirements do not include establishing, monitoring, and enforcing qualifications for licensure, scope or standards of practice, continuing competency mechanisms, and discipline when such authority is authorized in statute to a health profession board or commission. For the purposes of this section, "in consultation with" means providing an opportunity for meaningful participation in development of rules consistent with processes set forth in RCW 34.05.310.

(2) Notwithstanding any provision of law to the contrary which provides for a licensing period for any type of license subject to this chapter including those under RCW 18.130.040, the secretary of health may, from time to time, extend or otherwise modify the duration of any licensing, certification, or registration period, whether an initial or renewal period, if the secretary determines that it would result in a more economical or efficient operation of state government and that the public health, safety, or welfare would not be substantially adversely affected thereby. However, no license, certification, or registration may be issued or approved for a period in excess of four years, without renewal. Such extension, reduction, or other modification of a licensing, certification, or registration period shall be by rule or regulation of the department of health adopted in accordance with the provisions of chapter 34.05 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended or modified period.

(3) Unless extended by the legislature, effective July 1, 1998, the authority of the secretary to establish administrative procedures and administrative requirements for initial issue, renewal, and reissue of a credential, including procedures and requirements for late renewals and uniform application of late renewal penalties, shall cease to apply to those health professions otherwise regulated by a board or commission with statutory rule-making authority. If not extended by the legislature, such authority shall transfer to the respective board or commission. Rules adopted by the secretary under this section shall remain in effect after July 1, 1998, until modified or repealed in accordance with the provisions of chapter 34.05 RCW. [1996 c 191 § 2; 1989 1st ex.s. c 9 § 322.]

43.70.290 Funeral directors and embalmers subject to chapter 18.130 RCW. Funeral directors and embalmers, licensed under chapter 18.39 RCW, are subject to the provisions of chapter 18.130 RCW under the administration of the department of licensing. The department of licensing shall review the statutes authorizing the regulation of funeral directors and embalmers, and recommend any changes necessary by January 1, 1990. [1989 1st ex.s. c 9 § 323.]

43.70.300 Secretary or secretary's designee ex officio member of health professional licensure and disciplinary boards. In order to provide liaison with the department of health, provide continuity between changes in board membership, achieve uniformity as appropriate in licensure or regulated activities under the jurisdiction of the

department, and to better represent the public interest, the secretary, or a designee appointed by the secretary, shall serve as an ex officio member of every health professional licensure or disciplinary board established under Title 18 RCW under the administrative authority of the department of health. The secretary shall have no vote unless otherwise authorized by law. [1989 1st ex.s. c 9 § 318; 1983 c 168 § 11. Formerly RCW 43.24.015.]

Severability—1983 c 168: See RCW 18.120.910.

43.70.310 Cooperation with department of ecology. Where feasible, the department and the state board of health shall consult with the department of ecology in order that, to the fullest extent possible, agencies concerned with the preservation of life and health and agencies concerned with protection of the environment may integrate their efforts and endorse policies in common. [1987 c 109 § 25; 1970 ex.s. c 18 § 12. Formerly RCW 43.20A.140.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.70.320 Health professions account—Fees credited—Requirements for biennial budget request. (1) There is created in the state treasury an account to be known as the health professions account. All fees received by the department for health professions licenses, registration, certifications, renewals, or examinations and the civil penalties assessed and collected by the department under RCW 18.130.190 shall be forwarded to the state treasurer who shall credit such moneys to the health professions account.

(2) All expenses incurred in carrying out the health professions licensing activities of the department shall be paid from the account as authorized by legislative appropriation. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium.

(3) The secretary shall biennially prepare a budget request based on the anticipated costs of administering the health professions licensing activities of the department which shall include the estimated income from health professions fees. [1993 c 492 § 411; 1991 sp.s. c 13 § 18; 1991 c 3 § 299; 1985 c 57 § 29; 1983 c 168 § 5. Formerly RCW 43.24.072.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1983 c 168: See RCW 18.120.910.

43.70.325 Rural health access account. The rural health access account is created in the custody of the state treasurer. The account may receive moneys through gift, grant, or donation to the state for the purposes of the account. Expenditures from the account may be used only for rural health programs including, but not limited to, those authorized in chapters 70.175 and 70.180 RCW, the health professional and loan repayment programs authorized in chapter 28B.115 RCW, and to make grants to small or rural

hospitals, or rural public hospital districts, for the purpose of developing viable, integrated rural health systems. Only the secretary of health or the secretary's designee may authorize expenditures from the account. No appropriation is required for an expenditure from the account. Any residue in the account shall accumulate in the account and shall not revert to the general fund at the end of the biennium. Costs incurred by the department in administering the account shall be paid from the account. [1992 c 120 § 1.]

43.70.330 Labor camps and farmworker housing—Inspector—Interagency agreement for inspections. (1) The department of health shall be the primary inspector of labor camps and farmworker housing for the state of Washington: PROVIDED, That the department of labor and industries shall be the inspector for all farmworker housing not covered by the authority of the state board of health.

(2) The department of health, the department of labor and industries, the department of community, trade, and economic development, the state board of health, and the employment security department shall develop an interagency agreement defining the rules and responsibilities for the inspection of farmworker housing. This agreement shall recognize the department of health as the primary inspector of labor camps for the state, and shall further be designed to provide a central information center for public information and education regarding farmworker housing. The agencies shall provide the legislature with a report on the results of this agreement by January 1, 1991. [1995 c 399 § 75; 1990 c 253 § 2.]

Legislative finding and purpose—1990 c 253: "The legislature finds that the demand for housing for migrant and seasonal farmworkers far exceeds the supply of adequate housing in the state of Washington. In addition, increasing numbers of these housing units are in deteriorated condition because they cannot be economically maintained and repaired.

The legislature further finds that the lack of a clear program for the regulation and inspection of farmworker housing has impeded the construction and renovation of housing units in this state.

It is the purpose of this act for the various agencies involved in the regulation of farmworker housing to coordinate and consolidate their activities to provide for efficient and effective monitoring of farmworker housing. It is intended that this action will provide greater responsiveness in dealing with public concerns over farmworker housing, and allow greater numbers of housing units to be built." [1990 c 253 § 1.]

43.70.340 Farmworker housing inspection fund—Fee on labor camp operating license—Licenses generally.

(1) The farmworker housing inspection fund is established in the custody of the state treasury. The department of health shall deposit all funds received under subsection (2) of this section and from the legislature to administer a labor camp inspection program conducted by the department of health. Disbursement from the fund shall be on authorization of the secretary of health or the secretary's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

(2) There is imposed a fee on each operating license issued by the department of health to every operator of a labor camp that is regulated by the state board of health. The fee paid under this subsection shall include all necessary inspection of the units to ensure compliance with applicable state board of health rules on labor camps.

(a) Fifty dollars shall be charged for each labor camp containing six or less units.

(b) Seventy-five dollars shall be charged for each labor camp containing more than six units.

(3) The term of the operating license and the application procedures shall be established, by rule, by the department of health. [1990 c 253 § 3.]

Legislative finding and purpose—1990 c 253: See note following RCW 43.70.330.

43.70.400 Head injury prevention—Legislative finding. The legislature finds that head injury is a major cause of death and disability for Washington citizens. The costs of head injury treatment and rehabilitation are extensive and resultant disabilities are long and indeterminate. These costs are often borne by public programs such as medicaid. The legislature finds further that many such injuries are preventable. The legislature intends to reduce the occurrence of head injury by educating persons whose behavior may place them at risk and by regulating certain activities. [1990 c 270 § 2.]

43.70.410 Head injury prevention—Program, generally. As used in RCW 43.70.400 through 43.70.440, the term "head injury" means traumatic brain injury.

A head injury prevention program is created in the department of health. The program's functions may be integrated with those of similar programs to promote comprehensive, integrated, and effective health promotion and disease prevention.

In consultation with the traffic safety commission, the department shall, directly or by contract, identify and coordinate public education efforts currently underway within state government and among private groups to prevent traumatic brain injury, including, but not limited to, bicycle safety, pedestrian safety, bicycle passenger seat safety, motorcycle safety, motor vehicle safety, and sports safety. If the department finds that programs are not available or not in use, it may, within funds appropriated for the purpose, provide grants to promote public education efforts. Grants may be awarded only after recipients have demonstrated coordination with relevant and knowledgeable groups within their communities, including at least schools, brain injury support organizations, hospitals, physicians, traffic safety specialists, police, and the public. The department may accept grants, gifts, and donations from public or private sources to use to carry out the head injury prevention program.

The department may assess or contract for the assessment of the effectiveness of public education efforts coordinated or initiated by any agency of state government. Agencies are directed to cooperate with assessment efforts by providing access to data and program records as reasonably required. The department may seek and receive additional funds from the federal government or private sources for assessments. Assessments shall contain findings and recommendations that will improve the effectiveness of public education efforts. These findings shall be distributed among public and private groups concerned with traumatic brain injury prevention. [1990 c 270 § 3.]

Bicycle awareness program: RCW 43.43.390.

43.70.420 Head injury prevention—Information preparation. The department of health, the department of licensing, and the traffic safety commission shall jointly prepare information for driver license manuals, driver education programs, and driving tests to increase driver awareness of pedestrian safety, to increase driver skills in avoiding pedestrian and motor vehicle accidents, and to determine drivers' abilities to avoid pedestrian motor vehicle accidents. [1990 c 270 § 4.]

43.70.430 Head injury prevention—Guidelines on training and education—Training of emergency medical personnel. The department shall prepare guidelines on relevant training and education regarding traumatic brain injury for health and education professionals, and relevant public safety and law enforcement officials. The department shall distribute such guidelines and any recommendations for training or educational requirements for health professionals or educators to the disciplinary authorities governed by chapter 18.130 RCW and to educational service districts established under chapter 28A.310 RCW. Specifically, all emergency medical personnel shall be trained in proper helmet removal. [1990 c 270 § 6.]

43.70.440 Head injury prevention act—Short title. *This act shall be known and cited as the Head Injury Prevention Act of 1990. [1990 c 270 § 1.]

***Reviser's note:** "This act" consists of the enactment of RCW 43.70.400 through 43.70.440 and the 1990 c 270 amendments to RCW 46.37.530 and 46.37.535.

43.70.450 Senior environmental corps—Department powers and duties. (1) The department of health shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under RCW 43.63A.247:

- Appoint a representative to the coordinating council;
- Develop project proposals;
- Administer project activities within the agency;
- Develop appropriate procedures for the use of volunteers;

- Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;

- Maintain project records and provide project reports;
- Apply for and accept grants or contributions for corps approved projects; and

- With the approval of the *council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers. [1992 c 63 § 12.]

***Reviser's note:** RCW 70.170.030, which created the health care access and cost control council, was repealed by 1995 c 269 § 2204, effective July 1, 1995.

Severability—1992 c 63: See note following RCW 43.63A.240.

43.70.460 Retired primary care provider liability malpractice insurance—Program authorized. (1) The department may establish a program to purchase and

maintain liability malpractice insurance for retired primary care providers who provide primary health care services at community clinics. The following conditions apply to the program:

(a) Primary health care services shall be provided at community clinics that are public or private tax-exempt corporations;

(b) Primary health care services provided at the clinics shall be offered to low-income patients based on their ability to pay;

(c) Retired primary care providers providing health care services shall not receive compensation for their services; and

(d) The department shall contract only with a liability insurer authorized to offer liability malpractice insurance in the state.

(2) This section and RCW 43.70.470 shall not be interpreted to require a liability insurer to provide coverage to a primary care provider should the insurer determine that coverage should not be offered to a physician [primary care provider] because of past claims experience or for other appropriate reasons.

(3) The state and its employees who operate the program shall be immune from any civil or criminal action involving claims against clinics or physicians [primary care providers] that provided health care services under this section and RCW 43.70.470. This protection of immunity shall not extend to any clinic or primary care provider participating in the program.

(4) The department may monitor the claims experience of retired physicians [primary care providers] covered by liability insurers contracting with the department.

(5) The department may provide liability insurance under chapter 113, Laws of 1992 only to the extent funds are provided for this purpose by the legislature. [1993 c 492 § 276; 1992 c 113 § 2.]

Finding—1993 c 492: See note following RCW 28B.125.010.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Legislative declaration—1992 c 113: "There are a number of retired physicians who wish to provide, or are providing, health care services to low-income patients without compensation. However, the cost of obtaining malpractice insurance is a burden that is deterring them from donating their time and services in treating the health problems of the poor. The necessity of maintaining malpractice insurance for those in practice is a significant reality in today's litigious society.

A program to alleviate the onerous costs of malpractice insurance for retired physicians providing uncompensated health care services to low-income patients will encourage philanthropy and augment state resources in providing for the health care needs of those who have no access to basic health care services.

An estimated sixteen percent of the nonelderly population do not have health insurance and lack access to even basic health care services. This is especially problematic for low-income persons who are young and who are either unemployed or have entry-level jobs without health care benefits. The majority of the uninsured, however, are working adults, and some twenty-nine percent are children.

The legislature declares that this act will increase the availability of primary care to low-income persons and is in the interest of the public health and safety." [1992 c 113 § 1.]

43.70.470 Retired primary care provider liability malpractice insurance—Conditions. The department may

establish by rule the conditions of participation in the liability insurance program by retired primary care providers at clinics utilizing retired physicians [primary care providers] for the purposes of this section and RCW 43.70.460. These conditions shall include, but not be limited to, the following:

(1) The participating primary care provider associated with the clinic shall hold a valid license to practice as a physician under chapter 18.71 or 18.57 RCW, a naturopath under chapter 18.36A RCW, a physician assistant under chapter 18.71A or 18.57A RCW, an advanced registered nurse practitioner under *chapter 18.88 RCW, a dentist under chapter 18.32 RCW, or other health professionals as may be deemed in short supply in the health personnel resource plan under chapter 28B.125 RCW. All primary care providers must be in conformity with current requirements for licensure as a retired primary care provider, including continuing education requirements;

(2) The participating primary care provider shall limit the scope of practice in the clinic to primary care. Primary care shall be limited to noninvasive procedures and shall not include obstetrical care, or any specialized care and treatment. Noninvasive procedures include injections, suturing of minor lacerations, and incisions of boils or superficial abscesses. Primary dental care shall be limited to diagnosis, oral hygiene, restoration, and extractions and shall not include orthodontia, or other specialized care and treatment;

(3) The provision of liability insurance coverage shall not extend to acts outside the scope of rendering medical services pursuant to this section and RCW 43.70.460;

(4) The participating primary care provider shall limit the provision of health care services to primarily low-income persons provided that clinics may, but are not required to, provide means tests for eligibility as a condition for obtaining health care services;

(5) The participating primary care provider shall not accept compensation for providing health care services from patients served pursuant to this section and RCW 43.70.460, nor from clinics serving these patients. "Compensation" shall mean any remuneration of value to the participating primary care provider for services provided by the primary care provider, but shall not be construed to include any nominal copayments charged by the clinic, nor reimbursement of related expenses of a participating primary care provider authorized by the clinic in advance of being incurred; and

(6) The use of mediation or arbitration for resolving questions of potential liability may be used, however any mediation or arbitration agreement format shall be expressed in terms clear enough for a person with a sixth grade level of education to understand, and on a form no longer than one page in length. [1993 c 492 § 277; 1992 c 113 § 3.]

*Reviser's note: Chapter 18.88 RCW was repealed by 1994 sp.s. c 9 § 433, effective July 1, 1994.

Finding—1993 c 492: See note following RCW 28B.125.010.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Legislative declaration—1992 c 113: See note following RCW 43.70.460.

43.70.480 Emergency medical personnel—Futile treatment and natural death directives. The department of health shall adopt guidelines and protocols for how emergency medical personnel shall respond when summoned to the site of an injury or illness for the treatment of a person who has signed a written directive or durable power of attorney requesting that he or she not receive futile emergency medical treatment. [1992 c 98 § 14.]

Application—Severability—1992 c 98: See RCW 70.122.915 and 70.122.920.

43.70.500 Health care services practice indicators and risk management protocols. The department of health shall consult with health care providers and facilities, purchasers, health professional regulatory authorities under RCW 18.130.040, appropriate research and clinical experts, and consumers of health care services to identify specific practice areas where practice indicators and risk management protocols have been developed, including those that have been demonstrated to be effective among persons of color. Practice indicators shall be based upon expert consensus and best available scientific evidence. The department shall:

(1) Develop a definition of expert consensus and best available scientific evidence so that practice indicators can serve as a standard for excellence in the provision of health care services.

(2) Establish a process to identify and evaluate practice indicators and risk management protocols as they are developed by the appropriate professional, scientific, and clinical communities.

(3) Recommend the use of practice indicators and risk management protocols in quality assurance, utilization review, or provider payment to the health services commission. [1993 c 492 § 410.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

43.70.510 Health care services coordinated quality improvement program—Rules. (1)(a) Health care institutions and medical facilities, other than hospitals, that are licensed by the department, professional societies or organizations, health care service contractors, health maintenance organizations, health carriers approved pursuant to chapter 48.43 RCW, and any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction and regulation of any state agency or any subdivision thereof may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200.

(b) All such programs shall comply with the requirements of RCW 70.41.200(1)(a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the institution, facility, professional societies or organizations, health care service contractors, health maintenance organizations, health carriers, or any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction and regulation of any state agency or any subdivision thereof, unless an alternative quality

improvement program substantially equivalent to RCW 70.41.200(1)(a) is developed. All such programs, whether complying with the requirement set forth in RCW 70.41.200(1)(a) or in the form of an alternative program, must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section and the exemption under RCW 42.17.310(1)(hh) and subsection (5) of this section shall apply. In reviewing plans submitted by licensed entities that are associated with physicians' offices, the department shall ensure that the exemption under RCW 42.17.310(1)(hh) and the discovery limitations of this section are applied only to information and documents related specifically to quality improvement activities undertaken by the licensed entity.

(2) Health care provider groups of ten or more providers may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200. All such programs shall comply with the requirements of RCW 70.41.200(1)(a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the health care provider group. All such programs must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section and the exemption under RCW 42.17.310(1)(hh) and subsection (5) of this section shall apply.

(3) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity.

(4) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts that form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action challenging the termination of a contract by a state agency with any entity maintaining a coordinated quality improvement program under this section if the termination was on the basis of quality of care concerns, introduction into evidence of information created, collected, or maintained by the quality improvement commit-

tees of the subject entity, which may be under terms of a protective order as specified by the court; (e) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (f) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department of health to be made regarding the care and treatment received.

(5) Information and documents created specifically for, and collected and maintained by a quality improvement committee are exempt from disclosure under chapter 42.17 RCW.

(6) The department of health shall adopt rules as are necessary to implement this section. [1995 c 267 § 7; 1993 c 492 § 417.]

~~Captions not law—Severability—Effective dates—1995 c 267: See notes following RCW 43.70.052.~~

~~Findings—Intent—1993 c 492: See notes following RCW 43.20.050.~~

~~Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.~~

43.70.520 Public health services improvement plan.

(1) The legislature finds that the public health functions of community assessment, policy development, and assurance of service delivery are essential elements in achieving the objectives of health reform in Washington state. The legislature further finds that the population-based services provided by state and local health departments are cost-effective and are a critical strategy for the long-term containment of health care costs. The legislature further finds that the public health system in the state lacks the capacity to fulfill these functions consistent with the needs of a reformed health care system.

(2) The department of health shall develop, in consultation with local health departments and districts, the state board of health, the health services commission, area Indian health service, and other state agencies, health services providers, and citizens concerned about public health, a public health services improvement plan. The plan shall provide a detailed accounting of deficits in the core functions of assessment, policy development, assurance of the current public health system, how additional public health funding would be used, and describe the benefits expected from expanded expenditures.

(3) The plan shall include:

(a) Definition of minimum standards for public health protection through assessment, policy development, and assurances:

(i) Enumeration of communities not meeting those standards;

(ii) A budget and staffing plan for bringing all communities up to minimum standards;

(iii) An analysis of the costs and benefits expected from adopting minimum public health standards for assessment, policy development, and assurances;

(b) Recommended strategies and a schedule for improving public health programs throughout the state, including:

(i) Strategies for transferring personal health care services from the public health system, into the uniform benefits package where feasible; and

(ii) Timing of increased funding for public health services linked to specific objectives for improving public health; and

(c) A recommended level of dedicated funding for public health services to be expressed in terms of a percentage of total health service expenditures in the state or a set per person amount; such recommendation shall also include methods to ensure that such funding does not supplant existing federal, state, and local funds received by local health departments, and methods of distributing funds among local health departments.

(4) The department shall coordinate this planning process with the study activities required in section 258, chapter 492, Laws of 1993.

(5) By March 1, 1994, the department shall provide initial recommendations of the public health services improvement plan to the legislature regarding minimum public health standards, and public health programs needed to address urgent needs, such as those cited in subsection (7) of this section.

(6) By December 1, 1994, the department shall present the public health services improvement plan to the legislature, with specific recommendations for each element of the plan to be implemented over the period from 1995 through 1997.

(7) Thereafter, the department shall update the public health services improvement plan for presentation to the legislature prior to the beginning of a new biennium.

(8) Among the specific population-based public health activities to be considered in the public health services improvement plan are: Health data assessment and chronic and infectious disease surveillance; rapid response to outbreaks of communicable disease; efforts to prevent and control specific communicable diseases, such as tuberculosis and acquired immune deficiency syndrome; health education to promote healthy behaviors and to reduce the prevalence of chronic disease, such as those linked to the use of tobacco; access to primary care in coordination with existing community and migrant health clinics and other not for profit health care organizations; programs to ensure children are born as healthy as possible and they receive immunizations and adequate nutrition; efforts to prevent intentional and unintentional injury; programs to ensure the safety of drinking water and food supplies; poison control; trauma services; and other activities that have the potential to improve the health of the population or special populations and reduce the need for or cost of health services. [1993 c 492 § 467.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Additional contents: RCW 43.70.550.

43.70.525 Immunization assessment and enhancement proposals by local jurisdictions. (1) The department, in conjunction with local health jurisdictions, shall require each local health jurisdiction to submit an immunization assessment and enhancement proposal, consistent with the standards established in the public health [services] improvement plan, to provide immunization protection to the

children of the state to further reduce vaccine-preventable diseases.

(2) These plans shall include, but not be limited to:

(a) A description of the population groups in the jurisdiction that are in the greatest need of immunizations;

(b) A description of strategies to use outreach, volunteer, and other local educational resources to enhance immunization rates; and

(c) A description of the capacity required to accomplish the enhancement proposal.

(3) This section shall be implemented consistent with available funding.

(4) The secretary shall report through the public health [services] improvement plan to the health care and fiscal committees of the legislature on the status of the program and progress made toward increasing immunization rates in population groups of greatest need. [1994 c 299 § 29.]

Intent—Finding—Severability—Conflict with federal requirements—1994 c 299: See notes following RCW 74.12.400.

Immunization: RCW 28A.210.060.

43.70.530 Home visitor program. The department of health, the department of social and health services, the *department of community development, the superintendent of public instruction, and the employment security department shall, collectively and collaboratively, develop a plan for a home health visitor program that shall have as its primary purpose the prevention of child abuse and neglect through the provision of selected educational and supportive services to high risk parents of newborns.

(1) The program shall: (a) Be community-based; (b) include early hospital-based screening to identify high risk parents of newborns; (c) provide for an effective, in-home outreach and support program for high risk parents of newborns that involves: (i) Frequent home visits, (ii) parent training on early childhood development, parenting, and the stress factors that lead to abuse and neglect, and (iii) referrals to needed social and health services; and (d) demonstrate effective coordination among current community-based programs that may also serve high risk parents and their infants, including child abuse prevention programs, first steps, second steps, the early childhood education and assistance program, the healthy kids program, child welfare services, the women, infants, and child [children] program, the high priority infant tracking program, the birth to six program, local and state public health prevention and early intervention services, and other services as identified.

(2) The plan shall: (a) Include an estimate and a description of the high risk groups to be served; (b) detail the screening process and mechanisms to be used to identify high risk parents; (c) detail the services to be included in the in-home program; (d) describe staffing that may include the use of teams of professionals, paraprofessionals, and volunteers; (e) describe how the program will be evaluated, including the measurable outcomes to be achieved; and (f) provide an estimate of the costs to fully implement the program state-wide, and for possible consideration, a series of pilot projects with a phased-in schedule.

(3) The plan shall be provided to the appropriate legislative committees by December 1, 1993. [1993 c 179 § 2.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Intent—1993 c 179: "The incidence of child abuse and neglect has reached epidemic proportions in the nation. In Washington state alone, there were sixty-two thousand five hundred reports of child abuse and neglect in 1991. That is one occurrence for every twenty-one children in this state. Research shows that most reported cases of physical abuse and neglect occurs among children under the age of five. Research also shows that child abuse and neglect can be prevented. One of the most effective strategies for preventing child abuse and neglect is to provide parents who are most at risk of abuse, with education and supportive services beginning at the time their infant is born and continuing in the home. Therefore, it is the legislature's intent to develop the home health visitor program in this state." [1993 c 179 § 1.]

Effective date—1993 c 179: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 30, 1993]." [1993 c 179 § 3.]

43.70.540 Data collection—Legislative finding and intent. The legislature recognizes that the state patrol, the office of the administrator for the courts, the sheriffs' and police chiefs' association, the department of social and health services, the department of community, trade, and economic development, the sentencing guidelines commission, the department of corrections, and the superintendent of public instruction each have comprehensive data and analysis capabilities that have contributed greatly to our current understanding of crime and violence, and their causes.

The legislature finds, however, that a single health-oriented agency must be designated to provide consistent guidelines to all these groups regarding the way in which their data systems collect this important data. It is not the intent of the legislature by RCW 43.70.545 to transfer data collection requirements from existing agencies or to require the addition of major new data systems. It is rather the intent to make only the minimum required changes in existing data systems to increase compatibility and comparability, reduce duplication, and to increase the usefulness of data collected by these agencies in developing more accurate descriptions of violence. [1995 c 399 § 76; 1994 sp.s. c 7 § 201.]

Legislative finding and intent—1994 sp.s. c 7: "The legislature finds that the increasing violence in our society causes great concern for the immediate health and safety of our citizens and our social institutions. Youth violence is increasing at an alarming rate and young people between the ages of fifteen and twenty-four are at the highest risk of being perpetrators and victims of violence. Additionally, random violence, including homicide and the use of firearms, has dramatically increased over the last decade.

The legislature finds that violence is abhorrent to the aims of a free society and that it cannot be tolerated. State efforts at reducing violence must include changes in criminal penalties, reducing the unlawful use of and access to firearms, increasing educational efforts to encourage nonviolent means for resolving conflicts, and allowing communities to design their prevention efforts.

The legislature finds that the problem of violence can be addressed with many of the same approaches that public health programs have used to control other problems such as infectious disease, tobacco use, and traffic fatalities.

Addressing the problem of violence requires the concerted effort of all communities and all parts of state and local governments. It is the immediate purpose of chapter 7, Laws of 1994 sp. sess. to: (1) Prevent acts of violence by encouraging change in social norms and individual behaviors that have been shown to increase the risk of violence; (2) reduce the rate of at-risk children and youth, as defined in *RCW 70.190.010; (3) increase the severity and certainty of punishment for youth and adults who commit

violent acts; (4) reduce the severity of harm to individuals when violence occurs; (5) empower communities to focus their concerns and allow them to control the funds dedicated to empirically supported preventive efforts in their region; and (6) reduce the fiscal and social impact of violence on our society." [1994 sp.s. c 7 § 101.]

***Reviser's note:** The governor vetoed 1994 sp.s. c 7 § 302, which amended RCW 70.190.010 to define "at-risk children and youth." RCW 70.190.010 was subsequently amended by 1996 c 132 § 2, which now includes a definition for "at-risk children."

Severability—1994 sp.s. c 7: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 sp.s. c 7 § 913.]

Effective dates—Contingent expiration date—1994 sp.s. c 7: "(1) Sections 201 through 204, 302, 323, 411, 412, 417, and 418 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 6, 1994].

(2) Sections 904 through 908 of this act shall take effect July 1, 1995.

(3) Notwithstanding other provisions of this section, if sections 901 through 909 of this act are referred to the voters at the next succeeding general election and sections 901 through 909 of this act are rejected by the voters, then the amendments by sections 510 through 512, 519, 521, 525, and 527 of this act shall expire on July 1, 1995." [1994 sp.s. c 7 § 915 (Referendum Bill No. 43, subsection (3) approved November 8, 1994).]

***Reviser's note:** Sections 901 through 909, chapter 7, Laws of 1994 sp. sess. were approved and ratified by the voters on November 8, 1994, in Referendum Bill No. 43. Therefore, the amendments to sections 510 through 512, 519, 521, 525, and 527, chapter 7, Laws of 1994 sp. sess. do not expire on July 1, 1995.

43.70.545 Data collection and reporting rules. (1)

The department of health shall develop, based on recommendations in the public health services improvement plan and in consultation with affected groups or agencies, comprehensive rules for the collection and reporting of data relating to acts of violence, at-risk behaviors, and risk and protective factors. The data collection and reporting rules shall be used by any public or private entity that is required to report data relating to these behaviors and conditions. The department may require any agency or program that is state-funded or that accepts state funds and any licensed or regulated person or professional to report these behaviors and conditions. To the extent possible the department shall require the reports to be filed through existing data systems. The department may also require reporting of attempted acts of violence and of nonphysical injuries. For the purposes of this section "acts of violence" means self-directed and interpersonal behaviors that can result in suicide, homicide, and nonfatal intentional injuries. "At-risk behaviors," "protective factors," and "risk factors" have the same meanings as provided in RCW 70.190.010. A copy of the data used by a school district to prepare and submit a report to the department shall be retained by the district and, in the copy retained by the district, identify the reported acts or behaviors by school site.

(2) The department is designated as the state-wide agency for the coordination of all information relating to violence and other intentional injuries, at-risk behaviors, and risk and protective factors.

(3) The department shall provide necessary data to the local health departments for use in planning by or evaluation of any community network authorized under RCW 70.190.060.

(4) The department shall publish annual reports on intentional injuries, unintentional injuries, rates of at-risk youth, and associated risk and protective factors. The

reports shall be submitted to the governor, the legislature, and the Washington state institute for public policy.

(5) The department shall by rule establish requirements for local health departments to perform assessment related to at-risk behaviors and risk and protective factors and to assist community networks in policy development and in planning and other duties under chapter 7, Laws of 1994 sp. sess.

(6) The department may, consistent with its general authority and directives under RCW 43.70.540 through 43.70.560, contract with a college or university that has experience in data collection relating to the health and overall welfare of children to provide assistance to:

(a) State and local health departments in developing new sources of data to track acts of violence, at-risk behaviors, and risk and protective factors; and

(b) Local health departments to compile and effectively communicate data in their communities. [1994 sp.s. c 7 § 202.]

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.70.550 Public health services improvement plan—Contents. The public health services improvement plan developed under RCW 43.70.520 shall include:

(1) Minimum standards for state and local public health assessment, performance measurement, policy development, and assurance regarding social development to reduce at-risk behaviors and risk and protective factors. The department in the development of data collection and reporting requirements for the superintendent of public instruction, schools, and school districts shall consult with the joint select committee on education restructuring and local school districts.

(2)(a) Measurable risk factors that are empirically linked to violent criminal acts by juveniles, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence; and

(b) An evaluation of other factors to determine whether they are empirically related risk factors, such as: Out-of-home placements, poverty, single-parent households, inadequate nutrition, hunger, unemployment, lack of job skills, gang affiliation, lack of recreational or cultural opportunities, school absenteeism, court-ordered parenting plans, physical, emotional, or behavioral problems requiring special needs assistance in K-12 schools, learning disabilities, and any other possible factors.

(3) Data collection and analysis standards on at-risk behaviors and risk and protective factors for use by the local public health departments and the *state council and the local community networks to ensure consistent and interchangeable data.

(4) Recommendations regarding any state or federal statutory barriers affecting data collection or reporting.

The department shall provide an annual report to the Washington state institute for public policy on the implementation of this section. [1994 sp.s. c 7 § 203.]

***Reviser's note:** RCW 70.170.030, which created the health care access and cost control council, was repealed by 1995 c 269 § 2204, effective July 1, 1995.

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.70.555 Assessment standards. The department, in consultation with the family policy council created in chapter 70.190 RCW, shall establish, by rule, standards for local health departments and networks to use in assessment, performance measurement, policy development, and assurance regarding social development to prevent health problems caused by risk factors empirically linked to: Violent criminal acts by juveniles, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence. The standards shall be based on the standards set forth in the public health services improvement plan as required by RCW 43.70.550.

The department, in consultation with the family policy council, shall review the definitions of at-risk children and youth, protective factors, and risk factors contained in *RCW 70.190.010 and make any suggested recommendations for change to the legislature by January 1, 1995. [1994 sp.s. c 7 § 204.]

***Reviser's note:** The governor vetoed 1994 sp.s. c 7 § 302, which amended RCW 70.190.010 to define the terms referred to. RCW 70.190.010 was subsequently amended by 1996 c 132 § 2, which now includes definitions for "at-risk children," "protective factors," and "risk factors."

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.70.560 Media violence—Reporting reduction efforts. The legislature encourages the use of a state-wide voluntary, socially responsible policy to reduce the emphasis, amount, and type of violence in all public media. The department shall develop a suggested reporting format for use by the print, television, and radio media in reporting their voluntary violence reduction efforts. Each area of the public media may carry out the policy in whatever manner that area deems appropriate. [1994 sp.s. c 7 § 205.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.70.570 Intent—1995 c 43. The legislature declares its intent to implement the recommendations of the public health improvement plan by initiating a program to provide the public health system with the necessary capacity to improve the health outcomes of the population of Washington state and establishing the methodology by which improvement in the health outcomes and delivery of public health activities will be assessed. [1995 c 43 § 1.]

Severability—1995 c 43: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 43 § 14.]

Effective dates—Contingent effective dates—1995 c 43: See note following RCW 70.05.030.

43.70.575 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.70.570 through 43.70.580.

(1) "Capacity" means actions that public health jurisdictions must do as part of ongoing daily operations to adequately protect and promote health and prevent disease, injury, and premature death. The public health improvement plan identifies capacity necessary for assessment, policy de-

velopment, administration, prevention, including promotion and protection, and access and quality.

(2) "Department" means the department of health.

(3) "Local health jurisdiction" means the local health agency, either county or multicounty, operated by local government, with oversight and direction from a local board of health, that provides public health services throughout a defined geographic area.

(4) "Health outcomes" means long-term objectives that define optimal, measurable, future levels of health status, maximum acceptable levels of disease, injury, or dysfunction, or prevalence of risk factors in areas such as improving the rate of immunizations for infants and children to ninety percent and controlling and reducing the spread of tuberculosis and that are stated in the public health improvement plan.

(5) "Public health improvement plan," also known as the public health services improvement plan, means the public health services improvement plan established under RCW 43.70.520, developed by the department, in consultation with local health departments and districts, the state board of health, the health services commission, area Indian health services, and other state agencies, health services providers, and residents concerned about public health, to provide a detailed accounting of deficits in the core functions of assessment, policy development, and assurance of the current public health system, how additional public health funding would be used, and to describe the benefits expected from expanded expenditures.

(6) "Public health" means activities that society does collectively to assure the conditions in which people can be healthy. This includes organized community efforts to prevent, identify, preempt, and counter threats to the public's health.

(7) "Public health system" means the department, the state board of health, and local health jurisdictions. [1995 c 43 § 2.]

Effective dates—Contingent effective dates—1995 c 43: See note following RCW 70.05.030.

Severability—1995 c 43: See note following RCW 43.70.570.

43.70.580 Public health improvement plan—Funds—Performance-based contracts—Rules—Evaluation and report. The primary responsibility of the public health system, is to take those actions necessary to protect, promote, and improve the health of the population. In order to accomplish this, the department shall:

(1) Identify, as part of the public health improvement plan, the key health outcomes sought for the population and the capacity needed by the public health system to fulfill its responsibilities in improving health outcomes.

(2)(a) Distribute state funds that, in conjunction with local revenues, are intended to improve the capacity of the public health system. The distribution methodology shall encourage system-wide effectiveness and efficiency and provide local health jurisdictions with the flexibility both to determine governance structures and address their unique needs.

(b) Enter into with each local health jurisdiction performance-based contracts that establish clear measures of the degree to which the local health jurisdiction is attaining the capacity necessary to improve health outcomes. The

contracts negotiated between the local health jurisdictions and the department of health must identify the specific measurable progress that local health jurisdictions will make toward achieving health outcomes. A community assessment conducted by the local health jurisdiction according to the public health improvement plan, which shall include the results of the comprehensive plan prepared according to RCW 70.190.130, will be used as the basis for identifying the health outcomes. The contracts shall include provisions to encourage collaboration among local health jurisdictions. State funds shall be used solely to expand and complement, but not to supplant city and county government support for public health programs.

(3) Develop criteria to assess the degree to which capacity is being achieved and ensure compliance by public health jurisdictions.

(4) Adopt rules necessary to carry out the purposes of chapter 43, Laws of 1995.

(5) Biennially, within the public health improvement plan, evaluate the effectiveness of the public health system, assess the degree to which the public health system is attaining the capacity to improve the status of the public's health, and report progress made by each local health jurisdiction toward improving health outcomes. [1995 c 43 § 3.]

Effective dates—Contingent effective dates—1995 c 43: See note following RCW 70.05.030.

Severability—1995 c 43: See note following RCW 43.70.570.

43.70.590 American Indian health care delivery plan. Consistent with funds appropriated specifically for this purpose, the department shall establish in conjunction with the area Indian health services system and providers an advisory group comprised of Indian and non-Indian health care facilities and providers to formulate an American Indian health care delivery plan. The plan shall include:

(1) Recommendations to providers and facilities methods for coordinating and joint venturing with the Indian health services for service delivery;

(2) Methods to improve American Indian-specific health programming; and

(3) Creation of co-funding recommendations and opportunities for the unmet health services programming needs of American Indians. [1995 c 43 § 4; 1993 c 492 § 468. Formerly RCW 41.05.240.]

Reviser's note: RCW 41.05.240 was amended and recodified as RCW 43.70.590 by 1995 c 43 without cognizance of the repeal by 1995 1st sp.s. c 6 § 9. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

Effective dates—Contingent effective dates—1995 c 43: See note following RCW 70.05.030.

Severability—1995 c 43: See note following RCW 43.70.570.

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

43.70.600 Survey regarding exposure to radio frequencies—Results. When funds are appropriated for this purpose, the department shall conduct a survey of scientific literature regarding the possible health effects of human exposure to the radio frequency part of the electromagnetic spectrum (300Hz to 300GHz). The department shall submit the survey results to the legislature, prepare a summary of that survey, and make the summary available to the public. The department shall update the survey and summary periodically. [1996 c 323 § 6.]

Findings—1996 c 323: "The legislature finds that concerns have been raised over possible health effects from exposure to some wireless telecommunications facilities, and that exposures from these facilities should be kept as low as reasonably achievable while still allowing the operation of these networks. The legislature further finds that the department of health should serve as the state agency that follows the issues and compiles information pertaining to potential health effects from wireless telecommunications facilities." [1996 c 323 § 1.]

43.70.605 Personal wireless services—Random testing on power density analysis—Rules. Unless this section is preempted by applicable federal statutes, the department may require that in residential zones or areas, all providers of personal wireless services, as defined in *section 1 of this act, provide random test results on power density analysis for the provider's licensed frequencies showing radio frequency levels before and after development of the personal wireless service antenna facilities, following national standards or protocols of the federal communications commission or other federal agencies. This section shall not apply to microcells as defined in RCW 80.36.375. The department may adopt rules to implement this section. [1996 c 323 § 7.]

***Reviser's note:** The reference to section 1 of this act is erroneous. Section 2 of the act, codified as RCW 43.21C.0384, was apparently intended.

Findings—1996 c 323: See note following RCW 43.70.600.

43.70.610 Domestic violence education program—Established—Findings. The legislature finds that domestic violence is the leading cause of injury among women and is linked to numerous health problems, including depression, abuse of alcohol and other drugs, and suicide. Despite the frequency of medical attention, few people are diagnosed as victims of spousal abuse. The department, in consultation with the disciplinary authorities as defined in RCW 18.130.040, shall establish, within available department general funds, an ongoing domestic violence education program as an integral part of its health professions regulation. The purpose of the education program is to raise awareness and educate health care professionals regarding the identification, appropriate treatment, and appropriate referral of victims of domestic violence. The disciplinary authorities having the authority to offer continuing education may provide training in the dynamics of domestic violence. No funds from the health professions account may be utilized to fund activities under this section unless the disciplinary authority authorizes expenditures from its proportions of the account. A disciplinary authority may defray costs by authorizing a fee to be charged for participants or materials relating to any sponsored program. [1996 c 191 § 89.]

43.70.900 References to the secretary or department of social and health services—1989 1st ex.s. c 9. All references to the secretary or department of social and health services in the Revised Code of Washington shall be construed to mean the secretary or department of health when referring to the functions transferred in RCW 43.70.080, *15.36.005, 18.104.005, 19.32.005, **28A.210.005, 43.83B.005, 43.99D.005, 43.99E.005, ***70.05.005, 70.08.005, ***70.12.005, 70.22.005,

70.24.005, 70.40.005, 70.41.005, and 70.54.005. [1990 c 33 § 580; 1989 1st ex.s. c 9 § 801.]

Reviser's note: *(1) RCW 15.36.005 was recodified as RCW 15.36.471 pursuant to 1994 c 143 § 514.

** (2) RCW 28A.210.005 was repealed by 1995 c 335 § 307.

*** (3) RCW 70.05.005 and 70.12.005 were repealed by 1993 c 492 § 257, effective July 1, 1995.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

43.70.901 References to the director or department of licensing—1989 1st ex.s. c 9. All references to the director of licensing or department of licensing in the Revised Code of Washington shall be construed to mean the secretary or department of health when referring to the functions transferred in RCW 43.70.220. [1989 1st ex.s. c 9 § 802.]

43.70.902 References to the hospital commission—1989 1st ex.s. c 9. All references to the hospital commission in the Revised Code of Washington shall be construed to mean the secretary or the department of health. [1989 1st ex.s. c 9 § 803.]

43.70.910 Effective date—1989 1st ex.s. c 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989. [1989 1st ex.s. c 9 § 825.]

43.70.920 Severability—1989 1st ex.s. c 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 1st ex.s. c 9 § 826.]

Chapter 43.72

HEALTH SYSTEM REFORM—HEALTH SERVICES COMMISSION

Sections	
43.72.090	Uniform or supplemental benefits—Provision by certified health plan only—Uniform benefits package as minimum.
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43.72.916	Effective date—1993 c 494.

43.72.090 Uniform or supplemental benefits—Provision by certified health plan only—Uniform benefits package as minimum. (1) On and after December 31, 1995, no person or entity in this state shall provide the uniform benefits package and supplemental benefits as defined in *RCW 43.72.010 without being certified as a certified health plan by the insurance commissioner.

(2) On and after December 31, 1995, no certified health plan may offer less than the uniform benefits package to residents of this state and no registered employer health plan may provide less than the uniform benefits package to its employees and their dependents.

(3) The health services commission may authorize renewal or continuation until December 31, 1996, of health care service contracts, disability group insurance, or health maintenance policies in effect on December 31, 1995. [1995 c 2 § 1; 1993 c 492 § 427.]

Reviser's note: *(1) RCW 43.72.010 was repealed by 1995 c 265 § 27, effective July 1, 1995.

(2) RCW 43.72.090 was also repealed by 1995 c 265 § 27 without cognizance of its amendment by 1995 c 2 § 1. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

Effective date—1995 c 2: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [February 3, 1995]." [1995 c 2 § 5.]

Certification: Chapter 48.43 RCW.

43.72.090 Uniform or supplemental benefits—Provision by certified health plan only—Uniform benefits package as minimum. [1993 c 492 § 427.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

Reviser's note: RCW 43.72.090 was also amended by 1995 c 2 § 1 without cognizance of its repeal by 1995 c 265 § 27. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

Certification: Chapter 48.43 RCW.

43.72.180 Legislative approval—Uniform benefits package and medical risk adjustment mechanisms. The legislature may disapprove of the uniform benefits package developed under *RCW 43.72.130 and medical risk adjustment mechanisms developed under **RCW 43.72.040(7) by an act of law at any time prior to the last day of the following regular legislative session. If such disapproval action is taken, the commission shall resubmit a modified package to the legislature within fifteen days of the disapproval. If the legislature does not disapprove or modify the package by an act of law by the end of that regular session, the package is deemed approved. [1995 c 2 § 2; 1993 c 492 § 454.]

Reviser's note: *(1) RCW 43.72.130 was repealed by 1995 c 265 § 27, effective July 1, 1995.

** (2) RCW 43.72.040 was repealed by 1995 c 265 § 27, effective July 1, 1995.

(3) RCW 43.72.180 was also repealed by 1995 c 265 § 27 without cognizance of its amendment by 1995 c 2 § 2. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

Effective date—1995 c 2: See note following RCW 43.72.090.

43.72.180 Legislative approval—Uniform benefits package and medical risk adjustment mechanisms. [1993 c 492 § 454.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

Reviser's note: RCW 43.72.180 was also amended by 1995 c 2 § 2 without cognizance of its repeal by 1995 c 265 § 27. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

43.72.300 Managed competition—Findings and intent. (1) The legislature recognizes that competition among health care providers, facilities, payers, and purchasers will yield the best allocation of health care resources, the lowest prices for health care, and the highest quality of health care when there exists a large number of buyers and sellers, easily comparable health care plans and services,

minimal barriers to entry and exit into the health care market, and adequate information for buyers and sellers to base purchasing and production decisions. However, the legislature finds that purchasers of health care services and health care coverage do not have adequate information upon which to base purchasing decisions; that health care facilities and providers of health care services face legal and market disincentives to develop economies of scale or to provide the most cost-efficient and efficacious service; that health insurers, contractors, and health maintenance organizations face market disincentives in providing health care coverage to those Washington residents with the most need for health care coverage; and that potential competitors in the provision of health care coverage bear unequal burdens in entering the market for health care coverage.

(2) The legislature therefore intends to exempt from state anti-trust laws, and to provide immunity from federal anti-trust laws through the state action doctrine for activities approved under this chapter that might otherwise be constrained by such laws and intends to displace competition in the health care market: To contain the aggregate cost of health care services; to promote the development of comprehensive, integrated, and cost-effective health care delivery systems through cooperative activities among health care providers and facilities; to promote comparability of health care coverage; to improve the cost-effectiveness in providing health care coverage relative to health promotion, disease prevention, and the amelioration or cure of illness; to assure universal access to a publicly determined, uniform package of health care benefits; and to create reasonable equity in the distribution of funds, treatment, and medical risk among purchasers of health care coverage, payers of health care services, providers of health care services, health care facilities, and Washington residents. To these ends, any lawful action taken pursuant to chapter 492, Laws of 1993 by any person or entity created or regulated by chapter 492, Laws of 1993 are declared to be taken pursuant to state statute and in furtherance of the public purposes of the state of Washington.

(3) The legislature does not intend and unless explicitly permitted in accordance with RCW 43.72.310 or under rules adopted pursuant to chapter 492, Laws of 1993, does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal anti-trust laws including but not limited to conspiracies or agreements:

(a) Among competing health care providers not to grant discounts, not to provide services, or to fix the price of their services;

(b) Among certified health plans as to the price or level of reimbursement for health care services;

(c) Among certified health plans to boycott a group or class of health care service providers;

(d) Among purchasers of certified health plan coverage to boycott a particular plan or class of plans;

(e) Among certified health plans to divide the market for health care coverage; or

(f) Among certified health plans and purchasers to attract or discourage enrollment of any Washington resident or groups of residents in a certified health plan based upon the perceived or actual risk of loss in including such resident

or group of residents in a certified health plan or purchasing group. [1993 c 492 § 447.]

43.72.310 Managed competition—Competitive oversight—Attorney general duties—Anti-trust immunity.

(1) Until May 8, 1995, and after June 30, 1996, a certified health plan, health care facility, health care provider, or other person involved in the development, delivery, or marketing of health care or certified health plans may request, in writing, that the commission obtain an informal opinion from the attorney general as to whether particular conduct is authorized by chapter 492, Laws of 1993. Trade secret or proprietary information contained in a request for informal opinion shall be identified as such and shall not be disclosed other than to an authorized employee of the commission or attorney general without the consent of the party making the request, except that information in summary or aggregate form and market share data may be contained in the informal opinion issued by the attorney general. The attorney general shall issue such opinion within thirty days of receipt of a written request for an opinion or within thirty days of receipt of any additional information requested by the attorney general necessary for rendering an opinion unless extended by the attorney general for good cause shown. If the attorney general concludes that such conduct is not authorized by chapter 492, Laws of 1993, the person or organization making the request may petition the commission for review and approval of such conduct in accordance with subsection (3) of this section.

(2) After obtaining the written opinion of the attorney general and consistent with such opinion, the health services commission:

(a) May authorize conduct by a certified health plan, health care facility, health care provider, or any other person that could tend to lessen competition in the relevant market upon a strong showing that the conduct is likely to achieve the policy goals of chapter 492, Laws of 1993 and a more competitive alternative is impractical;

(b) Shall adopt rules governing conduct among providers, health care facilities, and certified health plans including rules governing provider and facility contracts with certified health plans, rules governing the use of "most favored nation" clauses and exclusive dealing clauses in such contracts, and rules providing that certified health plans in rural areas contract with a sufficient number and type of health care providers and facilities to ensure consumer access to local health care services;

(c) Shall adopt rules permitting health care providers within the service area of a plan to collectively negotiate the terms and conditions of contracts with a certified health plan including the ability of providers to meet and communicate for the purposes of these negotiations; and

(d) Shall adopt rules governing cooperative activities among health care facilities and providers.

(3) Until May 8, 1995, and after June 30, 1996, a certified health plan, health care facility, health care provider, or any other person involved in the development, delivery, and marketing of health services or certified health plans may file a written petition with the commission requesting approval of conduct that could tend to lessen competition in

the relevant market. Such petition shall be filed in a form and manner prescribed by rule of the commission.

The commission shall issue a written decision approving or denying a petition filed under this section within ninety days of receipt of a properly completed written petition unless extended by the commission for good cause shown. The decision shall set forth findings as to benefits and disadvantages and conclusions as to whether the benefits outweigh the disadvantages.

(4) In authorizing conduct and adopting rules of conduct under this section, the commission with the advice of the attorney general, shall consider the benefits of such conduct in furthering the goals of health care reform including but not limited to:

(a) Enhancement of the quality of health services to consumers;

(b) Gains in cost efficiency of health services;

(c) Improvements in utilization of health services and equipment;

(d) Avoidance of duplication of health services resources; or

(e) And as to (b) and (c) of this subsection: (i) Facilitates the exchange of information relating to performance expectations; (ii) simplifies the negotiation of delivery arrangements and relationships; and (iii) reduces the transactions costs on the part of certified health plans and providers in negotiating more cost-effective delivery arrangements.

These benefits must outweigh disadvantages including and not limited to:

(i) Reduced competition among certified health plans, health care providers, or health care facilities;

(ii) Adverse impact on quality, availability, or price of health care services to consumers; or

(iii) The availability of arrangements less restrictive to competition that achieve the same benefits.

(5) Conduct authorized by the commission shall be deemed taken pursuant to state statute and in the furtherance of the public purposes of the state of Washington.

(6) With the assistance of the attorney general's office, the commission shall actively supervise any conduct authorized under this section to determine whether such conduct or rules permitting certain conduct should be continued and whether a more competitive alternative is practical. The commission shall periodically review petitioned conduct through, at least, annual progress reports from petitioners, annual or more frequent reviews by the commission that evaluate whether the conduct is consistent with the petition, and whether the benefits continue to outweigh any disadvantages. If the commission determines that the likely benefits of any conduct approved through rule, petition, or otherwise by the commission no longer outweigh the disadvantages attributable to potential reduction in competition, the commission shall order a modification or discontinuance of such conduct. Conduct ordered discontinued by the commission shall no longer be deemed to be taken pursuant to state statute and in the furtherance of the public purposes of the state of Washington.

(7) Nothing contained in chapter 492, Laws of 1993 is intended to in any way limit the ability of rural hospital districts to enter into cooperative agreements and contracts pursuant to RCW 70.44.450 and chapter 39.34 RCW.

(8) Only requests for informal opinions under subsection (1) of this section and petitions under subsection (3) of this section that were received prior to May 8, 1995, or after June 30, 1996, shall be considered. [1995 c 267 § 8; 1993 c 492 § 448.]

Captions not law—Severability—Effective dates—1995 c 267: See notes following RCW 43.70.052.

43.72.320 Transfer of health services commission duties to the health care policy board. (1) Effective July 1, 1995, except as provided in subsection (2) of this section, the duties of the health services commission under RCW 43.72.310 shall be carried out by the health care policy board established in section 9, chapter 265, Laws of 1995.

(2) For purposes of the transfer of duties under this section to the health care policy board, legislative members are not appointed to the board and are not members of the board. [1995 c 267 § 10.]

Captions not law—Severability—Effective dates—1995 c 267: See notes following RCW 43.70.052.

43.72.850 Workers' compensation medical benefits. On or before January 1, 1995, and January 1, 1996, the health services commission, in coordination with the department of labor and industries and the workers' compensation advisory committee, shall study and make an interim report, and on or before January 1, 1997, a final report, to the governor and appropriate committees of the legislature on the provision of medical benefits for injured workers under a consolidated health care system. The study shall include a review of options and recommendations for modifying the industrial insurance system to provide medical services for injured workers in a more cost-effective manner under a consolidated system, and may include consideration of the purchase of industrial insurance medical benefits through the health care authority or the inclusion of industrial insurance medical benefits in the services offered by certified health plans or other appropriate options. The commission should also give consideration to at least the following issues: The use of managed care and the effect of managed care options on the injured workers' choice of health services provider; the potential cost savings or other impacts of various consolidation options; the benefit structure required under industrial insurance; the potential for consolidation to meet or exceed existing medical cost management of the medical aid fund; the impact of separating the medical management of claims from the disability management of claims; the relationship between return-to-work efforts, medical services, and disability prevention; the relationship between medical services and rehabilitation services; and the effects of the quasi-judicial system that determines industrial insurance rights and obligations. In addition, the final report shall include a proposed plan and timeline for including the medical benefits of the industrial insurance system in the services offered by certified health plans. The proposed plan shall assure that:

(1) The plan shall not take effect until at least ninety-seven percent of state residents have access to the uniform benefits package as required in chapter 492, Laws of 1993;

(2) The uniform benefits package of the certified health plan will provide benefits for injured workers that are at

least equivalent to the medical benefits provided to injured workers under Title 51 RCW as determined by the department of labor and industries as of the effective date of the plan, including payments for services that are ancillary to industrial insurance medical benefits, such as but not limited to medical examinations for permanent disabilities;

(3) Other nonmedical benefits required to be provided under Title 51 RCW; such as but not limited to total or partial disability benefits or vocational rehabilitation benefits, are not affected;

(4) Employers who do not choose to become certified health plans under chapter 492, Laws of 1993, will continue to be required to provide industrial insurance medical benefits under Title 51 RCW;

(5) Employees participating in the plan shall not be required to pay deductibles, copayments, or other point of service charges for services related to industrial insurance injuries or diseases, such costs to be paid by the department of labor and industries or self-insured employer, as applicable;

(6) The plan includes a mechanism to return to workers and employers, in equal shares, any savings that are realized in the costs of medical services for injured workers, as identified by the department of labor and industries;

(7) The majority of the employer's employees or, if the employees are represented for collective bargaining purposes, the exclusive bargaining representative voluntarily agree to the employer's participation in the plan. [1995 c 81 § 1; 1993 c 492 § 485.]

Crime victims' compensation medical benefits—1993 c 492: "(1) On or before January 1, 1995, the department of labor and industries in coordination with the [health services] commission, shall complete a study related to the medical services component of the crime victims' compensation program of the department of labor and industries. The goal of the study shall be to determine whether and how the medical services component of the crime victims' compensation program can be modified to provide appropriate medical services to crime victims in a more cost-effective manner. In conducting the study, consideration shall be given to at least the following factors: Required benefit design, necessary statutory changes, and the use of managed care to provide services to crime victims. The study shall evaluate at least the following options:

(a) Whether the medical services component of the crime victims' compensation program should be maintained within the department of labor and industries, and its purchasing and other practices modified to control costs and increase efficacy of health services provided to crime victims;

(b) Whether the medical services component of the crime victims' compensation program should be administered by the health care authority as the state health care purchasing agent;

(c) Whether the medical services component of the crime victims' compensation program should be included in the services offered by certified health plans.

(2) The department of labor and industries shall present the recommendations to the governor and the appropriate committees of the legislature by January 1, 1995." [1993 c 492 § 483.]

43.72.860 Managed care pilot projects. (1) The department of labor and industries, in consultation with the workers' compensation advisory committee, may conduct pilot projects to purchase medical services for injured workers through managed care arrangements. The projects shall assess the effects of managed care on the cost and quality of, and employer and employee satisfaction with, medical services provided to injured workers.

(2) The pilot projects may be limited to specific employers. The implementation of a pilot project shall be conditioned upon a participating employer and a majority of

its employees, or, if the employees are represented for collective bargaining purposes, the exclusive bargaining representative, voluntarily agreeing to the terms of the pilot. Unless the project is terminated by the department, both the employer and employees are bound by the project agreements for the duration of the project.

(3) Solely for the purpose and duration of a pilot project, the specific requirements of Title 51 RCW that are identified by the department as otherwise prohibiting implementation of the pilot project shall not apply to the participating employers and employees to the extent necessary for conducting the project. Managed care arrangements for the pilot projects may include the designation of doctors responsible for the care delivered to injured workers participating in the projects.

(4) The projects shall conclude no later than January 1, 1997. The department shall make an interim report on the projects to the governor and appropriate committees of the legislature on or before October 1, 1996. The department shall present the final results of the pilot projects and any final recommendations related to the projects to the governor and appropriate committees of the legislature on or before April 1, 1997. [1995 c 81 § 2; 1993 c 492 § 486.]

43.72.900 Health services account. The health services account is created in the state treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended only for maintaining and expanding health services access for low-income residents, maintaining and expanding the public health system, maintaining and improving the capacity of the health care system, containing health care costs, and the regulation, planning, and administering of the health care system. [1993 c 492 § 469.]

43.72.902 Public health services account. The public health services account is created in the state treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended only for maintaining and improving the health of Washington residents through the public health system. For purposes of this section, the public health system shall consist of the state board of health, the state department of health, and local health departments and districts. [1995 c 43 § 12; 1993 c 492 § 470.]

Effective dates—Contingent effective dates—1995 c 43: See note following RCW 70.05.030.

Severability—1995 c 43: See note following RCW 43.70.570.

43.72.904 Health system capacity account. The health system capacity account is created in the state treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended for the following purposes: Health data systems; health systems and public health research; health system regulation; health system planning, development, and administration; and improving the supply and geographic distribution of primary health service providers. [1993 c 492 § 471.]

43.72.906 Personal health services account. The personal health services account is created in the [state]

treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended for the support of subsidized personal health services for low-income Washington residents. [1993 c 492 § 472.]

43.72.910 Short title—1993 c 492. This act may be known and cited as the Washington health services act of 1993. [1993 c 492 § 487.]

43.72.911 Severability—1993 c 492. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 492 § 490.]

43.72.912 Savings—1993 c 492. The enactment of this act does not have the effect of terminating, or in any way modifying, any obligation or any liability, civil or criminal, which was already in existence on the effective date of this act. [1993 c 492 § 491.]

43.72.913 Captions not law—1993 c 492. Captions used in this act do not constitute any part of the law. [1993 c 492 § 492.]

43.72.914 Reservation of legislative power—1993 c 492. The legislature reserves the right to amend or repeal all or any part of this act at any time and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this act or any acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this act at any time. [1993 c 492 § 494.]

43.72.915 Effective dates—1993 c 492. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993, except for:

(1) Sections 234 through 243, 245 through 254, and 257 of this act, which shall take effect January 1, 1996, or January 1, 1998, if funding is not provided as set forth in section 17(4) of this act; and

(2) Sections 301 through 303 of this act, which shall take effect January 1, 1994. [1995 c 43 § 15; 1993 sp.s. c 25 § 603; 1993 c 492 § 495.]

Effective dates—Contingent effective dates—1995 c 43: See note following RCW 70.05.030.

Severability—1995 c 43: See note following RCW 43.70.570.

Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25: See notes following RCW 82.04.230.

43.72.916 Effective date—1993 c 494. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993. [1993 c 494 § 8.]

Chapter 43.73

WASHINGTON HEALTH CARE POLICY BOARD

Sections

- 43.73.010 Membership—Terms—Salary.
 43.73.020 Chair—Powers and duties.
 43.73.030 Board—Powers and duties.
 43.73.040 Legislative budget committee study and report.

Development of health care data standards: RCW 43.70.054.

Study of uniform quality assurance and improvement program: RCW 43.70.066.

43.73.010 Membership—Terms—Salary. (1) There is hereby created the Washington health care policy board. The board shall consist of: (a) Five members appointed by the governor; (b) two members of the senate appointed by the president of the senate, one of whom shall be a member of the minority party; and (c) two members of the house of representatives appointed by the speaker of the house of representatives, one of whom shall be a member of the minority party. One member of the board shall be designated by the governor as chair and shall serve at the pleasure of the governor. All legislative members shall be appointed before the close of each regular or special session during an odd-numbered year.

(2) Of the members appointed by the governor, two shall be appointed to two-year terms and two shall be appointed to three-year terms. Thereafter, members shall be appointed to three-year terms. The chair shall serve at the pleasure of the governor. Vacancies shall be filled by appointment for the remainder of the unexpired term of the position being vacated. A majority of the voting members shall constitute a quorum.

(3) Members of the board appointed by the governor shall occupy their positions on a full-time basis and are exempt from the provisions of chapter 41.06 RCW. They shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. [1995 c 265 § 9.]

Captions not law—Effective dates—Savings—Severability—1995 c 265: See notes following RCW 70.47.015.

43.73.020 Chair—Powers and duties. The chair shall be the chief administrative officer and the appointing authority of the board. The chair shall have the authority to employ personnel of the board in accordance with chapter 41.06 RCW and prescribe their duties. The chair may employ up to eight personnel exempt from the provisions of chapter 41.06 RCW. The chair shall also have the following powers and duties:

- (1) Enter into contracts on behalf of the board;
- (2) Accept and expend donations, grants, and other funds received by the board;
- (3) Appoint advisory committees and undertake studies, research, and analysis necessary to support activities of the board. [1995 c 265 § 10.]

Captions not law—Effective dates—Savings—Severability—1995 c 265: See notes following RCW 70.47.015.

43.73.030 Board—Powers and duties. The board shall have the following powers and duties:

(1) Periodically make recommendations to the appropriate committees of the legislature and the governor on issues including, but not limited to the following:

(a) The scope, financing, and delivery of health care benefit plans including access for both the insured and uninsured population;

(b) Long-term care services including the finance and delivery of such services in conjunction with the basic health plan by 1999;

(c) The use of health care savings accounts including their impact on the health of participants and the cost of health insurance;

(d) Rural health care needs;

(e) Whether Washington is experiencing an increase in immigration as a result of health insurance reforms and the availability of subsidized and unsubsidized health care benefits;

(f) The status of medical education and make recommendations regarding steps possible to encourage adequate availability of health care professionals to meet the needs of the state's populations with particular attention to rural areas;

(g) The implementation of community rating and its impacts on the marketplace including costs and access;

(h) The status of quality improvement programs in both the public and private sectors;

(i) Models for billing and claims processing forms, ensuring that these procedures minimize administrative burdens on health care providers, facilities, carriers, and consumers. These standards shall also apply to state-purchased health services where appropriate;

(j) Guidelines to health carriers for utilization management and review, provider selection and termination policies, and coordination of benefits and premiums; and

(k) Study the feasibility of including long-term care services in a medicare supplemental insurance policy offered according to RCW 41.05.197;

(2) Review rules prepared by the insurance commissioner, health care authority, department of social and health services, department of labor and industries, and department of health, and make recommendations where appropriate to facilitate consistency with the goals of health reform;

(3) Make recommendations on a system for managing health care services to children with special needs and report to the governor and the legislature on their findings by January 1, 1997;

(4) Conduct a comparative analysis of individual and group insurance markets addressing: Relative costs; utilization rates; adverse selection; and specific impacts upon small businesses and individuals. The analysis shall address, also, the necessity and feasibility of establishing explicit related policies, to include, but not be limited to, establishing the maximum allowable individual premium rate as a percentage of the small group premium rate. The board shall submit an interim report on its findings to the governor and appropriate committees of the legislature by December 15, 1995, and a final report on December 15, 1996;

(5) Develop sample enrollee satisfaction surveys that may be used by health carriers. [1995 c 265 § 11.]

Captions not law—Effective dates—Savings—Severability—1995 c 265: See notes following RCW 70.47.015.

43.73.040 *Legislative budget committee study and report. In January 1999 the *legislative budget committee shall commence a study of the necessity of the existence of the board and report its recommendations to the appropriate committees of the legislature by December 1, 1999. [1995 c 265 § 12.]

***Reviser's note:** The "legislative budget committee" was redesignated the "joint legislative audit and review committee" by 1996 c 288 § 3.

Captions not law—Effective dates—Savings—Severability—1995 c 265: See notes following RCW 70.47.015.

Chapter 43.75

STATE BUILDING AUTHORITY— INDEBTEDNESS—REFUNDING—BOND ISSUE

Sections

- 43.75.200 General obligation bonds—Refunding—Amount—Authority of state finance committee to issue.
- 43.75.205 General obligation bonds—Form, terms, covenants, etc.—Sale—Redemption.
- 43.75.215 General obligation bonds—Redemption—Enforcement.
- 43.75.225 Rescission of leases and agreements authorized.
- 43.75.230 Legislature may provide additional means for paying bonds.
- 43.75.235 Bonds legal investment for state and other public body funds.
- 43.75.900 Severability—1973 c 9.
- 43.75.910 Effective date—1973 c 9.

43.75.200 General obligation bonds—Refunding—Amount—Authority of state finance committee to issue. The state finance committee shall issue general obligation bonds of the state in the amount of seventy-two million one hundred sixty-seven thousand, six hundred fifty dollars, or so much thereof as may be required to refund, at or prior to maturity, all indebtedness, including any premium payable with respect thereto and all interest thereon, incurred by the Washington state building authority and to pay all costs incidental thereto and to the issuance of such bonds. Such refunding bonds shall not constitute an indebtedness of the state of Washington within the meaning of the debt limitation contained in section 1 of Article VIII of the Washington state Constitution, as amended by a vote of the people pursuant to HJR 52, 1971 regular session. [1973 c 9 § 1; 1971 ex.s. c 154 § 1.]

43.75.205 General obligation bonds—Form, terms, covenants, etc.—Sale—Redemption. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds herein authorized shall be sold for less than the par value thereof. Such bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds. Such bonds shall be payable at such places as the committee may provide.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due.

The proceeds from the sale of bonds authorized by this chapter and any interest earned on the interim investment of such proceeds, shall be used exclusively for the purposes specified in this chapter. [1973 c 9 § 2.]

43.75.215 General obligation bonds—Redemption—Enforcement. The state finance committee shall on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet retirement and interest requirements of such bonds, and on July 1st of each year the state treasurer shall deposit from any general state revenues such amount in the state building authority bond redemption fund hereby created in the state treasury. The owner and holder of each of the bonds or the trustee for any of the bondholders may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed by this section. [1973 c 9 § 3.]

43.75.225 Rescission of leases and agreements authorized. The Washington state building authority and the state institutions of higher learning and other state agencies are hereby authorized to rescind leases and other agreements entered into prior to February 21, 1973, pursuant to chapter 43.75 RCW at such time as all indebtedness incurred by the authority has been paid. [1973 c 9 § 5.]

43.75.230 Legislature may provide additional means for paying bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized by this chapter, and this chapter shall not be deemed to provide an exclusive method for such payment. [1973 c 9 § 6.]

43.75.235 Bonds legal investment for state and other public body funds. The bonds authorized by this chapter shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1973 c 9 § 7.]

43.75.900 Severability—1973 c 9. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 c 9 § 9.]

43.75.910 Effective date—1973 c 9. This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and, except as otherwise specifically provided, shall take effect immediately. [1973 c 9 § 10.]

Chapter 43.78

PUBLIC PRINTER—PUBLIC PRINTING

Sections	
43.78.010	Appointment of public printer.
43.78.020	Bond.
43.78.030	Duties—Exceptions.
43.78.040	Requisitions.
43.78.050	Itemized statement of charges.
43.78.070	Use of state plant—Conditions—Public printer's salary.
43.78.080	Printing specifications.
43.78.090	Reprinting.
43.78.100	Stock to be furnished.
43.78.105	Printing for institutions of higher education—Interlocal agreements.
43.78.110	Securing printing from private sources—Farming out.
43.78.130	Public printing for municipal corporations must be done in state—Exceptions.
43.78.140	Public printing for municipal corporations must be done in state—Allowance of claims.
43.78.150	Public printing for municipal corporations must be done in state—Contracts for out-of-state work.
43.78.160	Public printing for municipal corporations must be done in state—Quality and workmanship requirements.
43.78.170	Recycled content requirement.

43.78.010 Appointment of public printer. There shall be a public printer appointed by the governor with the advice and consent of the senate, who shall hold office at the pleasure of the governor and until his successor is appointed and qualified. [1981 c 338 § 6; 1965 c 8 § 43.78.010. Prior: 1905 c 168 § 1; RRS § 10323.]

43.78.020 Bond. Before entering upon the duties of his office, the public printer shall execute to the state a bond in the sum of ten thousand dollars conditioned for the faithful and punctual performance of all duties and trusts of his office. [1965 c 8 § 43.78.020. Prior: 1933 c 97 § 4; 1905 c 168 § 2; RRS § 10324.]

43.78.030 Duties—Exceptions. The public printer shall print and bind the session laws, the journals of the two houses of the legislature, all bills, resolutions, documents, and other printing and binding of either the senate or house, as the same may be ordered by the legislature; and such forms, blanks, record books, and printing and binding of every description as may be ordered by all state officers, boards, commissions, and institutions, and the supreme court, and the court of appeals and officers thereof, as the same may be ordered on requisition, from time to time, by the proper authorities. This section shall not apply to the printing of the supreme court and the court of appeals reports, to the printing of bond certificates or bond offering disclosure documents, to the printing of educational publications of the state historical societies, or to any printing done or contracted for by institutions of higher education: PROVIDED, That institutions of higher education, in consultation with the public printer, develop vendor selection procedures comparable to those used by the public printer for contracted printing jobs. Where any institution or institution of higher learning of the state is or may become equipped with facilities for doing such work, it may do any printing: (1) For itself, or (2) for any other state institution when such printing is done as part of a course of study relative to the profession of printer. Any printing and

binding of whatever description as may be needed by any institution or agency of the state department of social and health services not at Olympia, or the supreme court or the court of appeals or any officer thereof, the estimated cost of which shall not exceed one thousand dollars, may be done by any private printing company in the general vicinity within the state of Washington so ordering, if in the judgment of the officer of the agency so ordering, the saving in time and processing justifies the award to such local private printing concern.

Beginning on July 1, 1989, and on July 1 of each succeeding odd-numbered year, the dollar limit specified in this section shall be adjusted as follows: The office of financial management shall calculate such limit by adjusting the previous biennium's limit by an appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest fifty dollars. [1994 c 82 § 1; 1993 c 379 § 104; 1988 c 102 § 1; 1987 c 72 § 1; 1982 c 164 § 2; 1971 c 81 § 114; 1965 c 8 § 43.78.030. Prior: 1959 c 88 § 1; 1917 c 129 § 1; 1915 c 27 § 2; 1905 c 168 § 3; RRS § 10325.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Commission on supreme court reports, member: RCW 2.32.160.

Promotional printing for

apple advertising commission, exemption: RCW 15.24.085.

beef commission, exemption: RCW 16.67.170.

dairy products commission, exemption: RCW 15.24.085.

fruit commission, exemption: RCW 15.24.085.

honey bee commission, exemption: RCW 15.62.190.

Session laws, legislative journals, delivery to statute law committee: RCW 40.04.030.

43.78.040 Requisitions. All printing and binding shall be done under the general superintendence of the authorities ordering it, and when completed shall be delivered to such authorities, who shall sign receipts therefor.

Before the public printer shall execute any printing or binding for any office, board, commission, or institution, the proper officer thereof shall apply therefor by requisition. [1965 c 8 § 43.78.040. Prior: 1905 c 168 § 4; RRS § 10326.]

43.78.050 Itemized statement of charges. Upon delivering a printing or binding job and receiving a receipt therefor the public printer shall make out, and deliver to the requesting agency an itemized statement of charges. [1965 c 8 § 43.78.050. Prior: 1905 c 168 § 5, part; RRS § 10327.]

43.78.070 Use of state plant—Conditions—Public printer's salary. The public printer shall use the state printing plant upon the following conditions, to wit:

(1) He shall do the public printing, and charge therefor the fees as provided by law. He may print the Washington Reports for the publishers thereof under a contract approved in writing by the governor.

(2) The gross income of the public printer shall be deposited in an account designated "state printing plant revolving fund" in depositories approved by the state treasurer, and shall be disbursed by the public printer by check and only as follows:

First, in payment of the actual cost of labor, material, supplies, replacements, repairs, water, light, heat, telephone, rent, and all other expenses necessary in the operation of the plant: PROVIDED, That no machinery shall be purchased except on written approval of the governor;

Second, in payment of the cost of reasonable insurance upon the printing plant, payable to the state and of all fidelity bonds required by law of the public printer;

Third, in payment to the public printer of a salary which shall be fixed by the governor in accordance with the provisions of RCW 43.03.040;

Fourth, in remitting the balance to the state treasurer for the general fund: PROVIDED, That a reasonable sum to be determined by the governor, the public printer, and the director of financial management shall be retained in the fund for working capital for the public printer. [1979 c 151 § 134; 1965 c 8 § 43.78.070. Prior: 1961 c 307 § 5; 1955 c 340 § 12; 1951 c 151 § 1; 1933 c 97 § 3; RRS § 10327-2.]

43.78.080 Printing specifications. All printing, ruling, binding, and other work done or supplies furnished by the state printing plant for the various state departments, commissions, institutions, boards, and officers shall be paid for on an actual cost basis as determined from a standard cost finding system to be maintained by the state printing plant. In no event shall the price charged the various state departments, commissions, institutions, boards, and officers exceed those established by the Porte Publishing Company's Franklin Printing Catalogue for similar and comparable work. All bills for printing, ruling, binding, and other work done or for supplies furnished by the state printing plant shall be certified and sworn to by the public printer.

The public printing shall be divided into the following classes:

FIRST CLASS. The bills, resolutions, and other matters that may be ordered by the legislature, or either branch thereof, in bill form, shall constitute the first class, and shall be printed in such form as the legislature shall provide.

SECOND CLASS. The second class shall consist of printing and binding of journals of the senate and house of representatives, and the annual and biennial reports of the several state officers, state commissions, boards, and institutions, with the exception of the reports of the attorney general and the governor's message to the legislature, which shall be printed and bound in the same style as heretofore. Said journals and reports shall be printed in such form as the senate and house of representatives and the various state officers, commissions, boards, and institutions shall respectively provide.

THIRD CLASS. The third class shall consist of all reports, communications, and all other documents that may be ordered printed in book form by the legislature or either branch thereof, and all reports, books, pamphlets, and other like matter printed in book form required by all state officers, boards, commissions, and institutions shall be printed in such form and style, and set in such size type, and printed on such grade of paper as may be desired by the state officer, board, commission, or institution ordering them, and which they think will best serve the purpose for which intended.

FOURTH CLASS. The fourth class shall consist of the session laws, and shall be printed and bound in such form as the statute law committee shall provide.

FIFTH CLASS. The fifth class shall consist of the printing of all stationery blanks, record books, and circulars, and all printing and binding required by the respective state officers, boards, commissions, and institutions not covered by classes one, two, three, and four. [1972 ex.s. c 1 § 1; 1969 c 6 § 7; 1965 c 8 § 43.78.080. Prior: 1955 c 16 § 1; 1943 c 124 § 1; 1935 c 130 § 1; 1919 c 37 § 1; 1917 c 129 § 3; 1905 c 168 § 6; RRS § 10329.]

43.78.090 Reprinting. Whenever required by law or by the legislature or by any state officer, board, commission, or institution the public printer shall keep the type used in printing any matter forming a part of the first, second, third, and fourth classes standing for a period not exceeding sixty days for use in reprinting such matter. [1965 c 8 § 43.78.090. Prior: 1935 c 130 § 2; 1919 c 37 § 2; 1907 c 174 § 1; RRS § 10330.]

43.78.100 Stock to be furnished. The public printer shall furnish all paper, stock, and binding materials required in all public work, and shall charge the same to the state, as it is actually used, at the actual price at which it was purchased plus five percent for waste, insurance, storage, and handling. This section does not apply to institutions of higher education. [1993 c 379 § 106; 1965 c 8 § 43.78.100. Prior: 1917 c 129 § 5; 1905 c 168 § 9; RRS § 10333.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

43.78.105 Printing for institutions of higher education—Interlocal agreements. The public printer may use the state printing plant for the purposes of printing or furnishing materials under RCW 43.78.100 if an interlocal agreement under chapter 39.34 RCW has been executed between an institution of higher education and the public printer. [1993 c 379 § 105.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

43.78.110 Securing printing from private sources—Farming out. Whenever in the judgment of the public printer certain printing, ruling, binding, or supplies can be secured from private sources more economically than by doing the work or preparing the supplies in the state printing plant, the public printer may obtain such work or supplies from such private sources.

In event any work or supplies are secured on behalf of the state under this section the state printing plant shall be entitled to add up to five percent to the cost thereof to cover the handling of the orders which shall be added to the bills and charged to the respective authorities ordering the work or supplies. The five percent handling charge shall not apply to contracts with institutions of higher education. [1993 c 379 § 107; 1982 c 164 § 3; 1969 c 79 § 1; 1965 c 8 § 43.78.110. Prior: 1935 c 130 § 3; RRS § 10333-1.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

43.78.130 Public printing for municipal corporations must be done in state—Exceptions. All printing, binding, and stationery work done for any county, city, town, port district, or school district in this state shall be done within the state, and all proposals, requests, or invitations to submit bids, prices, or contracts thereon, and all contracts for such work, shall so stipulate: PROVIDED, That whenever it is established that any such work cannot be executed within the state, or that the lowest charge for which it can be procured within the state, exceeds the charge usually and customarily made to private individuals and corporations for work of similar character and quality, or that all bids for the work or any part thereof are excessive and not reasonably competitive, the officers of any such public corporation may have the work done outside the state. [1965 c 8 § 43.78.130. Prior: 1919 c 80 § 1; RRS § 10335.]

43.78.140 Public printing for municipal corporations must be done in state—Allowance of claims. No bill or claim for any such work shall be allowed by any officer of a public corporation or be paid out of its funds, unless it appears that the work was executed within the state or that the execution thereof within the state could not have been procured, or procured at reasonable and competitive rates, and no action shall be maintained against such corporation or its officers upon any contract for such work unless it is alleged and proved that the work was done within the state or that the bids received therefor were unreasonable or not truly competitive. [1965 c 8 § 43.78.140. Prior: 1919 c 80 § 2; RRS § 10336.]

43.78.150 Public printing for municipal corporations must be done in state—Contracts for out-of-state work. All contracts for such work to be done outside the state shall require that it be executed under conditions of employment which shall substantially conform to the laws of this state respecting hours of labor, the minimum wage scale, and the rules and regulations of the department of labor and industries regarding conditions of employment, hours of labor, and minimum wages, and shall be favorably comparable to the labor standards and practices of the lowest competent bidder within the state, and the violation of any such provision of any contract shall be ground for cancellation thereof. [1994 c 164 § 12; 1973 1st ex.s. c 154 § 86; 1965 c 8 § 43.78.150. Prior: 1953 c 287 § 1; 1919 c 80 § 3; RRS § 10337.]

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

43.78.160 Public printing for municipal corporations must be done in state—Quality and workmanship requirements. Nothing in RCW 43.78.130, 43.78.140 and 43.78.150 shall be construed as requiring any public official to accept any such work of inferior quality or workmanship. [1965 c 8 § 43.78.160. Prior: 1919 c 80 § 4; RRS § 10338.]

43.78.170 Recycled content requirement. The public printer shall take all actions consistent with the *plan under RCW 43.19A.050 to ensure that seventy-five percent or more of the total dollar amount of printing paper stock used

by the printer is recycled content paper by January 1, 1997, and ninety percent or more of the total dollar amount of printing paper stock used by the printer is recycled content paper by January 1, 1999. [1996 c 198 § 3; 1991 c 297 § 10.]

***Reviser's note:** The mandatory plan under RCW 43.19A.050 was renamed a strategy by 1996 c 198.

Captions not law—1991 c 297: See RCW 43.19A.900.

Chapter 43.79 STATE FUNDS

Sections	
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43.79.312	Eastern College fund—Abolished.
43.79.313	Eastern College fund—Warrants to be paid from general fund.
43.79.314	Eastern College fund—Other revenue for support of Eastern Washington University.
43.79.320	Western College fund—Moneys transferred to general fund.
43.79.321	Western College fund—Appropriations to be paid from general fund.
43.79.322	Western College fund—Abolished.
43.79.323	Western College fund—Warrants to be paid from general fund.

- 43.79.324 Western College fund—Other revenue for support of Western Washington University.
- 43.79.330 Miscellaneous state funds—Moneys transferred to accounts in the state treasury.
- 43.79.331 Miscellaneous state funds—Abolished.
- 43.79.332 Miscellaneous state funds—Appropriations of 34th legislature to be paid from general fund.
- 43.79.333 Miscellaneous state funds—Warrants to be paid from general fund.
- 43.79.334 Miscellaneous state funds—Expenditures—Revenue from other than general fund.
- 43.79.335 Miscellaneous state funds—Washington State University building account.
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- 43.79.341 General obligation bond retirement fund—Appropriations of 34th legislature to be paid from general fund.
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- 43.79.445 Death investigations' account—Disbursal.
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- Department of personnel service fund: RCW 41.06.280.*
- Department of retirement systems expense fund: RCW 41.50.110.*
- Depositaries, state moneys or funds defined for purposes of: RCW 43.85.200.*
- Disbursement by warrant or check: RCW 43.88.160.*
- Distribution to annexed areas, basis for: RCW 35.13.260.*
- Electrical license account, designation of: RCW 19.28.330.*
- Environmental and forest restoration account: RCW 43.211.020.*
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horse racing money: RCW 67.16.100.
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- Federal forest revolving fund: RCW 28A.520.010 and 28A.520.020.*
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- Flood control contributions: Chapter 86.18 RCW.*
- Forest development account: Chapter 76.12 RCW.*
- Freshwater aquatic weeds account: RCW 43.21A.650.*
- General administration funds: Chapter 43.82 RCW.*
- General fund*
aircraft dealers license and certificate fees deposited in: RCW 14.20.060.
aircraft registration fees deposited in: RCW 47.68.250.
appropriations by legislature (for common school purposes): RCW 28A.150.380.
architects license account created in: RCW 18.08.240.
boxing, sparring, and wrestling contests: RCW 67.08.050.
camping resort fines deposited in: RCW 19.105.380.
cerebral palsy: RCW 70.82.021, 70.82.022.
commercial feed account: RCW 15.53.9044.
commission merchants' account, fees paid into: RCW 20.01.130.
electrical licenses account: RCW 19.28.330.
elevators, escalators and dumbwaiter fees deposited in: RCW 70.87.210.
escheats, sale of property deposited in: RCW 11.08.120.
forest development account: Chapter 76.12 RCW.
horse racing money paid into: RCW 67.16.100.
liquor excise taxes paid into: RCW 82.08.160.
marine fuel tax refund account: RCW 43.99.040.
moneys collected under chapter 15.36 RCW to go into: RCW 15.36.491.
monthly financial report of state treasurer as to: RCW 43.08.150.
motor vehicle excise taxes, apportionment and distribution: RCW 82.44.150.
motor vehicle use tax revenues deposited in: RCW 82.12.045.
old age assistance grants charged against: RCW 74.08.370.
outdoor recreation account: RCW 43.99.060.
parks and parkways, fund for, deposits in: RCW 36.82.210.
pilotage account: RCW 88.16.061.
proceeds from sale of insurance code: RCW 48.02.180.
professional engineers' account established, disposition of fees into: RCW 18.43.080, 18.43.150.
public utility district privilege tax: RCW 54.28.040, 54.28.050.
real estate commission account, license fees: RCW 18.85.220.
reclamation revolving account, generally: RCW 89.16.020 through 89.16.040, 90.16.090.
school apportionment from: RCW 28A.510.250.
seed account, moneys collected under seed law to go into: RCW 15.49.470.
special account in general fund for support of common schools: RCW 82.45.180.
state educational trust fund: RCW 28B.10.821.
state general fund—Estimates for state support to public schools from: RCW 28A.300.170.
state general fund support to public schools—School district reimbursement programs: Chapter 28A.150 RCW.
state institutional personnel, charges for quarters: RCW 72.01.282.

- taxes: RCW 82.32.380.
 unclaimed property, proceeds of sale paid into: RCW 63.29.230.
- Grain inspection revolving fund: RCW 22.09.830.
- Highway bond retirement funds: Chapter 47.10 RCW.
- Highway equipment fund: RCW 47.08.120, 47.08.121.
- Highway safety fund
 ability to respond in damages abstract fee deposited in: RCW 46.29.050.
 county road and bridge violations, fines paid into: RCW 36.82.210.
 created, use: RCW 46.68.060.
 fees for copies of motor vehicle licensing records to go into: RCW 46.01.250.
 for-hire motor vehicle certificates and operators' permits, moneys from to go into: RCW 46.72.110.
 moneys accruing from fees for motor vehicle operators' licenses to go into: RCW 46.68.041.
 moneys for abstracts of operating records to go into: RCW 46.52.130.
 operating record abstract fee deposited in: RCW 46.29.050.
- Hop inspection fund: RCW 22.09.830.
- Horticultural inspection trust fund, use: RCW 15.04.100.
- Hospital and medical facilities construction fund: RCW 70.40.150.
- Industrial insurance funds: Chapter 51.44 RCW.
- Juvenile correctional institution building bond redemption fund: RCW 72.19.100.
- Legal services revolving fund: RCW 43.10.150.
- Liability account: RCW 4.92.130.
- Liquor excise tax fund: RCW 82.08.160, 82.08.170.
- Liquor revolving fund: RCW 66.08.170.
- Log patrol revolving fund, brand and mark registration fees deposited in: RCW 76.36.160.
- Manufactured home installation training account: RCW 43.63B.080.
- Marine fuel tax refund account: RCW 43.99.040.
- Marketing act revolving fund: RCW 15.65.460.
- Medical aid fund: RCW 51.44.020.
- Monthly financial report of state treasurer as to: RCW 43.08.150.
- Morrill fund: RCW 28B.30.275.
- Motor vehicle fund
 state Constitution Art. 2 § 40, RCW 46.68.070.
 vehicle license proceeds, deposits in: RCW 46.68.030.
- Municipal revolving account: RCW 43.09.282.
- Northwest nursery fund
 created: RCW 15.69.020.
 depositories for: RCW 15.69.030.
 expenditures from, use: RCW 15.69.040.
 planting stock act moneys to go into: RCW 15.14.130.
- OASI contribution account: RCW 41.48.060.
- Outdoor recreation account, disposition of outdoor recreational bond issue proceeds in: RCW 43.99.060.
- Oyster reserve fund, proceeds from sale or lease of oyster reserves paid into: RCW 79.96.110.
- Parks and parkways account
 abolished: RCW 43.79.405.
 deposit of inspections costs on recreational devices: RCW 70.88.070.
 disposition of outdoor recreational facilities bond issue proceeds in: RCW 43.98.020.
- Permanent common school fund: State Constitution Art. 9 § 2.
 applied exclusively to common schools: State Constitution Art. 9 § 2.
 apportionment by Art. 2 § 28(7).
 banks and trust companies, liquidation and winding up
 dividends unclaimed deposited in: RCW 30.44.150, 30.44.180.
 personal property, proceeds deposited in: RCW 30.44.220.
 credit union unclaimed funds on liquidation escheat to: Chapter 31.12 RCW.
 defalcation, fraud or mismanagement losses borne by state, interest: RCW 28A.515.310.
 enlargement authorized: State Constitution Art. 9 § 3.
 game and game fish lands, withdrawn from lease, payment of amount of lease into: RCW 77.12.360.
 income from
 to be applied to common schools: State Constitution Art. 9 § 2.
 used for current expenses: State Constitution Art. 9 § 2.
 investment, what securities: State Constitution Art. 16 § 5.
 losses from, how made good: State Constitution Art. 9 § 5.
 permanent and irreducible: State Constitution Art. 9 § 3; RCW 28A.515.300.
 proceeds of lands and property reverting to state: RCW 28A.515.300.
 safe deposit box contents, unclaimed after liquidation and winding up of bank or trust company, proceeds from sale deposited in: RCW 30.44.220.
 sources of, from what derived: State Constitution Art. 9 § 3.
 state lands
 acquired, lease and sale of, proceeds to go into: RCW 79.01.612.
 withdrawn for game purposes, payment of amount of lease into: RCW 77.12.360.
- Printing revolving fund: RCW 43.78.070.
- Professional engineers' account established, disposition of fees into: RCW 18.43.080, 18.43.150.
- Public assistance, central operating fund: RCW 74.08.278.
- Public depositories, deposit and investment of public funds: Chapter 39.58 RCW.
- Public safety and education account: RCW 43.08.250.
- Public schools building bond redemption funds: Chapter 28A.525 RCW.
- Public service revolving fund: RCW 80.01.080.
- Puget Sound reserve account
 created, use: Chapter 47.60 RCW.
 distribution of motor vehicle fuel tax proceeds to: RCW 82.36.020.
- Receipt and keeping of: RCW 43.88.160.
- Reserve fund, moneys in may be invested in motor vehicle fund warrants: RCW 47.12.210.
- Resource management cost account: RCW 79.64.020.
- Retirement systems expense fund: RCW 41.50.110.
- Revolving funds: RCW 43.88.180, 43.88.190.
- Secretary of state's revolving fund: RCW 43.07.130.
- State building and higher education construction account, redemption fund: RCW 43.83.074.
- State vehicle parking account: RCW 43.01.225.
- State fair fund: RCW 15.76.100, 15.76.170.
- State patrol retirement fund: RCW 43.43.130.
- State school equalization fund, motor vehicle excise fund, apportionment and distribution to: RCW 82.44.150.
- State trade fair fund
 allocations to state trade fairs from: Chapter 43.31 RCW.
 horse racing money: RCW 67.16.100.
- State treasurer's service fund: RCW 43.08.190.
- Statute law committee publications account: RCW 1.08.0392.
- Stream gauging fund abolished: RCW 43.21.141.
- Surplus property purchase revolving fund: RCW 39.32.030.
- Teachers' retirement fund: RCW 41.50.200.
- Teachers' retirement pension reserve fund: RCW 41.50.200.
- Thurston county capital facilities account: RCW 43.19.501.
- Toll bridge authority trust fund for revenues from sale of Puget Sound ferry and toll bridge system bonds: RCW 47.60.150.
- Toll bridge funds: Chapter 47.56 RCW.
- Traffic safety education account—Moneys from juvenile agricultural driving permits to go into: RCW 46.20.070.
- Undistributed receipts account: RCW 43.01.050.
- Unemployment compensation funds, generally: RCW 50.16.010, 50.16.020.
- University of Washington
 bond retirement fund: RCW 28B.20.720.
 building account: RCW 28B.15.210.
- Volunteer fire fighters' relief and pension principal and administrative funds: RCW 41.24.030.
- Washington State University
 bond retirement fund: RCW 28B.30.740.
 bond retirement fund of 1977—Created—Purpose: RCW 28B.31.060.

building account: RCW 28B.30.730.

Morrill fund: RCW 28B.30.275.

Wildlife fund: Chapter 77.12 RCW.

43.79.010 General fund, how constituted. All moneys paid into the state treasury, except moneys received from taxes levied for specific purposes, and the several permanent and irreducible funds of the state and the moneys derived therefrom, shall be paid into the general fund of the state. [1965 c 8 § 43.79.010. Prior: 1907 c 8 § 1; RRS § 5509.]

43.79.015 Accounts in general fund designated as accounts in state treasury—Credit of earnings to general fund. On and after July 1, 1985, all accounts heretofore or hereafter created in the state general fund shall be designated and treated as accounts in the state treasury. Unless otherwise designated by statute, all earnings on balances of such accounts shall be credited to the general fund. [1985 c 57 § 89.]

Effective date—1985 c 57: See note following RCW 18.04.105.

43.79.020 License fees to general fund. Except as otherwise provided by law, all moneys received as fees for the issuance of licenses upon examination, and the renewal thereof, and paid into the state treasury, shall be credited to the general fund; and all expenses incurred in connection with the examination of applicants for licenses, and the issuance and renewal of licenses upon examination shall be paid by warrants drawn against the general fund. [1965 c 8 § 43.79.020. Prior: 1921 c 81 § 1; RRS § 5511.]

43.79.060 University permanent fund. There shall be in the state treasury a permanent and irreducible fund known as the "state university permanent fund," into which shall be paid all moneys derived from the sale of lands granted, held, or devoted to state university purposes. [1965 c 8 § 43.79.060. Prior: 1907 c 168 § 1; RRS § 5518.]

43.79.071 University of Washington fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the University of Washington fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the University of Washington fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.071. Prior: 1955 c 332 § 1.]

43.79.072 University of Washington fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the University of Washington fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.072. Prior: 1955 c 332 § 2.]

43.79.073 University of Washington fund—Abolished. From and after the first day of May, 1955, the University of Washington fund is abolished. [1965 c 8 § 43.79.073. Prior: 1955 c 332 § 3.]

43.79.074 University of Washington fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the University of Washington fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he is hereby directed to pay such warrants when presented from the general fund. [1965 c 8 § 43.79.074. Prior: 1955 c 332 § 4.]

43.79.075 University of Washington fund—Other revenue for support of university. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the University of Washington fund, shall be used for any purpose except the support of the University of Washington. [1965 c 8 § 43.79.075. Prior: 1955 c 332 § 5.]

43.79.080 University building fund. There shall be in the state treasury a fund known and designated as the "University of Washington building account". [1985 c 57 § 36; 1965 c 8 § 43.79.080. Prior: 1915 c 66 § 1; RRS § 5535.]

Effective date—1985 c 57: See note following RCW 18.04.105.

43.79.090 Rentals to building fund—Use of fund. All rentals received on account of that certain lease of the former university site in the city of Seattle, known as the "old university grounds," made and entered into on the first day of February, 1907, by and between the state of Washington, lessor, and James A. Moore, lessee, and thereafter assigned by said lessee to the Metropolitan Building Company, a corporation, shall be paid into and credited to the University of Washington building account in the general fund, to be used exclusively for the purpose of erecting, altering, maintaining, equipping, or furnishing buildings at the state university. [1965 c 8 § 43.79.090. Prior: 1915 c 66 § 7; RRS § 5536.]

43.79.100 Scientific school grant to Washington State University. The one hundred thousand acres of land granted by the United States government to the state for a scientific school in section 17 of the enabling act, are assigned to the support of Washington State University. [1965 c 8 § 43.79.100. Prior: 1917 c 11 § 1; RRS § 5525.]

43.79.110 Scientific permanent fund. There shall be in the state treasury a permanent and irreducible fund known as the "scientific permanent fund," into which shall be paid all moneys derived from the sale of lands set apart by the enabling act or otherwise for a scientific school. The income derived from investments pursuant to RCW 43.84.080 shall be credited to the Washington State University building account less the allocation to the state treasurer's service fund pursuant to RCW 43.08.190. [1991 sp.s. c 13 § 96; 1965 c 8 § 43.79.110. Prior: 1901 c 81 § 4; RRS § 5526.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

43.79.120 Agricultural college grant to Washington State University. The ninety thousand acres of land granted by the United States government to the state for an agricultural college in section 16 of the enabling act are assigned to the support of Washington State University. [1965 c 8 § 43.79.120.]

43.79.130 Agricultural permanent fund. There shall be in the state treasury a permanent and irreducible fund known as the "agricultural permanent fund," into which shall be paid all moneys derived from the sale of lands set apart by the enabling act or otherwise for an agricultural college. The income derived from investments pursuant to RCW 43.84.080 shall be credited to the Washington State University building account less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190. [1991 sp.s. c 13 § 94; 1965 c 8 § 43.79.130.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

43.79.140 Washington State University—Moneys paid into general fund for support of. There shall be paid into the state general fund for the support of Washington State University the following moneys:

(1)—All moneys collected from the lease or rental of lands set apart by the enabling act or otherwise for the agricultural college and school of science;

(2)—All interest or income arising from the proceeds of the sale of any of such lands;

(3)—All moneys received or collected as interest on deferred payments on contracts for the sale of such lands. [1965 c 8 § 43.79.140. Prior: 1905 c 43 § 2; RRS § 5521.]

43.79.150 Normal school grant to former state colleges of education and The Evergreen State College. The one hundred thousand acres of land granted by the United States government to the state for state normal schools in section 17 of the enabling act are assigned to the support of the regional universities, which were formerly the state colleges of education and to The Evergreen State College. [1993 c 411 § 3; 1977 ex.s. c 169 § 104; 1965 c 8 § 43.79.150.]

Finding—1993 c 411: See note following RCW 28B.35.751.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

43.79.160 Normal school permanent fund. There shall be in the state treasury a permanent and irreducible fund known as the "normal school permanent fund," into which shall be paid all moneys derived from the sale of lands set apart by the enabling act or otherwise for state normal schools. [1965 c 8 § 43.79.160.]

43.79.180 Former state colleges of education—Moneys paid into general fund for support of. There shall be paid into the state general fund for the use and support of the regional universities (formerly state colleges of education) the following moneys:

(1)—All moneys collected from the lease or rental of lands set apart by the enabling act or otherwise for the state normal schools;

(2)—All interest or income arising from the proceeds of the sale of such lands;

(3)—All moneys received or collected as interest on deferred payments on contracts for the sale of such lands. [1977 ex.s. c 169 § 105; 1965 c 8 § 43.79.180. Prior: 1905 c 43 § 4; RRS § 5523.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

43.79.201 C.E.P. & R.I. account—Moneys transferred to charitable, educational, penal and reformatory institutions account—Exception. (1) The charitable, educational, penal and reformatory institutions account is hereby created, in the state treasury, into which account there shall be deposited all moneys arising from the sale, lease or transfer of the land granted by the United States government to the state for charitable, educational, penal and reformatory institutions by section 17 of the enabling act, or otherwise set apart for such institutions, except all moneys arising from the sale, lease, or transfer of that certain one hundred thousand acres of such land assigned for the support of the University of Washington by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893.

(2) If feasible, not less than one-half of all income to the charitable, educational, penal, and reformatory institutions account shall be appropriated for the purpose of providing housing, including repair and renovation of state institutions, for persons who are mentally ill, developmentally disabled, or youth who are blind, deaf, or otherwise disabled. If moneys are appropriated for community-based housing, the moneys shall be appropriated to the department of community, trade, and economic development for the housing assistance program under chapter 43.185 RCW. [1995 c 399 § 77; 1991 sp.s. c 13 § 39; 1991 c 204 § 3; 1985 c 57 § 37; 1965 ex.s. c 135 § 2; 1965 c 8 § 43.79.201. Prior: 1961 c 170 § 1.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Income potential: RCW 79.01.007.

Inventory of land: RCW 79.01.006.

43.79.202 C.E.P. & R.I. fund—Abolished—Appropriations to be paid from and warrants drawn on account in general fund. On and after March 20, 1961, the C.E.P. & R.I. fund is abolished; all appropriations made by the thirty-seventh legislature from such abolished fund shall be paid from the charitable, educational, penal and reformatory institutions account in the general fund and all warrants drawn on the C.E.P. & R.I. fund prior to March 20, 1961 and not theretofore presented for payment shall be paid from the charitable, educational, penal and reformatory institutions account in the general fund. [1965 c 8 § 43.79.202. Prior: 1961 c 170 § 2.]

43.79.210 Federal cooperative extension fund. There shall be in the state treasury a fund known as the federal cooperative agricultural extension fund, and all moneys paid into the state treasury for, or to the credit of, the Smith-Lever and Capper-Ketcham funds shall be placed

in the federal cooperative agricultural extension fund. [1965 c 8 § 43.79.210. Prior: 1935 c 63 § 1; RRS § 5536-4.]

43.79.260 Governor designated state's agent. The governor is designated the agent of the state to accept and receive all funds from federal and other sources not otherwise provided for by law and to deposit them in the state treasury to the credit of the appropriate fund or account. [1973 c 144 § 1; 1965 c 8 § 43.79.260. Prior: 1945 c 243 § 3; Rem. Supp. 1945 § 5517-12.]

43.79.270 Unanticipated receipts—Duty of department heads. Whenever any money, from the federal government, or from other sources, which was not anticipated in the budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of any department, agency, board, or commission through which such expenditure shall be made is to submit to the governor a statement which may be in the form of a request for an allotment amendment setting forth the facts constituting the need for such expenditure and the estimated amount to be expended: PROVIDED, That no expenditure shall be made in excess of the actual amount received, and no money shall be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated fund or account in excess of appropriations provided by law which is based on the receipt of unanticipated revenues shall be submitted to the joint legislative audit and review committee and also to the standing committees on ways and means of the house and senate if the legislature is in session at the same time as it is transmitted to the governor. [1996 c 288 § 37; 1973 c 144 § 2; 1965 c 8 § 43.79.270. Prior: 1945 c 243 § 4; Rem. Supp. 1945 § 5517-13.]

43.79.280 Unanticipated receipts—Duty of governor on approval. If the governor approves such estimate in whole or part, he shall endorse on each copy of the statement his approval, together with a statement of the amount approved in the form of an allotment amendment, and transmit one copy to the head of the department, agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval and a statement of the amount approved for expenditure shall be transmitted simultaneously to the joint legislative audit and review committee and also to the standing committee on ways and means of the house and senate of all executive approvals of proposals to expend money in excess of appropriations provided by law. [1996 c 288 § 38; 1973 c 144 § 3; 1965 c 8 § 43.79.280. Prior: 1945 c 243 § 5; Rem. Supp. 1945 § 5517-14.]

43.79.282 Compliance with RCW 43.79.260 through 43.79.280. No state department, agency, board, or commission shall expend money in excess of appropriations provided by law based on the receipt of unanticipated revenues without complying with the provisions of RCW 43.79.260 through 43.79.280. [1973 c 144 § 4.]

43.79.300 Central College fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the Central College fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the Central College fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.300. Prior: 1955 c 333 § 1.]

43.79.301 Central College fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the Central College fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.301. Prior: 1955 c 333 § 2.]

43.79.302 Central College fund—Abolished. From and after the first day of May, 1955, the Central College fund is abolished. [1965 c 8 § 43.79.302. Prior: 1955 c 333 § 3.]

43.79.303 Central College fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the Central College fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he is hereby directed to pay such warrants when presented from the general fund. [1965 c 8 § 43.79.303. Prior: 1955 c 333 § 4.]

43.79.304 Central College fund—Other revenue for support of Central Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Central College fund, shall be used for any purpose except the support of the Central Washington University (formerly Central Washington State College). [1977 ex.s. c 169 § 106; 1965 c 8 § 43.79.304. Prior: 1955 c 333 § 5.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

43.79.310 Eastern College fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the Eastern College fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the Eastern College fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.310. Prior: 1955 c 334 § 1.]

43.79.311 Eastern College fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the Eastern College fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.311. Prior: 1955 c 334 § 2.]

43.79.312 Eastern College fund—Abolished. From and after the first day of May, 1955, the Eastern College fund is abolished. [1965 c 8 § 43.79.312. Prior: 1955 c 334 § 3.]

43.79.313 Eastern College fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the Eastern College fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he is hereby directed to pay such warrants when presented from the general fund. [1965 c 8 § 43.79.313. Prior: 1955 c 334 § 4.]

43.79.314 Eastern College fund—Other revenue for support of Eastern Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Eastern College fund, shall be used for any purpose except the support of the Eastern Washington University (formerly Eastern Washington State College). [1977 ex.s. c 169 § 107; 1965 c 8 § 43.79.314. Prior: 1955 c 334 § 5.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

43.79.320 Western College fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the Western College fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the Western College fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.320. Prior: 1955 c 335 § 1.]

43.79.321 Western College fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the Western College fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.321. Prior: 1955 c 335 § 2.]

43.79.322 Western College fund—Abolished. From and after the first day of May, 1955, the Western College fund is abolished. [1965 c 8 § 43.79.322. Prior: 1955 c 335 § 3.]

43.79.323 Western College fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the Western College fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he is hereby directed to pay such warrants when presented from the general fund. [1965 c 8 § 43.79.323. Prior: 1955 c 335 § 4.]

43.79.324 Western College fund—Other revenue for support of Western Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Western College fund, shall be used for any purpose except the support of the Western Washington University (formerly Western Washington State College). [1977 ex.s. c 169 § 108; 1965 c 8 § 43.79.324. Prior: 1955 c 335 § 5.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

43.79.330 Miscellaneous state funds—Moneys transferred to accounts in the state treasury. All moneys to the credit of the following state funds on the first day of August, 1955, and all moneys thereafter paid to the state treasurer for or to the credit of such funds, are hereby transferred to the following accounts in the state treasury, the creation of which is hereby authorized:

- (1) Capitol building construction fund moneys, to the capitol building construction account;
- (2) Cemetery fund moneys, to the cemetery account;
- (3) Feed and fertilizer fund moneys, to the feed and fertilizer account;
- (4) Forest development fund moneys, to the forest development account;
- (5) Harbor improvement fund moneys, to the harbor improvement account;
- (6) Millersylvania Park current fund moneys, to the Millersylvania Park current account;
- (7) Puget Sound pilotage fund moneys, to the Puget Sound pilotage account;
- (8) Real estate commission fund moneys, to the real estate commission account;
- (9) Reclamation revolving fund moneys, to the reclamation revolving account;
- (10) University of Washington building fund moneys, to the University of Washington building account; and
- (11) State College of Washington building fund moneys, to the Washington State University building account. [1991 sp.s. c 13 § 3; 1985 c 57 § 38; 1981 c 242 § 3; 1980 c 32 § 3; 1979 ex.s. c 67 § 3; 1965 c 8 § 43.79.330. Prior: 1959 c 273 § 6; 1957 c 115 § 6; 1955 c 370 § 1.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Effective dates—1981 c 242: "Sections 1, 2, and 4 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981. Section 3 of this act shall take effect September 1, 1981." [1981 c 242 § 5.] Sections 1, 2, and 3 of this act are the 1981 c 242 amendments to RCW 43.33A.160, 43.84.090, and 43.79.330, respectively. Section 4 of this act consists of the enactment of RCW 43.79.435.

Effective date—1980 c 32 § 3: "Section 3 of this act shall take effect September 1, 1981." [1980 c 32 § 4.]

Severability—1979 ex.s. c 67: See note following RCW 19.28.330.

43.79.331 Miscellaneous state funds—Abolished. From and after the first day of May, 1955, all funds from which moneys are transferred to general fund accounts pursuant to RCW 43.79.330, are abolished. [1965 c 8 § 43.79.331. Prior: 1955 c § 370 § 2.]

43.79.332 Miscellaneous state funds—Appropriations of 34th legislature to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from any of the funds abolished by RCW 43.79.331, shall be paid from the general fund from the account to which the moneys of the abolished fund have been transferred by RCW 43.79.330. [1965 c 8 § 43.79.332. Prior: 1955 c 370 § 3.]

43.79.333 Miscellaneous state funds—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on any fund abolished by RCW 43.79.331 and not theretofore presented for payment, shall be paid from the general fund from the account to which the moneys of the abolished fund are directed by RCW 43.79.330 to be transferred. [1965 c 8 § 43.79.333. Prior: 1955 c 370 § 4.]

43.79.334 Miscellaneous state funds—Expenditures—Revenue from other than general fund. Expenditures from any account described in RCW 43.79.330 shall be limited to the moneys credited to the account. No revenue from any source other than the general fund, which, except for the provisions of RCW 43.79.330 through 43.79.334, would have been paid into any fund other than the general fund, shall be used for any purpose except those purposes for which such moneys were authorized prior to the enactment hereof. [1965 c 8 § 43.79.334. Prior: 1955 c 370 § 5.]

43.79.335 Miscellaneous state funds—Washington State University building account. Upon and after June 30, 1961 the account in the state treasury known as the "State College of Washington Building Account" shall be known and referred to as the "Washington State University Building Account." This section shall not be construed as effecting any change in such fund other than the name thereof and as otherwise provided by law. [1985 c 57 § 39; 1965 c 8 § 43.79.335. Prior: 1961 ex.s. c 11 § 3.]

Effective date—1985 c 57: See note following RCW 18.04.105.

43.79.336 Puget Sound pilotage account redesignated as pilotage account. See RCW 88.16.061.

43.79.340 General obligation bond retirement fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the general obligation bond retirement fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the general obligation bond retirement fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.340. Prior: 1955 c 330 § 1.]

43.79.341 General obligation bond retirement fund—Appropriations of 34th legislature to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the general obligation bond retirement fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.341. Prior: 1955 c 330 § 2.]

43.79.342 General obligation bond retirement fund—Abolished. From and after the first day of May, 1955, the general obligation bond retirement fund is abolished. [1965 c 8 § 43.79.342. Prior: 1955 c 330 § 3.]

43.79.343 General obligation bond retirement fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the

general obligation bond retirement fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he is hereby directed to pay such warrants when presented from the general fund. [1965 c 8 § 43.79.343. Prior: 1955 c 330 § 4.]

43.79.350 Suspense account. There is established in the state treasury a special account to be known as the suspense account. All moneys which heretofore have been deposited with the state treasurer in the state treasurer's suspense fund, and moneys hereafter received which are contingent on some future action, or which cover overpayments and are to be refunded to the sender in part or whole, and any other moneys of which the final disposition is not known, shall be transmitted to the state treasurer and deposited in the suspense account. [1985 c 57 § 40; 1981 2nd ex.s. c 4 § 6; 1965 c 8 § 43.79.350. Prior: 1955 c 226 § 1.]

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

43.79.370 Suspense account—Disbursements—Vouchers—Warrants. Disbursement from the suspense account (not to exceed receipts), shall be by warrant issued against the account by the state treasurer, upon a properly authenticated voucher presented by the state department or office which deposited the moneys in the account. [1981 2nd ex.s. c 4 § 7; 1965 c 8 § 43.79.370. Prior: 1955 c 226 § 3.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

43.79.381 Penitentiary revolving account abolished. From and after the first day of August, 1957, the penitentiary revolving account is abolished. [1965 c 8 § 43.79.381. Prior: 1957 c 115 § 2.]

43.79.390 United States vocational education account—Moneys transferred to general fund. All moneys in the state treasury to the credit of the United States vocational education account in the general fund on August 1, 1957, and all moneys thereafter paid into the state treasury for or to said account, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.390. Prior: 1957 c 226 § 1.]

43.79.391 United States vocational education account—Appropriations to be paid from general fund. From and after the first day of July, 1957, all appropriations made by the thirty-fifth legislature from the United States vocational education account shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.391. Prior: 1957 c 226 § 2.]

43.79.392 United States vocational education account—Abolished. From and after the first day of August, 1957, the United States vocational education account in the general fund is abolished. [1965 c 8 § 43.79.392. Prior: 1957 c 226 § 3.]

43.79.393 United States vocational education account—Warrants to be paid from general fund. From and after the first day of August, 1957, all warrants drawn on the United States vocational education account in the general fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he is hereby directed to pay such warrants when presented from the general fund. [1965 c 8 § 43.79.393. Prior: 1957 c 226 § 4.]

43.79.400 State payroll revolving account, agency payroll revolving fund—Created—Utilization. See RCW 42.16.011.

43.79.405 Parks and parkways account abolished—Funds transferred to general fund. The state parks and parkways account created under section 43.79.330(15), chapter 8, Laws of 1965, is hereby abolished and all funds remaining therein at August 1, 1969, transferred to the state general fund. [1969 c 99 § 4.]

Effective date—1969 c 99: The effective date of this section is July 1, 1969; see note following RCW 43.51.060.

43.79.410 Legal services revolving fund—Created—Purpose—Uses. See RCW 43.10.150 through 43.10.200.

43.79.420 Miscellaneous state funds—Moneys transferred to basic state general fund. All moneys to the credit of the following state funds or accounts on the first day of July, 1973, are hereby transferred to the basic state general fund:

- (1) Mass transit trust moneys;
- (2) Probation services moneys;
- (3) Columbia river gorge commission moneys;
- (4) Washington state song proceeds moneys;
- (5) Juvenile correction institution building construction fund moneys. [1973 1st ex.s. c 59 § 3.]

Effective date—1973 1st ex.s. c 59: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1973." [1973 1st ex.s. c 59 § 7.]

43.79.421 Miscellaneous state funds—Abolished. From and after the first day of July, 1973, all funds from which moneys are transferred to the basic state general fund pursuant to subsections (1), (2), (4), and (5) of RCW 43.79.420 are abolished. [1973 1st ex.s. c 59 § 4.]

Effective date—1973 1st ex.s. c 59: See note following RCW 43.79.420.

43.79.422 Miscellaneous state funds—Warrants to be paid from basic state general fund. From and after the first day of July, 1973, all warrants drawn on any fund abolished by RCW 43.79.421 and not theretofore presented for payment, shall be paid from the basic state general fund. [1973 1st ex.s. c 59 § 5.]

Effective date—1973 1st ex.s. c 59: See note following RCW 43.79.420.

43.79.423 Miscellaneous state funds or accounts—Moneys transferred to state general fund. All moneys to

the credit of the following state funds or accounts as of September 8, 1975 are transferred to the state general fund on that date:

- (1) The public school building construction account of the general fund created under RCW 43.79.330; and
- (2) The general administration construction fund in the general fund created under *RCW 43.82.090. [1975 1st ex.s. c 91 § 1.]

***Reviser's note:** RCW 43.82.090 was repealed by 1994 c 219 § 20.

43.79.425 Current state school fund—Abolished—Moneys transferred. On and after June 12, 1980, the current state school fund is abolished and the state treasurer shall transfer any moneys in such account on such June 12, 1980, or any moneys thereafter received for such account, to the common school construction fund as referred to in RCW 28A.515.320. [1990 c 33 § 581; 1980 c 6 § 6.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1980 c 6: See note following RCW 28A.515.320.

43.79.430 Moneys from Inland Power & Light company to be deposited in general fund. All monies received from the Inland Power & Light company, its successors and assigns, in virtue of an agreement made and entered into between said company and the State of Washington on August 31, 1932, relating to a fish hatchery on Lewis river, shall be deposited in the general fund. [1980 c 32 § 1; 1933 c 123 § 1.]

Effective date—1980 c 32 § 1: "Section 1 of this act shall take effect September 1, 1981." [1980 c 32 § 2.]

43.79.435 Investment reserve account abolished—Deposit of moneys. The investment reserve account is hereby abolished. All moneys in the investment reserve account on *the effective date of this act shall be deposited in the general fund. [1981 c 242 § 4.]

***Reviser's note:** For "the effective date of this act," see note following RCW 43.79.330.

Effective dates—1981 c 242: See note following RCW 43.79.330.

43.79.440 Loan principal and interest fund. In order to alleviate temporary cash flow deficiencies in the general fund, it has been and will continue to be necessary to borrow funds through issuance of certificates of indebtedness and to pay interest costs on outstanding certificates of indebtedness and to retire the principal thereof. In order to account for the interest cost of the loans and to pay the principal thereof, there is hereby created in the state treasury the loan principal and interest fund. All principal and interest payments required on certificates of indebtedness will be withdrawn from any general state revenues in the treasury and deposited in the loan principal and interest fund at the time or times required by the terms thereof and such loan principal and interest shall be paid from the loan principal and interest fund according to the terms and schedules established for such certificates. [1983 c 189 § 8.]

Severability—1983 c 189: See note following RCW 82.24.260.

43.79.441 Transfer of moneys from certain school bond and state building construction accounts and funds

to general fund—Payment of warrants. After July 24, 1983, all moneys to the credit of any fund or account described in the sections being repealed by sections 1 and 4, chapter 189, Laws of 1983 and all moneys thereafter paid to the state treasurer for or to the credit of such fund or account shall be transferred to the general fund. After July 24, 1983, any warrant drawn on any fund or account described in the sections being repealed by sections 1 and 4, chapter 189, Laws of 1983 and not presented for payment shall be paid from the general fund, and the state treasurer shall pay such warrants when presented from the general fund. [1983 c 189 § 5.]

Severability—1983 c 189: See note following RCW 82.24.260.

43.79.442 Transfer of moneys from certain highway construction accounts and funds to general fund—Payment of warrants. After July 24, 1983, all moneys to the credit of any fund or account described in the sections being repealed by section 6, chapter 189, Laws of 1983 and all moneys thereafter paid to the state treasurer for or to the credit of such fund or account shall be transferred to the motor vehicle fund. After July 24, 1983, any warrant drawn on any fund or account described in the sections being repealed by section 6, chapter 189, Laws of 1983 and not presented for payment shall be paid from the motor vehicle fund, and the state treasurer shall pay such warrants when presented from the motor vehicle fund. [1983 c 189 § 7.]

Severability—1983 c 189: See note following RCW 82.24.260.

43.79.445 Death investigations' account—Disbursal. There is established an account in the state treasury referred to as the "death investigations' account" which shall exist for the purpose of receiving, holding, investing, and disbursing funds appropriated or provided in RCW 70.58.107 and any moneys appropriated or otherwise provided thereafter.

Moneys in the death investigations' account shall be disbursed by the state treasurer once every year on December 31 and at any other time determined by the treasurer. The treasurer shall make disbursements to: The state toxicology laboratory, counties for the cost of autopsies, the University of Washington to fund the state forensic pathology fellowship program, the state patrol for providing partial funding for the state dental identification system, the criminal justice training commission for training county coroners, medical examiners and their staff, and the state forensic investigations council.

The University of Washington and the Washington state forensic investigations council shall jointly determine the yearly amount for the state forensic pathology fellowship program established by RCW 28B.20.426. [1995 c 398 § 9; 1991 sp.s. c 13 § 21; 1991 c 176 § 4; 1986 c 31 § 2; 1985 c 57 § 41; 1983 1st ex.s. c 16 § 18.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1986 c 31: See note following RCW 28B.20.426.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—Effective date—1983 1st ex.s. c 16: See RCW 43.103.900 and 43.103.901.

43.79.455 Capitol purchase and development account. The capitol purchase and development account is hereby created in the state treasury. [1987 c 350 § 2.]

Effective date—1987 c 350: See note following RCW 79.24.580.

Chapter 43.79A

TREASURER'S TRUST FUND

Sections

43.79A.010 Purpose.

43.79A.020 Treasurer's trust fund—Created—Nontreasury trust funds to be placed in—Exceptions.

43.79A.030 Segregation—Withdrawals.

43.79A.040 Management—Income—Investment income account—Distribution.

Investment accounting: RCW 43.33A.180.

43.79A.010 Purpose. This chapter shall apply to all trust funds which are in the official custody of the state treasurer but are not required by law to be maintained in the state treasury. The purpose of this chapter is to establish a system for the centralized management, protection and control of such funds, hereinafter referred to as nontreasury trust funds, and to assure their investment in such a manner as to realize the maximum possible return consistent with safe and prudent fiscal management. [1973 1st ex.s. c 15 § 1.]

43.79A.020 Treasurer's trust fund—Created—Nontreasury trust funds to be placed in—Exceptions.

There is created a trust fund outside the state treasury to be known as the "treasurer's trust fund." All nontreasury trust funds which are in the custody of the state treasurer on April 10, 1973, shall be placed in the treasurer's trust fund and be subject to the terms of this chapter. Funds of the state department of transportation shall be placed in the treasurer's trust fund only if mutually agreed to by the state treasurer and the department. In order to assure an orderly transition to a centralized management system, the state treasurer may place each of such trust funds in the treasurer's trust fund at such times as he deems advisable. Except for department of transportation trust funds, all such funds shall be incorporated in the treasurer's trust fund by June 30, 1975. Other funds in the custody of state officials or state agencies may, upon their request, be established as accounts in the treasurer's trust fund with the discretionary concurrence of the state treasurer. All income received from the treasurer's trust fund investments shall be deposited in the investment income account pursuant to RCW 43.79A.040. [1991 sp.s. c 13 § 81; 1984 c 7 § 47; 1973 1st ex.s. c 15 § 2.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—1984 c 7: See note following RCW 47.01.141.

43.79A.030 Segregation—Withdrawals. The state treasurer shall be responsible for maintaining segregated accounts of moneys of each fund which is deposited in the treasurer's trust fund. Except as provided by law, all money deposited in the treasurer's trust fund shall be held in trust by the state treasurer and may be withdrawn only upon the

order of the depositing agency or its disbursing officer. [1973 1st ex.s. c 15 § 3.]

43.79A.040 Management—Income—Investment income account—Distribution. (1) Money in the treasurer's trust fund may be deposited, invested and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The agricultural local fund, the American Indian scholarship endowment fund, the Washington international exchange scholarship endowment fund, the energy account, the fair fund, the game farm alternative account, the grain inspection revolving fund, the rural rehabilitation account, and the self-insurance revolving fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, and the local rail service assistance account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1996 c 253 § 409. Prior: 1995 c 394 § 2; 1995 c 365 § 1; prior: 1993 sp.s. c 8 § 2; 1993 c 500 § 5; 1991 sp.s. c 13 § 82; 1973 1st ex.s. c 15 § 4.]

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 43.292.005.

Effective date—1995 c 394: See note following RCW 43.84.092.

Effective date—1995 c 365: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 1, 1995." [1995 c 365 § 2.]

Effective date—Application—1993 sp.s. c 8: See note following RCW 43.84.092.

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Chapter 43.80 FISCAL AGENCIES

Sections

- 43.80.100 Definitions.
- 43.80.110 Appointment of fiscal agencies—Location—Places for payment of bonds.
- 43.80.120 Designation of fiscal agencies—Qualifications—Duration of designation—Compensation.
- 43.80.125 Appointment of fiscal agencies in connection with registered bonds—Contracting of services.
- 43.80.130 Receipts—Payment procedure—Cremation—Certificate of destruction.
- 43.80.140 Notice of establishment of fiscal agencies—Publication—Bonds and coupons paid at fiscal agencies.
- 43.80.150 Treasurers not responsible for funds remitted.
- 43.80.160 Return of funds remitted to redeem bonds and coupons which remain unredeemed.
- 43.80.900 Effective date—1969 ex.s. c 80.

Highway bonds, registration: Chapter 47.10 RCW.

Registration of bonds with, fee: RCW 39.44.130.

State treasurer, fiscal agent of the state: RCW 43.08.090.

Trust companies, power to act as fiscal agent for public bodies: RCW 30.08.150.

43.80.100 Definitions. The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Fiscal agencies" means those banks or trust companies as designated in RCW 43.80.110 and 43.80.120.

(2) "Subdivision" means governmental agencies, counties, cities and towns, metropolitan municipal corporations, port districts, school districts, townships, public colleges and universities, public community colleges, municipal corporations, quasi municipal corporations, and all other such governmental agencies authorized to borrow and issue tenders of indebtedness therefor. Subdivision does not mean housing authorities and public utility districts.

(3) "Cremation" means the destruction of canceled bonds or coupons by any approved method, including but not limited to, cremation facilities, incineration facilities, shredding facilities, or dissolving in acid facilities. [1984 c 7 § 48; 1969 ex.s. c 80 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

43.80.110 Appointment of fiscal agencies—Location—Places for payment of bonds. Fiscal agencies shall be appointed for the payment of bonds and any coupons issued by this state or by any subdivision thereof. The appointed fiscal agencies may be located in any major city of the country. No bonds hereafter issued by this state or by any affected subdivision thereof, shall be by their terms made payable at a specific place other than: (1) The office of the designated fiscal agencies; (2) offices of the state or local treasurers or fiscal offices of any affected subdivision; or (3) the offices of trustees if provided for in the indenture, as provided for by the terms of the bonds. As used in this chapter, bonds do not include short-term obligations. Fiscal agencies may be authorized to register bonds in accordance with RCW 39.46.030.

Bonds and any coupons of subdivisions may be paid at one or more of the state's fiscal agents and/or at the office of the state treasurer or offices of local treasurers as provided for in the terms of the bonds. [1983 c 167 § 117; 1982 c 216 § 1; 1969 ex.s. c 80 § 2.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Issuance of short-term obligations by municipal corporations: Chapter 39.50 RCW.

43.80.120 Designation of fiscal agencies—Qualifications—Duration of designation—Compensation. The state finance committee shall designate responsible banks or trust companies as fiscal agencies, each having a paid-up capital and surplus of not less than five million dollars. The state finance committee shall designate fiscal agencies by any method deemed appropriate to the best interests of this state and its subdivisions.

The state finance committee shall make duplicate certificates of such designations, cause them to be attested under the seal of the state, and file one copy of each certification in the office of the secretary of state and transmit the other to the bank or trust company designated.

The banks or trust companies so designated shall continue to be such fiscal agencies for the term of four years from and after the filing of the certificate of its designation, and thereafter until the designation of other banks or trust companies as such fiscal agencies.

Until successors have been appointed, the banks or trust companies named shall act as the fiscal agencies of the state of Washington in accordance with such terms as shall be agreed upon between the state finance committee and the fiscal agencies so designated. The manner and amount of compensation of the fiscal agents shall be matters specifically left for the state finance committee to determine.

If no such banks or trust companies are willing to accept appointment as fiscal agencies, or if the state finance committee considers unsatisfactory the terms under which such banks or trust companies are willing so to act, the bonds and bond interest coupons normally payable at the fiscal agency, shall thereupon become payable at the state treasury or at the office of the treasurer or fiscal officer of the subdivision concerned, as the case may be. [1969 ex.s. c 80 § 3.]

43.80.125 Appointment of fiscal agencies in connection with registered bonds—Contracting of services. (1) The fiscal agencies designated pursuant to RCW 43.80.110 and 43.80.120 may be appointed by the state treasurer or a local treasurer to act as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the issuance by the state or local government of registered bonds or other obligations pursuant to a system of registration as provided by RCW 39.46.030 and may establish and maintain on behalf of the state or local government a central depository system for the transfer or pledge of bonds or other obligations. The term "local government" shall be as defined in RCW 39.46.020.

(2) Whenever in the judgment of the fiscal agencies, certain services as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the

establishment and maintenance of a central depository system for the transfer or pledge of registered public obligations, or in connection with the issuance by any public entity of registered public obligations pursuant to a system of registration as provided in chapter 39.46 RCW, can be secured from private sources more economically than by carrying out such duties themselves, they may contract out all or any of such services to such private entities as such fiscal agencies deem capable of carrying out such duties in a responsible manner. [1995 c 38 § 10; 1994 c 301 § 14; 1985 c 84 § 3; 1983 c 167 § 11.]

Acts of municipal officers ratified and confirmed—1995 c 38: See note following RCW 3.02.045.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

43.80.130 Receipts—Payment procedure—Cremation—Certificate of destruction. The fiscal agencies, on the receipt of any moneys transmitted to them by or for this state, or for any affected subdivision, for the purpose of paying therewith any of its bonds or coupons by their terms made payable at the situs of the state of Washington fiscal agencies, shall transmit forthwith to the sender of such moneys a proper receipt therefor; pay such bonds or coupons upon presentation thereof for payment at the office of the fiscal agencies at or after the maturity thereof, in the order of their presentation insofar as the moneys received for that purpose suffice therefor; and cancel all such bonds and coupons upon payment thereof, and thereupon forthwith return the same to the proper officers of this state or affected subdivisions which issued them; and, concerning the same, report to the state and/or affected subdivision within thirty days following a maturity date the amount of bonds and coupons presented and paid to that date: PROVIDED, That nothing herein shall prevent the state or any of the subdivisions thereof from designating its fiscal agencies, or the trustee of any revenue bond issue, or both, also as its agencies for cremation and to provide by agreement therewith, that after one year any general or revenue obligation bonds or interest coupons that have been canceled or paid, may be destroyed as directed by the proper officers of the state or other subdivisions hereinbefore mentioned: PROVIDED FURTHER, That a certificate of destruction giving full descriptive reference to the instruments destroyed shall be made by the person or persons authorized to perform such destruction and one copy of the certificate shall be filed with the treasurer of the state or local subdivisions as applicable. Whenever said treasurer has redeemed any of the bonds or coupons referred to in this section through his local office, or whenever such redemption has been performed by the trustee of any revenue bond issue, and the canceled instruments or certificates of transmittal thereafter have been forwarded to said treasurer for recording, such canceled instruments may be forwarded to the fiscal agents designated as agents for cremation for destruction pursuant to any agreements therefor, or said treasurer may, notwithstanding any provision of state statute to the contrary, himself destroy such canceled instruments in the presence of the public officers or boards or their authorized representatives, which by law perform the auditing functions within the state or such political subdivisions as hereinbefore specified: PROVIDED, That he and the said auditing officers or boards

shall execute a certificate of destruction, giving full descriptive reference to the instruments destroyed, which certificates shall be filed with those of the agencies for cremation herein designated. No certificate required by this section shall be destroyed until all of the bonds and coupons of the issue or series described thereon shall have matured and been paid or canceled. [1969 ex.s. c 80 § 4.]

43.80.140 Notice of establishment of fiscal agencies—Publication—Bonds and coupons paid at fiscal agencies. The state finance committee shall, immediately after the establishment of fiscal agencies, publish a notice thereof, once a week for two consecutive weeks, in some financial newspaper of general circulation in cities designated as headquarters of the fiscal agents. All bonds and coupons of this state or of any affected subdivision thereafter issued shall be paid at the designated fiscal agencies or at such other place as allowed by law and provided for in the bonds. [1969 ex.s. c 80 § 5.]

43.80.150 Treasurers not responsible for funds remitted. Neither the state treasurer nor the treasurer or other fiscal officer of any subdivision thereof shall be held responsible for funds remitted to the fiscal agencies. [1969 ex.s. c 80 § 6.]

43.80.160 Return of funds remitted to redeem bonds and coupons which remain unredeemed. Upon the written request of the state or local treasurer, after a period of one year after the last legal payment date on matured bonds of the state of Washington and of its subdivisions, the funds remitted to fiscal agencies to redeem coupons and bonds which are subsequently unredeemed by the holders of the bonds and coupons, shall herewith be returned to the state treasurer or the local treasurer as the case may be. The state or local treasurer shall remain obligated for the final redemption of the unredeemed bonds or coupons. [1969 ex.s. c 80 § 7.]

43.80.900 Effective date—1969 ex.s. c 80. This act shall take effect on April 1, 1971, or at such time that the present fiscal agent agreement, contracted through April 1, 1971, is abrogated. [1969 ex.s. c 80 § 8.]

Chapter 43.81

STATE-OWNED LIVING FACILITIES

Sections

43.81.010	Legislative declaration.
43.81.020	Availability of state-owned or leased living facilities.
43.81.030	Rent—Custodial housekeeping—Damages.
43.81.040	Maintenance in safe, healthful condition.

43.81.010 Legislative declaration. The legislature recognizes that significant benefits accrue to the state and that certain types of state operations are more efficient when personnel services are available on an extended basis. Such operations include certain types of facilities managed by agencies such as the departments of natural resources, corrections, fish and wildlife, social and health services,

transportation, and veterans affairs, and the parks and recreation commission.

The means of assuring that such personnel are available on an extended basis is through the establishment of on-site state-owned or leased living facilities. The legislature also recognizes the restrictions and hardship placed upon those personnel who are required to reside in such state-owned or leased living facilities in order to provide extended personnel services.

The legislature further recognizes that there are instances where it is to the benefit of the state to have state-owned or leased living facilities occupied even though such occupancy is not required by the agency as a condition of employment. [1994 c 264 § 27; 1988 c 36 § 19; 1985 c 463 § 1.]

43.81.020 Availability of state-owned or leased living facilities. (1) Whenever an agency requires that an employee reside in state-owned or leased living facilities as a condition of employment, such living facilities shall be made available to the employee under the conditions set forth in RCW 43.81.030 and 43.81.040.

(2) Whenever an agency determines that (a) a living facility owned or leased by the agency is not occupied by employees under subsection (1) of this section and (b) it would be to the agency's benefit to have the facility occupied by an employee of the agency whose duties involve extended personnel services associated with the work site upon which the living facility is located or at work site near to where the living facility is located, the agency may make the facility available to such employee.

(3) Whenever an agency determines that (a) a living facility owned or leased by the agency is not occupied by employees under subsection (1) of this section and (b) the facility has been made available to employees under subsection (2) of this section and that no such employees have opted to reside in the facility, the agency may make the facility available for occupancy to other interested parties. [1985 c 463 § 2.]

43.81.030 Rent—Custodial housekeeping—Damages. (1) No rent may be charged to persons living in facilities provided under RCW 43.81.020(1). Such employees shall pay the costs of utilities associated with the living facility.

(2) Any person occupying state-owned or leased living facilities shall do so with the understanding that he or she assumes custodial housekeeping responsibility as directed by the agency. Such responsibility shall not include maintenance, repairs, or improvements to the facilities. An occupant of a state-owned or leased facility is liable for damages to the facility in excess of normal wear and tear. [1989 c 11 § 16; 1985 c 463 § 3.]

Severability—1989 c 11: See note following RCW 9A.56.220.

43.81.040 Maintenance in safe, healthful condition. The state shall maintain living facilities occupied under RCW 43.81.020 in a safe, healthful condition. [1985 c 463 § 4.]

Chapter 43.82

STATE AGENCY HOUSING

Sections

- 43.82.010 Acquisition, lease, and disposal of real estate for state agencies—Long-range planning—Colocation and consolidation—Studies—Delegation of functions—Exemptions.
- 43.82.020 Approval by capitol committee when real estate located in Thurston county.
- 43.82.030 Acquisition of property and rights declared public use—Eminent domain.
- 43.82.110 Lease of space—Surplus space.
- 43.82.120 General administration management fund—Rental income.
- 43.82.125 Authorized uses for general administration management fund—Surplus to general fund.
- 43.82.130 Powers and duties of director.
- 43.82.140 Insurance on buildings.
- 43.82.150 Inventory of state-owned or leased facilities.

Agricultural commodity commissions exempt: RCW 15.04.200.

43.82.010 Acquisition, lease, and disposal of real estate for state agencies—Long-range planning—Colocation and consolidation—Studies—Delegation of functions—Exemptions. (1) The director of general administration, on behalf of the agency involved, shall purchase, lease, lease purchase, rent, or otherwise acquire all real estate, improved or unimproved, as may be required by elected state officials, institutions, departments, commissions, boards, and other state agencies, or federal agencies where joint state and federal activities are undertaken and may grant easements and transfer, exchange, sell, lease, or sublease all or part of any surplus real estate for those state agencies which do not otherwise have the specific authority to dispose of real estate. This section does not transfer financial liability for the acquired property to the department of general administration.

(2) Except for real estate occupied by federal agencies, the director shall determine the location, size, and design of any real estate or improvements thereon acquired or held pursuant to subsection (1) of this section. Facilities acquired or held pursuant to this chapter, and any improvements thereon, shall conform to standards adopted by the director and approved by the office of financial management governing facility efficiency unless a specific exemption from such standards is provided by the director of general administration. The director of general administration shall report to the office of financial management annually on any exemptions granted pursuant to this subsection.

(3) The director of general administration may fix the terms and conditions of each lease entered into under this chapter, except that no lease shall extend greater than twenty years in duration. The director of general administration may enter into a long-term lease greater than five years in duration upon a determination by the director of the office of financial management that the long-term lease provides a more favorable rate than would otherwise be available, it appears to a substantial certainty that the facility is necessary for use by the state for the full length of the lease term, and the facility meets the standards adopted pursuant to subsection (2) of this section. The director of general administration may enter into a long-term lease greater than ten years in duration if an analysis shows that the life-cycle cost of leasing the facility is less than the life-cycle cost of purchasing or constructing a facility in lieu of leasing the facility.

(4) It is the policy of the state to encourage the collocation [colocation] and consolidation of state services into single or adjacent facilities, whenever appropriate, to improve public service delivery, minimize duplication of facilities, increase efficiency of operations, and promote sound growth management planning.

(5) The director of general administration shall provide coordinated long-range planning services to identify and evaluate opportunities for collocating [colocating] and consolidating state facilities. Upon the renewal of any lease, the inception of a new lease, or the purchase of a facility, the director of general administration shall determine whether an opportunity exists for collocating [colocating] the agency or agencies in a single facility with other agencies located in the same geographic area. If a collocation [colocation] opportunity exists, the director of general administration shall consult with the affected state agencies and the office of financial management to evaluate the impact collocation [colocation] would have on the cost and delivery of agency programs, including whether program delivery would be enhanced due to the centralization of services. The director of general administration, in consultation with the office of financial management, shall develop procedures for implementing collocation and consolidation of state facilities.

(6) The director of general administration is authorized to purchase, lease, rent, or otherwise acquire improved or unimproved real estate as owner or lessee and to lease or sublet all or a part of such real estate to state or federal agencies. The director of general administration shall charge each using agency its proportionate rental which shall include an amount sufficient to pay all costs, including, but not limited to, those for utilities, janitorial and accounting services, and sufficient to provide for contingencies; which shall not exceed five percent of the average annual rental, to meet unforeseen expenses incident to management of the real estate.

(7) If the director of general administration determines that it is necessary or advisable to undertake any work, construction, alteration, repair, or improvement on any real estate acquired pursuant to subsection (1) or (6) of this section, the director shall cause plans and specifications thereof and an estimate of the cost of such work to be made and filed in his or her office and the state agency benefiting thereby is hereby authorized to pay for such work out of any available funds: PROVIDED, That the cost of executing such work shall not exceed the sum of twenty-five thousand dollars. Work, construction, alteration, repair, or improvement in excess of twenty-five thousand dollars, other than that done by the owner of the property if other than the state, shall be performed in accordance with the public works law of this state.

(8) In order to obtain maximum utilization of space, the director of general administration shall make space utilization studies, and shall establish standards for use of space by state agencies. Such studies shall include the identification of opportunities for collocation [colocation] and consolidation of state agency office and support facilities.

(9) The director of general administration may construct new buildings on, or improve existing facilities, and furnish and equip, all real estate under his or her management. Prior to the construction of new buildings or major improvements

to existing facilities or acquisition of facilities using a lease purchase contract, the director of general administration shall conduct an evaluation of the facility design and budget using life-cycle cost analysis, value-engineering, and other techniques to maximize the long-term effectiveness and efficiency of the facility or improvement.

(10) All conveyances and contracts to purchase, lease, rent, transfer, exchange, or sell real estate and to grant and accept easements shall be approved as to form by the attorney general, signed by the director of general administration or the director's designee, and recorded with the county auditor of the county in which the property is located.

(11) The director of general administration may delegate any or all of the functions specified in this section to any agency upon such terms and conditions as the director deems advisable.

(12) This section does not apply to the acquisition of real estate by:

(a) The state college and universities for research or experimental purposes;

(b) The state liquor control board for liquor stores and warehouses; and

(c) The department of natural resources, the department of fish and wildlife, the department of transportation, and the state parks and recreation commission for purposes other than the leasing of offices, warehouses, and real estate for similar purposes.

(13) Notwithstanding any provision in this chapter to the contrary, the department of general administration may negotiate ground leases for public lands on which property is to be acquired under a financing contract pursuant to chapter 39.94 RCW under terms approved by the state finance committee. [1994 c 264 § 28; 1994 c 219 § 7; 1990 c 47 § 1; 1988 c 36 § 20; 1982 c 41 § 1; 1969 c 121 § 1; 1967 c 229 § 1; 1965 c 8 § 43.82.010. Prior: 1961 c 184 § 1; 1959 c 255 § 1.]

Reviser's note: This section was amended by 1994 c 219 § 7 and by 1994 c 264 § 28, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—1994 c 219: See note following RCW 43.88.030.

Effective dates—1982 c 41: "This act shall take effect July 1, 1982, with the exception of section 2 of this act, which shall take effect July 1, 1983." [1982 c 41 § 3.] "Section 2 of this act" consists of the 1982 c 41 amendment to RCW 43.19.500.

Departments to share occupancy costs—Capital projects surcharge: RCW 43.01.090.

East capitol site, acquisition and development: RCW 79.24.500 through 79.24.530.

Public works: Chapter 39.04 RCW.

Use of department of general administration facilities and services revolving fund in acquiring real estate: RCW 43.19.500.

43.82.020 Approval by capitol committee when real estate located in Thurston county. The acquisition of real estate, and use thereof, shall be subject to the approval of the state capitol committee when the real estate is located in Thurston county. [1965 c 8 § 43.82.020. Prior: 1961 c 184 § 2; 1959 c 255 § 2.]

43.82.030 Acquisition of property and rights declared public use—Eminent domain. The acquisition of any real property or any rights or interests therein for the

purpose of this chapter is hereby declared to be for a public use. In furtherance of the purposes of this chapter, the right of eminent domain may be exercised as provided for in chapter 8.04 RCW. [1965 c 8 § 43.82.030. Prior: 1959 c 255 § 3.]

43.82.110 Lease of space—Surplus space. All office or other space made available through the provisions of this chapter shall be leased by the director to such state or federal agencies, for such rental, and on such terms and conditions as he or she deems advisable: PROVIDED, HOWEVER, If space becomes surplus, the director is authorized to lease office or other space in any project to any person, corporation or body politic, for such period as the director shall determine said space is surplus, and upon such other terms and conditions as he or she may prescribe. [1994 c 219 § 13; 1969 c 121 § 2; 1965 c 8 § 43.82.110. Prior: 1961 c 184 § 4; 1959 c 255 § 11.]

Finding—1994 c 219: See note following RCW 43.88.030.

43.82.120 General administration management fund—Rental income. All rental income collected by the department of general administration from rental of state buildings shall be deposited in the general administration management fund, the creation of which is hereby authorized. [1994 c 219 § 14; 1965 c 8 § 43.82.120. Prior: 1961 c 184 § 5; 1959 c 255 § 12.]

Finding—1994 c 219: See note following RCW 43.88.030.

43.82.125 Authorized uses for general administration management fund—Surplus to general fund. The general administration management fund shall be used to pay all costs incurred by the department in the operation of real estate managed under the terms of this chapter. Moneys received into the general administration management fund shall be used to pay rent to the owner of the space for occupancy of which the charges have been made and to pay utility and operational costs of the space utilized by the occupying agency: PROVIDED, That moneys received into the fund for occupancy of space owned by the state where utilities and other operational costs are covered by appropriation to the department of general administration shall be immediately transmitted to the general fund: PROVIDED FURTHER, That the director may expend not to exceed fifty thousand dollars per biennium from the general administration management fund to cover unusual or unexpected expenses connected with space occupancy or management that cannot be charged directly to any specific state agency. In the event the director determines that there is a surplus in this fund, he shall transfer such surplus to the general fund. [1965 c 8 § 43.82.125. Prior: 1961 c 184 § 6.]

43.82.130 Powers and duties of director. The director of the department of general administration is authorized to do all acts and things necessary or convenient to carry out the powers and duties expressly provided in this chapter. [1965 c 8 § 43.82.130. Prior: 1959 c 255 § 13.]

43.82.140 Insurance on buildings. The director may, in his discretion, obtain fire or other hazard insurance on any

building under his management. [1965 c 8 § 43.82.140. Prior: 1961 c 184 § 7.]

43.82.150 Inventory of state-owned or leased facilities. (1) The office of financial management shall develop and maintain an inventory system to account for all owned or leased facilities utilized by state government. At a minimum, the inventory system must include the location, type, and size of each facility. In addition, for owned facilities, the inventory system must include the date and cost of original construction and the cost of any major remodeling or renovation. The system must be developed by January 1, 1994, and the initial inventory must be completed by June 30, 1994. The inventory must be updated by June 30 of each subsequent year.

(2) All agencies, departments, boards, commissions, and institutions of the state of Washington shall provide to the office of financial management a complete inventory of owned and leased facilities by May 30, 1994. The inventory must be updated and submitted to the office of financial management by May 30 of each subsequent year. The inventories required under this subsection must be submitted in a standard format prescribed by the office of financial management.

(3) For the purposes of this section, "facilities" means buildings and other structures with walls and a roof. "Facilities" does not mean roads, bridges, parking areas, utility systems, and other similar improvements to real property. [1993 c 325 § 1.]

Historic properties: RCW 27.34.310.

Chapter 43.83

CAPITAL IMPROVEMENTS

Sections

1959-1961 BOND ISSUE

- 43.83.010 Limited obligation bonds—Authorized—Issuance, sale, form, payment, etc.—Continuation of tax levy.
- 43.83.020 Limited obligation bonds—Proceeds to be deposited in state building construction account—Use.
- 43.83.030 Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy.
- 43.83.040 Limited obligation bonds—Legislature may provide additional means of raising revenue.
- 43.83.050 Limited obligation bonds—Bonds are negotiable, legal investment and security.

1961-1963 BOND ISSUE

- 43.83.060 Limited obligation bonds—Authorized—Issuance, sale, form, payment, etc.—Continuation of tax levy.
- 43.83.062 Limited obligation bonds—Proceeds to be deposited in state building construction account—Use.
- 43.83.064 Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy.
- 43.83.066 Limited obligation bonds—Legislature may provide additional means of raising revenue.
- 43.83.068 Limited obligation bonds—Bonds are negotiable, legal investment and security.

1965-1967 BOND ISSUE

- 43.83.070 General obligation bonds—Authorized—Issuance, sale, form, payment, etc.

- 43.83.074 General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy.
- 43.83.076 General obligation bonds—Legislature may provide additional means of raising revenue.
- 43.83.078 General obligation bonds—Legal investment for state and local funds.
- 43.83.082 General obligation bonds—Capital improvement and capital project defined.
- 43.83.084 General obligation bonds—Referral to electorate.

1967-1969 BOND ISSUE

- 43.83.090 General obligation bonds—Authorized—Issuance, sale, form, payment, etc.
- 43.83.094 General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy.
- 43.83.096 General obligation bonds—Legislature may provide additional means of raising revenue.
- 43.83.098 General obligation bonds—Legal investment for state and local funds.
- 43.83.102 General obligation bonds—Capital improvement and capital project defined.
- 43.83.104 General obligation bonds—Referral to electorate.

1973 BOND ISSUE

- 43.83.110 General obligation bonds—Authorized—Issuance—Payment.
- 43.83.112 General obligation bonds—Powers and duties of state finance committee.
- 43.83.114 General obligation bonds—Anticipation notes—Proceeds.
- 43.83.116 General obligation bonds—Administration of proceeds from sale.
- 43.83.118 General obligation bonds—Payment from bond redemption fund—Procedure—General obligation of state.
- 43.83.120 General obligation bonds—Charges against state agencies to reimburse state general fund.
- 43.83.122 General obligation bonds—Legislature may provide additional means for payment.
- 43.83.124 General obligation bonds—Legal investment for state and other public bodies.
- 43.83.126 Severability—1973 1st ex.s. c 217.

1975 BOND ISSUE

- 43.83.130 General obligation bonds—Authorized—Issuance—Payment.
- 43.83.132 General obligation bonds—Powers and duties of state finance committee.
- 43.83.134 General obligation bonds—Anticipation notes—Proceeds.
- 43.83.136 General obligation bonds—Administration of proceeds from sale.
- 43.83.138 General obligation bonds—Payment from bond redemption fund—Procedure.
- 43.83.140 General obligation bonds—General obligation of state.
- 43.83.142 General obligation bonds—Charges against state agencies to reimburse state general fund.
- 43.83.144 General obligation bonds—Legislature may provide additional means for payment.
- 43.83.146 General obligation bonds—Legal investment for state and other public bodies.
- 43.83.148 Severability—1975 1st ex.s. c 249.

1979 BOND ISSUE

- 43.83.150 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.83.152 Form, terms, conditions, etc., of bonds.
- 43.83.154 Bond anticipation notes—Deposit of proceeds of bonds and notes in state building construction account and state general obligation bond retirement fund.
- 43.83.156 Administration of proceeds.
- 43.83.158 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
- 43.83.160 State general obligation bond retirement fund created—Trust fund for retirement of state general obligation bonds.
- 43.83.162 Separate accounting records required for each issue of bonds.

- 43.83.164 Payment on certain bonds from state general obligation bond retirement fund prohibited.
- 43.83.166 Legislature may provide additional means for payment of bonds.
- 43.83.168 Bonds legal investment for public funds.
- 43.83.170 Severability—1979 ex.s. c 230.

1981 BOND ISSUE

- 43.83.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required.
- 43.83.174 Deposit of proceeds in state building construction account—Use.
- 43.83.176 Administration of proceeds.
- 43.83.178 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
- 43.83.180 Legislature may provide additional means for payment of bonds.
- 43.83.182 Bonds legal investment for public funds.

1983 BOND ISSUE

- 43.83.184 General obligation bonds—Authorized—Issuance—Appropriation required.
- 43.83.186 Deposit of proceeds in state building construction account—Use.
- 43.83.188 Administration of proceeds.
- 43.83.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
- 43.83.192 Legislature may provide additional means for payment of bonds.
- 43.83.194 Bonds legal investment for public funds.
- 43.83.196 Severability—1983 1st ex.s. c 54.

1984 BOND ISSUE

- 43.83.198 General obligation bonds—Authorized—Issuance—Price—Appropriation required.
- 43.83.200 Deposit of proceeds in state building construction account—Use.
- 43.83.202 Administration of proceeds.
- 43.83.204 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
- 43.83.206 Legislature may provide additional means for payment of bonds.
- 43.83.208 Bonds legal investment for public funds.
- 43.83.210 Severability—1984 c 271.

Indian cultural and educational facility bond issue: Chapter 37.14 RCW. Washington State University Tree Fruit Research Center office-laboratory facility, financing: RCW 28B.30.600 through 28B.30.619.

1959-1961 BOND ISSUE

43.83.010 Limited obligation bonds—Authorized—Issuance, sale, form, payment, etc.—Continuation of tax levy. For the purpose of furnishing funds to finance projects in the 1959-1961 capital budget, as adopted by the legislature, there shall be issued and sold limited obligation bonds of the state of Washington in the sum of ten million eighty-nine thousand dollars to be paid and discharged not more than twenty years after date of issuance. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds; and the sale, issuance, and redemption thereof. None of the bonds herein authorized shall be sold for less than the par value thereof. Such bonds shall state distinctly that they shall not be a general obligation of

the state of Washington, but shall be payable in the manner and from the proceeds of retail sales taxes as in RCW 43.83.010 through 43.83.050 provided. As a part of the contract of sale of the aforesaid bonds, the state undertakes to continue to levy the taxes referred to herein and to fix and maintain said taxes in such amounts as will provide sufficient funds to pay said bonds and interest thereon until all such obligations have been paid in full.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide. [1965 c 8 § 43.83.010. Prior: 1959 ex.s. c 9 § 1.]

43.83.020 Limited obligation bonds—Proceeds to be deposited in state building construction account—Use. The proceeds from the sale of the bonds authorized herein shall be deposited in the state building construction account which is hereby established in the state treasury and shall be used exclusively for the purposes of carrying out the provisions of the capital appropriation acts, and for payment of the expense incurred in the printing, issuance, and sale of such bonds. [1991 sp.s. c 13 § 46; 1987 1st ex.s. c 3 § 9; 1985 c 57 § 43; 1965 c 8 § 43.83.020. Prior: 1959 ex.s. c 9 § 2.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—1987 1st ex.s. c 3: See RCW 43.99G.901.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.83.030 Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy. Retirement of the bonds and interest authorized by RCW 43.83.010 through 43.83.050 shall be from the state building construction bond redemption fund created by chapter 298, Laws of 1957. The state finance committee shall on or before June 30th of each year certify to the state treasurer the amount needed in the ensuing twelve months to meet interest payments on and retirement of bonds authorized by RCW 43.83.010 through 43.83.050. The state treasurer shall thereupon deposit such amount in the state building construction bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections, and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, subject to and inferior only to the charges thereon created by chapters 229 and 230, Laws of 1949, and chapter 298, Laws of 1957. Said bond redemption fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of the bonds herein authorized, the state undertakes to continue to levy and collect a tax on retail sales equal to that portion thereof allocated to said fund as provided in RCW 43.83.010 through 43.83.050, and to place the proceeds thereof in the

state building construction bond redemption fund and to make said fund available to meet said payments when due until all bonds and the interest thereon authorized under RCW 43.83.010 through 43.83.050 shall have been paid. [1975 1st ex.s. c 278 § 26; 1965 c 8 § 43.83.030. Prior: 1959 ex.s. c 9 § 3.]

Reviser's note: Chapter 298, Laws of 1957 and chapter 230, Laws of 1949 referred to herein were codified in chapter 72.99 RCW. The sections in chapter 72.99 RCW were repealed by 1983 c 189 § 4 and by 1979 c 67 § 18. Chapter 229, Laws of 1949 was codified in chapter 28A.47 RCW, which has been recodified as chapter 28A.525 RCW.

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

43.83.040 Limited obligation bonds—Legislature may provide additional means of raising revenue. The legislature may provide additional means for raising funds for the payment of the interest and principal of the bonds authorized by RCW 43.83.010 through 43.83.050 and RCW 43.83.010 through 43.83.050 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of the general credit of the state of Washington. [1965 c 8 § 43.83.040. Prior: 1959 ex.s. c 9 § 4.]

43.83.050 Limited obligation bonds—Bonds are negotiable, legal investment and security. The bonds herein authorized shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county, and municipal deposits. [1965 c 8 § 43.83.050. Prior: 1959 ex.s. c 9 § 5.]

1961-1963 BOND ISSUE

43.83.060 Limited obligation bonds—Authorized—Issuance, sale, form, payment, etc.—Continuation of tax levy. For the purpose of furnishing funds to finance projects in the 1961-1963 capital budget, as adopted by the legislature, there shall be issued and sold limited obligation bonds of the state of Washington in the sum of twenty-seven million five hundred fifty-six thousand dollars to be paid and discharged not more than twenty years after date of issuance. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds; and the sale, issuance, and redemption thereof. None of the bonds herein authorized shall be sold for less than the par value thereof. Such bonds shall state distinctly that they shall not be a general obligation of the state of Washington, but shall be payable in the manner and from the proceeds of retail sales taxes as in RCW 43.83.060 through 43.83.068 provided. As a part of the contract of sale of the aforesaid bonds, the state undertakes to continue to levy the taxes referred to herein and to fix and maintain said taxes in such amounts as will provide suffi-

cient funds to pay said bonds and interest thereon until all such obligations have been paid in full.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto: **PROVIDED,** That any bonds issued under authority of RCW 43.83.060 through 43.83.068 for the purpose of financing the construction of the correctional institution authorized by chapter 214, Laws of 1959, shall be so identified and shall be subject to call prior to the maturity date thereof. Such bonds shall be payable at such places as the state finance committee may provide. The state finance committee shall, in making its invitation or call for bids on the sale or issuance of such bonds, other than those governed by the proviso in this section, secure bids on the condition that the bonds may be called prior to maturity and it shall also secure bids on the condition that they shall not be subject to prior call. [1965 c 8 § 43.83.060. Prior: 1961 ex.s. c 23 § 1.]

43.83.062 Limited obligation bonds—Proceeds to be deposited in state building construction account—Use. The proceeds from the sale of the bonds authorized herein shall be deposited in the state building construction account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of the capital appropriation act of 1961, and for payment of the expense incurred in the printing, issuance, and sale of such bonds. [1965 c 8 § 43.83.062. Prior: 1961 ex.s. c 23 § 2.]

43.83.064 Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy. Retirement of the bonds and interest authorized by RCW 43.83.060 through 43.83.068 shall be from the state building construction bond redemption fund created by chapter 298, Laws of 1957. The state finance committee shall on or before June thirtieth of each year certify to the state treasurer the amount needed in the ensuing twelve months to meet interest payments on and retirement of bonds authorized by RCW 43.83.060 through 43.83.068. The state treasurer shall thereupon deposit such amount in the state building construction bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections, and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, subject to and inferior only to amounts previously pledged for the payment of interest on and retirement of bonds heretofore issued. Said bond redemption fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of the bonds herein authorized, the state undertakes to continue to levy and collect a tax on retail sales equal to that portion thereof allocated to said fund as provided in RCW 43.83.060 through 43.83.068, and to place the proceeds thereof in the state building construction bond redemption fund and to

make said fund available to meet said payments when due until all bonds and the interest thereon authorized under RCW 43.83.060 through 43.83.068 shall have been paid. [1975 1st ex.s. c 278 § 27; 1965 c 8 § 43.83.064. Prior: 1961 ex.s. c 23 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

43.83.066 Limited obligation bonds—Legislature may provide additional means of raising revenue. The legislature may provide additional means for raising funds for the payment of the interest and principal of the bonds authorized by RCW 43.83.060 through 43.83.068 and RCW 43.83.060 through 43.83.068 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of the general credit of the state of Washington. [1965 c 8 § 43.83.066. Prior: 1961 ex.s. c 23 § 4.]

43.83.068 Limited obligation bonds—Bonds are negotiable, legal investment and security. The bonds herein authorized shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county, and municipal deposits. [1965 c 8 § 43.83.068. Prior: 1961 ex.s. c 23 § 5.]

1965-1967 BOND ISSUE

43.83.070 General obligation bonds—Authorized—Issuance, sale, form, payment, etc. For the purpose of providing needed capital improvements for the institutions of higher education, the department of institutions, the department of natural resources and other state agencies, the state finance committee is hereby authorized to issue, at any time prior to January 1, 1970, general obligation bonds of the state of Washington in the sum of forty million five hundred seventy-five thousand dollars, or so much thereof as shall be required to finance the capital projects set forth in *RCW 43.83.080, to be paid and discharged within twenty years of the date of issuance.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof: PROVIDED, That none of the bonds herein authorized shall be sold for less than the par value thereof, nor shall they bear interest at a rate in excess of six percent per annum.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1965 ex.s. c 172 § 1.]

*Reviser's note: RCW 43.83.080 was repealed by 1979 ex.s. c 67 § 18.

43.83.074 General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy. The state building and higher education bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 43.83.070 through 43.83.084. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in said state building and higher education bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1975 1st ex.s. c 278 § 28; 1965 ex.s. c 172 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

43.83.076 General obligation bonds—Legislature may provide additional means of raising revenue. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and RCW 43.83.070 through 43.83.084 shall not be deemed to provide an exclusive method for such payment. [1965 ex.s. c 172 § 4.]

43.83.078 General obligation bonds—Legal investment for state and local funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1965 ex.s. c 172 § 5.]

43.83.082 General obligation bonds—Capital improvement and capital project defined. The words "capital improvement" or "capital project" used herein shall mean acquisition of sites, easements, rights of way or improvements thereon or appurtenances thereto, construction and initial equipment, reconstruction, demolition or major alteration of new or presently owned capital assets. [1965 ex.s. c 172 § 7.]

43.83.084 General obligation bonds—Referral to electorate. RCW 43.83.070 through 43.83.084 shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1966, in accordance with the provisions of section 3, Article VIII of the state Constitution; and in accordance with the provisions of section 1, Article II of the state Constitution as amended, and the laws adopted to facilitate the operation thereof. [1965 ex.s. c 172 § 8.]

1967-1969 BOND ISSUE

43.83.090 General obligation bonds—Authorized—Issuance, sale, form, payment, etc. For the purpose of providing needed capital improvements for the department of general administration, the institutions of higher education and the department of institutions, the state finance committee is authorized to issue, at any time prior to January 1, 1972, general obligation bonds of the state of Washington in the sum of sixty-three million fifty-nine thousand dollars or so much thereof as shall be required to finance the capital projects set forth in *RCW 43.83.100, to be paid and discharged within twenty years of the date of issuance.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof: PROVIDED, That none of the bonds herein authorized shall be sold for less than the par value thereof, nor shall they bear interest at a rate in excess of six percent per annum.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1967 ex.s. c 148 § 1.]

*Reviser's note: RCW 43.83.100 was repealed by 1979 ex.s. c 67 § 18.

43.83.094 General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy. The state building and higher education bond redemption fund is created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 43.83.090 through 43.83.104. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the state building and higher education bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections; and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof which has been heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1975 1st ex.s. c 278 § 29; 1967 ex.s. c 148 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

43.83.096 General obligation bonds—Legislature may provide additional means of raising revenue. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and RCW 43.83.090 through 43.83.104 shall not be deemed to provide an exclusive method for such payment. [1967 ex.s. c 148 § 4.]

43.83.098 General obligation bonds—Legal investment for state and local funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1967 ex.s. c 148 § 5.]

43.83.102 General obligation bonds—Capital improvement and capital project defined. The words "capital improvement" or "capital project" used herein shall mean acquisition of sites, easements, rights of way or improvements thereon or appurtenances thereto, construction and initial equipment, reconstruction, demolition or major alteration of new or presently owned capital assets. [1967 ex.s. c 148 § 7.]

43.83.104 General obligation bonds—Referral to electorate. RCW 43.83.090 through 43.83.104 shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1968, in accordance with the provisions of section 3, Article VIII of the state Constitution; and in accordance with the provisions of section 1, Article II of the state Constitution as amended, and the laws adopted to facilitate the operation thereof. [1967 ex.s. c 148 § 8.]

Reviser's note: RCW 43.83.090 through 43.83.104 was adopted and ratified by the people at the November 5, 1968, general election (Referendum Bill No. 19). Governor's proclamation declaring approval of measure is dated December 5, 1968. State Constitution Art. 2 § 1(d) provides: "... Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved ..."

1973 BOND ISSUE

43.83.110 General obligation bonds—Authorized—Issuance—Payment. For the purpose of acquiring land, funding and providing the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment, and facilities, of capitol office buildings, parking facilities, governor's mansion, and such other buildings and facilities as are determined to be necessary to provide space for the legislature by way of offices, committee rooms, hearing rooms, and work rooms, and to provide executive office and housing for the governor, and to provide executive office space for other elective officials and such other state agencies as may be necessary, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twenty-seven million dollars, or so much thereof as may be required, to finance the projects defined in RCW 43.83.110 through 43.83.126 and all costs incidental thereto. Such bonds shall be paid and discharged within thirty years of the

date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1973 1st ex.s. c 217 § 1.]

43.83.112 General obligation bonds—Powers and duties of state finance committee. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and notes, if any. Such bonds shall be payable at such places as the committee may provide. [1973 1st ex.s. c 217 § 2.]

43.83.114 General obligation bonds—Anticipation notes—Proceeds. At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds that may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The proceeds from the sale of bonds authorized by RCW 43.83.110 through 43.83.126 shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83.110 through 43.83.126 and for the payment of expenses incurred in the issuance and sale of the bonds. [1973 1st ex.s. c 217 § 3.]

43.83.116 General obligation bonds—Administration of proceeds from sale. The principal proceeds from the sale of the bonds or notes deposited in the state building construction account of the general fund shall be administered by the state department of general administration. [1973 1st ex.s. c 217 § 4.]

43.83.118 General obligation bonds—Payment from bond redemption fund—Procedure—General obligation of state. The state building bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds authorized by RCW 43.83.110 through 43.83.126. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in the state building bond redemption fund from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. Bonds issued under the provisions of RCW 43.83.110 through 43.83.126 shall state that they are a general obligation of the state of Washington, shall pledge

the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1973 1st ex.s. c 217 § 5.]

43.83.120 General obligation bonds—Charges against state agencies to reimburse state general fund. In addition to any other charges authorized by law and to assist in reimbursing the state general fund for expenditures from the general state revenues in paying the principal and interest on the bonds and notes herein authorized, the director of general administration shall assess a charge against each state board, commission, agency, office, department, activity, or other occupant or user for payment of a proportion of costs for each square foot of floor space assigned to or occupied by it. Payment of the amount so billed to the entity for such occupancy shall be made annually and in advance at the beginning of each fiscal year. The director of general administration shall cause the same to be deposited in the state treasury to the credit of the general fund. [1973 1st ex.s. c 217 § 6.]

43.83.122 General obligation bonds—Legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized herein, and RCW 43.83.110 through 43.83.126 shall not be deemed to provide an exclusive method for such payment. [1973 1st ex.s. c 217 § 7.]

43.83.124 General obligation bonds—Legal investment for state and other public bodies. The bonds herein authorized shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1973 1st ex.s. c 217 § 8.]

43.83.126 Severability—1973 1st ex.s. c 217. If any provision of this 1973 act, or its application to any person or circumstance is held invalid the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 217 § 9.]

1975 BOND ISSUE

43.83.130 General obligation bonds—Authorized—Issuance—Payment. For the purpose of providing funds for the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, and fixed equipment of capital campus facilities and such other buildings and facilities as are determined to be necessary to provide space for the legislature by way of offices, committee rooms, hearing rooms, and work rooms and such other state agencies as may be necessary, as provided in the capital appropriations act, chapter . . . , Laws of 1975 [chapter 276, Laws of 1975 1st ex. sess.], for such purposes, the state finance committee is authorized to issue general

obligation bonds of the state of Washington in the aggregate principal amount of six million four hundred thousand dollars or so much thereof as may be required to finance said projects, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington. [1975 1st ex.s. c 249 § 1.]

43.83.132 General obligation bonds—Powers and duties of state finance committee. The issuance, sale and retirement of said bonds as authorized in RCW 43.83.130 shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of such bonds and the conditions of sale and issuance thereof. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and notes, if any. Such bonds shall be payable at such places as the committee may provide. [1975 1st ex.s. c 249 § 2.]

43.83.134 General obligation bonds—Anticipation notes—Proceeds. At the time the state finance committee determines to issue such bonds as authorized in RCW 43.83.130 through 43.83.148 or a portion thereof, pending the issuance of such bonds, it may issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 43.83.130 through 43.83.148 shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83.130 through 43.83.148 and for the payment of expenses incurred in the issuance and sale of such bonds and notes: PROVIDED, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the bond redemption fund created in RCW 43.83.138. [1975 1st ex.s. c 249 § 3.]

43.83.136 General obligation bonds—Administration of proceeds from sale. The principal proceeds from the sale of the bonds or notes authorized in RCW 43.83.130 through 43.83.148 and deposited in the state building construction account of the general fund shall be administered by the state department of general administration, subject to legislative appropriation. [1975 1st ex.s. c 249 § 4.]

43.83.138 General obligation bonds—Payment from bond redemption fund—Procedure. The state building bond redemption fund, 1975, is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds and notes authorized by RCW 43.83.130 through 43.83.148. The

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state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in such state building bond redemption fund from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. [1975 1st ex.s. c 249 § 5.]

43.83.140 General obligation bonds—General obligation of state. Bonds issued under the provisions of RCW 43.83.130 through 43.83.148 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds, by a mandamus or other appropriate proceeding, may require the transfer and payment of funds as directed herein. [1975 1st ex.s. c 249 § 6.]

43.83.142 General obligation bonds—Charges against state agencies to reimburse state general fund. In addition to any other charges authorized by law and to assist in reimbursing the state general fund for expenditures from the general state revenues in paying the principal and interest on the bonds and notes authorized in RCW 43.83.130 through 43.83.148, the director of general administration may assess a charge against each state board, commission, agency, office, department, activity, or other occupant or user of any facility or other building as authorized in RCW 43.83.130 for payment of a proportion of costs for each square foot of floor space assigned to or occupied by it. Payment of the amount so billed to the entity for such occupancy shall be made annually and in advance at the beginning of each fiscal year. The director of general administration shall cause the same to be deposited in the state treasury to the credit of the general fund. [1975 1st ex.s. c 249 § 7.]

43.83.144 General obligation bonds—Legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the principal of an interest on the bonds authorized in RCW 43.83.130 through 43.83.148, and RCW 43.83.130 through 43.83.148 shall not be deemed to provide an exclusive method for such payment. [1975 1st ex.s. c 249 § 8.]

43.83.146 General obligation bonds—Legal investment for state and other public bodies. The bonds authorized in RCW 43.83.130 through 43.83.148 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1975 1st ex.s. c 249 § 9.]

43.83.148 Severability—1975 1st ex.s. c 249. If any provision of this 1975 act, or its application to any person or

circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 249 § 10.]

1979 BOND ISSUE

43.83.150 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of acquiring land and providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment facilities of office buildings, parking facilities, and such other buildings, facilities, and utilities as are determined to be necessary to provide space including offices, committee rooms, hearing rooms, work rooms, and industrial-related space for the legislature, for other elective officials, and such other state agencies as may be necessary, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twelve million five hundred thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83.150 through 43.83.170 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance. [1985 ex.s. c 4 § 15; 1979 ex.s. c 230 § 1.]

Severability—1985 ex.s. c 4: See RCW 43.99G.900.

43.83.152 Form, terms, conditions, etc., of bonds. The issuance, sale, and retirement of the bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance, and redemption. None of the bonds authorized in RCW 43.83.150 through 43.83.170 shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of the bonds and notes, if any. The bonds shall be payable at such places as the committee may provide. [1979 ex.s. c 230 § 2.]

43.83.154 Bond anticipation notes—Deposit of proceeds of bonds and notes in state building construction account and state general obligation bond retirement fund. At the time the state finance committee determines to issue the bonds, or a portion thereof, it may, pending the issuance of the bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 43.83.150 through 43.83.170 shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83.150 through 43.83.170 and for the payment of expenses

incurred in the issuance and sale of the bonds: PROVIDED, That such portion of the proceeds of the sale of the bonds as may be required for the payment of the principal of and interest on the anticipation notes as have been issued, shall be deposited in the state general obligation bond retirement fund created by RCW 43.83.160. [1979 ex.s. c 230 § 3.]

43.83.156 Administration of proceeds. The principal proceeds from the sale of the bonds or notes deposited in the state building construction account of the general fund shall be administered by the state department of general administration, subject to legislative appropriation. [1979 ex.s. c 230 § 4.]

43.83.158 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds and notes authorized by RCW 43.83.150 through 43.83.170. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date. Bonds issued under RCW 43.83.150 through 43.83.170 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1979 ex.s. c 230 § 5.]

43.83.160 State general obligation bond retirement fund created—Trust fund for retirement of state general obligation bonds. The state general obligation bond retirement fund is hereby created in the state treasury. This fund shall be used for the payment of principal of, redemption premium, if any, and interest on general obligation bonds of the state that are required to be paid either directly or indirectly from any general state revenues and that are issued pursuant to statutory authority which statute designates the general obligation bond retirement fund for this purpose. This fund shall be deemed a trust fund for this purpose. [1979 ex.s. c 230 § 6.]

43.83.162 Separate accounting records required for each issue of bonds. Separate accounting records shall be maintained by the state treasurer of the debt service requirements of each issue of bonds payable from the state general obligation bond retirement fund, as certified by the state finance committee, and of the payments made out of the

general obligation bond retirement fund to meet principal, interest requirements, and redemption premium, if any. [1979 ex.s. c 230 § 7.]

43.83.164 Payment on certain bonds from state general obligation bond retirement fund prohibited. No bonds issued pursuant to Article VIII, section 1(f) of the Constitution of the state of Washington shall be made payable from the state general obligation bond retirement fund. [1979 ex.s. c 230 § 8.]

43.83.166 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.83.150 through 43.83.170, and RCW 43.83.150 through 43.83.170 shall not be deemed to provide an exclusive method for the payment. [1979 ex.s. c 230 § 9.]

43.83.168 Bonds legal investment for public funds. The bonds authorized in RCW 43.83.150 through 43.83.170 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1979 ex.s. c 230 § 10.]

43.83.170 Severability—1979 ex.s. c 230. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 230 § 11.]

1981 BOND ISSUE

43.83.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required. For the purpose of acquiring land and providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment facilities of office buildings, parking facilities, and such other buildings, facilities, and utilities as are determined to be necessary to provide space including offices, committee rooms, hearing rooms, work rooms, and industrial-related space for the legislature, for other elective officials, and such other state agencies as may be necessary, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twelve million one hundred thirty thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83.172 through 43.83.182 may be offered for sale without prior legislative appropriation. [1982 1st ex.s. c 48 § 19; 1981 c 235 § 1.]

Severability—1982 1st ex.s. c 48: See note following RCW 28B.14G.900.

43.83.174 Deposit of proceeds in state building construction account—Use. The proceeds from the sale of bonds authorized by RCW 43.83.172 through 43.83.182 shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclu-

sively for the purposes specified in RCW 43.83.172 through 43.83.182 and for the payment of expenses incurred in the issuance and sale of the bonds. [1981 c 235 § 2.]

43.83.176 Administration of proceeds. The principal proceeds from the sale of the bonds deposited in the state building construction account of the general fund shall be administered by the state department of general administration, subject to legislative appropriation. [1981 c 235 § 3.]

43.83.178 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized by RCW 43.83.172 through 43.83.182.

The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.83.172 through 43.83.182 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1981 c 235 § 4.]

43.83.180 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.83.172 through 43.83.182, and RCW 43.83.172 through 43.83.182 shall not be deemed to provide an exclusive method for the payment. [1981 c 235 § 5.]

43.83.182 Bonds legal investment for public funds. The bonds authorized in RCW 43.83.172 through 43.83.180 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1981 c 235 § 6.]

1983 BOND ISSUE

43.83.184 General obligation bonds—Authorized—Issuance—Appropriation required. For the purpose of acquiring land and providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment facilities of office buildings, parking

facilities, and such other buildings, facilities, and utilities as are determined to be necessary to provide space including offices, committee rooms, hearing rooms, work rooms, and industrial-related space for the legislature, for other elective officials, and such other state agencies as may be necessary, and for the purpose of land acquisitions by the department of transportation, grants and loans by the department of community, trade, and economic development, and facilities of the department of corrections and other state agencies, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of sixty-four million two hundred seventy thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized in this section may be offered for sale without prior legislative appropriation. [1995 c 399 § 78; 1985 c 466 § 54; 1983 1st ex.s. c 54 § 1.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

43.83.186 Deposit of proceeds in state building construction account—Use. The proceeds from the sale of the bonds authorized in RCW 43.83.184 shall be deposited in the state building construction account in the general fund and shall be used exclusively for the purposes specified in RCW 43.83.184 and for the payment of expenses incurred in the issuance and sale of the bonds. [1983 1st ex.s. c 54 § 2.]

43.83.188 Administration of proceeds. The proceeds from the sale of the bonds deposited under RCW 43.83.186 in the state building construction account of the general fund shall be administered by the department of general administration, subject to legislative appropriation. [1983 1st ex.s. c 54 § 3.]

43.83.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.83.184.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.83.184 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the

transfer and payment of funds as directed in this section. [1983 1st ex.s. c 54 § 4.]

43.83.192 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.83.184, and RCW 43.83.190 shall not be deemed to provide an exclusive method for the payment. [1983 1st ex.s. c 54 § 5.]

43.83.194 Bonds legal investment for public funds. The bonds authorized in RCW 43.83.184 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1983 1st ex.s. c 54 § 6.]

43.83.196 Severability—1983 1st ex.s. c 54. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 54 § 10.]

1984 BOND ISSUE

43.83.198 General obligation bonds—Authorized—Issuance—Price—Appropriation required. For the purpose of providing needed capital improvements consisting of the planning, design, construction, renovation, equipping, and repair of buildings and facilities and the acquisition of a marine vessel and marine equipment for the department of corrections, the state finance committee is authorized to issue from time to time general obligation bonds of the state of Washington in the sum of twelve million eight hundred twenty thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1984 c 271 § 1.]

43.83.200 Deposit of proceeds in state building construction account—Use. The proceeds from the sale of the bonds authorized in RCW 43.83.198 shall be deposited in the state building construction account in the general fund and shall be used exclusively for the purposes specified in RCW 43.83.198 and for the payment of expenses incurred in the issuance and sale of the bonds. [1984 c 271 § 2.]

43.83.202 Administration of proceeds. The proceeds from the sale of the bonds deposited under RCW 43.83.200 in the state building construction account of the general fund shall be administered by the department of general administration, subject to legislative appropriation. [1984 c 271 § 3.]

43.83.204 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation

bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.83.198.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.83.198 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1984 c 271 § 4.]

State general obligation bond retirement fund: RCW 43.83.160.

43.83.206 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of, redemption premium, if any, and interest on the bonds authorized in RCW 43.83.198, and RCW 43.83.204 shall not be deemed to provide an exclusive method for the payment. [1984 c 271 § 5.]

43.83.208 Bonds legal investment for public funds. The bonds authorized in RCW 43.83.198 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1984 c 271 § 6.]

43.83.210 Severability—1984 c 271. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 271 § 7.]

Chapter 43.83A

WASTE DISPOSAL FACILITIES BOND ISSUE

Sections

- 43.83A.010 Declaration.
- 43.83A.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.83A.030 Proceeds to be deposited in state and local improvements revolving account.
- 43.83A.040 Administration of proceeds—Use of funds—Integration of disposal systems.
- 43.83A.050 Definitions.
- 43.83A.060 Referral to electorate.
- 43.83A.070 Form, terms, conditions, etc., of bonds.
- 43.83A.080 Anticipation notes—Pledge and promise—Seal.

43.83A.090 Retirement of bonds from waste disposal facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders.

43.83A.100 Legislature may provide additional means for payment of bonds.

43.83A.110 Bonds legal investment for public funds.

43.83A.900 Appropriation.

Waste disposal facilities—1980 bond issue: Chapter 43.99F RCW.

43.83A.010 Declaration. The long-range development goals for the state of Washington must include the protection of the resources and environment of the state and the health and safety of its people by providing adequate facilities and systems for the collection, treatment, control, or disposal of solid or liquid waste materials. [1980 c 21 § 1; 1972 ex.s. c 127 § 1.]

43.83A.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of public waste disposal facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred ninety-five million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. As used in this section the phrase "public waste disposal facilities" shall not include the acquisition of equipment used to collect, carry, and transport garbage. These bonds shall be paid and discharged within twenty years of the date of issuance or within thirty years should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1990 1st ex.s. c 15 § 7. Prior: 1989 1st ex.s. c 14 § 10; 1989 c 136 § 2; 1977 ex.s. c 242 § 1; 1972 ex.s. c 127 § 2.]

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

Intent—1989 c 136: "It is the intent of this act to allow the sale of state general obligation bonds to underwriters at a discount so that they may be sold to the public at face value, thereby resulting in lower interest costs to the state. Increases in bond authorizations under this act represent this discount and will have no effect on the amount of money available for the projects to be financed by the bonds." [1989 c 136 § 1.]

Severability—1977 ex.s. c 242: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 242 § 6.]

43.83A.030 Proceeds to be deposited in state and local improvements revolving account. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account hereby created in the state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1991 sp.s. c 13 § 43; 1985 c 57 § 44; 1972 ex.s. c 127 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.83A.040 Administration of proceeds—Use of funds—Integration of disposal systems. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account of the general fund under the terms of this chapter shall be administered by the state department of ecology subject to legislative appropriation. The department may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for which said bonds are issued by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local or other funds are made available on a matching basis for improvements within the purposes of this chapter.

The department may not use or permit the use of any funds derived from the sale of bonds authorized by this chapter for the support of a solid waste recycling activity or service in a locale if the department determines that the activity or service is reasonably available to persons within that locale from private enterprise.

Integration of the management and operation of systems for solid waste disposal with systems of liquid waste disposal holds promise of improved waste disposal efficiency and greater environmental protection and restoration. To encourage the planning for and development of such integration, the legislature may provide for special grant incentives to public bodies which plan for or operate integrated waste disposal management systems. [1979 c 68 § 2; 1972 ex.s. c 127 § 4.]

43.83A.050 Definitions. As used in this chapter, the term "waste disposal facilities" shall mean any facilities or systems owned or operated by a public body for the collection, storage, treatment, disposal, recycling, control, or recovery of liquid wastes or solid wastes, including, but not limited to, sanitary sewage, storm water, residential, industrial, and commercial wastes, material segregated into recyclables and nonrecyclables, and any combination of such wastes; and all equipment, utilities, structures, real property, and interests in and improvements on real property, necessary for or incidental to such purpose.

As used in this chapter, the term "public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1980 c 21 § 2; 1979 c 68 § 1; 1972 ex.s. c 127 § 5.]

43.83A.060 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the

laws adopted to facilitate the operation thereof. [1972 ex.s. c 127 § 6.]

Reviser's note: Chapter 43.83A RCW was adopted and ratified by the people at the November 7, 1972, general election (Referendum Bill No. 26). Governor's proclamation declaring approval of measure is dated December 7, 1972.

State Constitution Art. 2 § 1(d) provides ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved"

43.83A.070 Form, terms, conditions, etc., of bonds. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. [1989 c 136 § 3; 1972 ex.s. c 127 § 7.]

Intent—1989 c 136: See note following RCW 43.83A.020.

43.83A.080 Anticipation notes—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1972 ex.s. c 127 § 8.]

43.83A.090 Retirement of bonds from waste disposal facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders. The waste disposal facilities bond redemption fund is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the waste disposal facilities bond redemption fund from moneys transmitted to the state treasurer by the state department of revenue and certified by the department to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest. The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1972 ex.s. c 127 § 9.]

43.83A.100 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the

principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1972 ex.s. c 127 § 10.]

43.83A.110 Bonds legal investment for public funds.

The bonds herein authorized shall be a legal investment for all state funds, or for funds under state control, and for all funds of any other public body. [1972 ex.s. c 127 § 11.]

43.83A.900 Appropriation. There is appropriated to the state department of ecology, from the state and local improvements revolving account out of the proceeds of sale of the bonds or notes authorized herein, for the period from the effective date of this act through June 30, 1973, the sum of ten million dollars for use by said department for grants to public bodies as state matching funds for the purpose of aiding in the planning, acquisition, construction, and improvement of waste disposal facilities. [1972 ex.s. c 127 § 12.]

Chapter 43.83B

WATER SUPPLY FACILITIES

Sections

- 43.83B.005 Transfer of duties to the department of health.
- 43.83B.010 Declaration.
- 43.83B.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.83B.030 Proceeds to be deposited in state and local improvements revolving account.
- 43.83B.040 Administration of proceeds—Use of funds.
- 43.83B.050 Definitions.
- 43.83B.060 Referral to electorate.
- 43.83B.070 Form, terms, conditions, etc., of bonds.
- 43.83B.080 Anticipation notes—Pledge and promise—Seal.
- 43.83B.090 Retirement of bonds from water supply facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders.
- 43.83B.100 Legislature may provide additional means for payment of bonds.
- 43.83B.110 Bonds legal investment for public funds.

AGRICULTURAL WATER SUPPLY FACILITIES

- 43.83B.200 Deposit of proceeds from repayment of loans, interest, gifts, grants, etc., in state and local improvements revolving account—Water supply facilities—Use.
- 43.83B.210 Loans or grants from department of ecology—Authorized—Limitations.
- 43.83B.220 Contractual agreements.
- 43.83B.230 Provision for recreation, fish and wildlife enhancement and other public benefits.

EMERGENCY WATER WITHDRAWAL AND FACILITIES

- 43.83B.300 Legislative findings—General obligation bonds authorized—Issuance, terms—Appropriation required.
- 43.83B.336 Civil penalties.
- 43.83B.345 Rates of charges for water—Payment into bond redemption fund—Grants and loans—Contracts.
- 43.83B.350 Loans or grants from department of ecology—Authorized—Limitations.
- 43.83B.355 Form, sale, conditions, etc., of bonds—"Water supply facilities for water withdrawal and distribution" defined.
- 43.83B.360 State emergency water projects revolving account—Proceeds from sale of bonds.
- 43.83B.365 Administration of proceeds from sale of bonds.
- 43.83B.370 Retirement of bonds and notes from emergency water projects bond redemption fund—Remedies of bond holders.
- 43.83B.375 Bonds legal investment for public funds.

- 43.83B.380 Appropriations to department of health—Authorized projects—Conditions.
- 43.83B.385 Appropriations to department of ecology—Authorized projects—Findings.
- 43.83B.400 Drought conditions—Defined—Intent.
- 43.83B.405 Drought conditions—Withdrawals and diversions—Orders, procedure.
- 43.83B.410 Drought conditions—Withdrawals and diversions—Orders, authority granted.
- 43.83B.415 Drought conditions—Loans and grants.
- 43.83B.420 Rules.
- 43.83B.425 Applicability—Construction.
- 43.83B.900 Severability—1975 1st ex.s. c 295.
- 43.83B.901 Severability—1977 ex.s. c 1.

43.83B.005 Transfer of duties to the department of health. The powers and duties of the department of social and health services under this chapter shall be performed by the department of health. [1989 1st ex.s. c 9 § 240.]

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

43.83B.010 Declaration. The long-range development goals for the state of Washington must include the provision of those supportive public services necessary for the development and expansion of industry, commerce, and employment including the furnishing of an adequate supply of water for domestic, industrial, and agricultural purposes. [1972 ex.s. c 128 § 1.]

43.83B.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of water supply facilities within the state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seventy-five million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within twenty years of the date of issuance or within thirty years should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1977 ex.s. c 242 § 2; 1972 ex.s. c 128 § 2.]

Severability—1977 ex.s. c 242: See note following RCW 43.83A.020.

43.83B.030 Proceeds to be deposited in state and local improvements revolving account. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account hereby created in the state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1991 sp.s. c 13 § 53; 1985 c 57 § 45; 1972 ex.s. c 128 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.83B.040 Administration of proceeds—Use of funds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account of the general fund under the terms of this chapter shall be administered by the state department of ecology subject to legislative appropriation. The department may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for which said bonds are issued by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter. [1972 ex.s. c 128 § 4.]

43.83B.050 Definitions. As used in this chapter, the term "water supply facilities" shall mean municipal, industrial, and agricultural water supply and distribution systems including, but not limited to, all equipment, utilities, structures, real property, and interests in and improvements on real property, necessary for or incidental to the acquisition, construction, installation, or use of any municipal, industrial, or agricultural water supply or distribution system.

As used in this chapter, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof, a board of joint control, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1996 c 320 § 20; 1975 c 18 § 1; 1972 ex.s. c 128 § 5.]

43.83B.060 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1972 ex.s. c 128 § 6.]

Reviser's note: RCW 43.83B.010 through 43.83B.110 was adopted and ratified by the people at the November 7, 1972, general election (Referendum Bill No. 27). Governor's proclamation declaring approval of measure is dated December 7, 1972.

State Constitution Art. 2 § 1(d) provides ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved"

43.83B.070 Form, terms, conditions, etc., of bonds. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value. [1972 ex.s. c 128 § 7.]

43.83B.080 Anticipation notes—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the

issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1972 ex.s. c 128 § 8.]

43.83B.090 Retirement of bonds from water supply facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders. The water supply facilities bond redemption fund is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the water supply facilities bond redemption fund from moneys transmitted to the state treasurer by the state department of revenue and certified by the department to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest. The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1972 ex.s. c 128 § 9.]

43.83B.100 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1972 ex.s. c 128 § 10.]

43.83B.110 Bonds legal investment for public funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1972 ex.s. c 128 § 11.]

AGRICULTURAL WATER SUPPLY FACILITIES

43.83B.200 Deposit of proceeds from repayment of loans, interest, gifts, grants, etc., in state and local improvements revolving account—Water supply facilities—Use. The proceeds from repayment of any loans made for agricultural water supply facilities and the interest earned from such loans, any gifts, grants, or other funds provided to the state for agricultural water supply facilities, and any interest earned on the interim investment of such funds or proceeds shall be deposited in the state and local

improvements revolving account—water supply facilities and shall be used exclusively for agricultural water supply facilities. [1975 1st ex.s. c 295 § 1.]

43.83B.210 Loans or grants from department of ecology—Authorized—Limitations. The department of ecology is authorized to make loans or grants or combinations thereof from funds under RCW 43.83B.010 through 43.83B.110 to eligible public bodies as defined in RCW 43.83B.050 for rehabilitation or betterment of agricultural water supply facilities, and/or construction of agricultural water supply facilities required to develop new irrigated lands. The department of ecology may make such loans or grants or combinations thereof as matching funds in any case where federal, local, or other funds have been made available on a matching basis. A loan or combination loan and grant shall not exceed fifty percent of the approved eligible project cost for any single proposed project. Any grant or grant portion of a combination loan and grant from funds under RCW 43.83B.010 through 43.83B.110 for any single proposed project shall not exceed fifteen percent of the eligible project costs: PROVIDED, That the fifteen percent limitation established herein shall not be applicable to project commitments which the director or deputy director of the state department of ecology made to the bureau of reclamation of the United States department of interior for providing state funding at thirty-five percent of project costs during the period between August 1, 1974, and June 30, 1975. [1989 c 171 § 7; 1988 c 46 § 1; 1987 c 343 § 4; 1977 ex.s. c 1 § 11; 1975-'76 2nd ex.s. c 36 § 1; 1975 1st ex.s. c 295 § 3.]

Severability—1989 c 171: See note following RCW 43.83B.400.

Severability—1987 c 343: See note following RCW 43.83B.300.

43.83B.220 Contractual agreements. In addition to the powers granted by RCW 43.83B.210, the director of the department of ecology or his designee is authorized to make contractual agreements in accordance with provisions of this chapter on behalf of the state of Washington. Contractual agreements shall include provisions to secure such loans, and shall assure the proper and timely payment of said loans or loan portions of combination loans and grants. [1989 c 11 § 17; 1975 1st ex.s. c 295 § 5.]

Severability—1989 c 11: See note following RCW 9A.56.220.

43.83B.230 Provision for recreation, fish and wildlife enhancement and other public benefits. In the course of considering applications under this chapter, the department of ecology shall make known to other state agencies possibilities which may arise to provide public benefits such as recreation or fish and wildlife enhancement in connection with proposed projects. Such agencies, including the department of ecology, are authorized to participate in said projects provided agency funds are made available to pay the full cost of their participation. [1975 1st ex.s. c 295 § 14.]

EMERGENCY WATER WITHDRAWAL AND FACILITIES

43.83B.300 Legislative findings—General obligation bonds authorized—Issuance, terms—Appropriation required. The legislature finds that the fundamentals of water resource policy in this state must be reviewed by the legislature to ensure that the water resources of the state are protected and fully utilized for the greatest benefit to the people of the state of Washington. The legislature further finds that it is necessary to provide the department of ecology with emergency powers to authorize withdrawals of public surface and ground waters, including dead storage within reservoirs, on a temporary basis, and construction of facilities in relation thereto, in order to alleviate emergency water supply conditions arising from the drought forecast for the state of Washington during 1977 and during 1987 through 1989.

The legislature further finds that there is a continuing water supply shortage in many areas of the state and that there is an urgent need to assure the survival of irrigated crops and of the state's fisheries.

The legislature further finds that in addition to water storage facilities or other augmentation programs, improved efficiency of water use could provide an important new supply of water in many parts of the state with which to meet future water needs and that improved efficiency of water use should receive greater emphasis in the management of the state's water resources.

In order to study the fundamentals of water resource policy of the state and to provide needed moneys for the planning, acquisition, construction, and improvement of water supply facilities and for other appropriate measures to assure the survival of irrigated crops and/or the state's fisheries to alleviate emergency water supply conditions arising from droughts occurring from time to time in the state of Washington, and to carry out a comprehensive water use efficiency study for the state of Washington, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eighteen million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this section and RCW 43.83B.360 through 43.83B.375 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1988 c 47 § 1; 1988 c 46 § 2; 1988 c 45 § 1; 1987 c 343 § 1; 1979 ex.s. c 263 § 1; 1977 ex.s. c 1 § 1.]

Reviser's note: This section was amended by 1988 c 45 § 1, 1988 c 46 § 2, and by 1988 c 47 § 1, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Application—1988 c 47: "Nothing in this act shall apply to or interfere with the processing or issuance of water rights in connection with the Yakima River Basin Water Enhancement Project." [1988 c 47 § 8.]

Severability—1988 c 47: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 47 § 9.]

Severability—1987 c 343: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of

the act or the application of the provision to other persons or circumstances is not affected." [1987 c 343 § 11.]

Severability—1979 ex.s. c 263: "If any provision of this 1979 amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 263 § 5.]

43.83B.336 Civil penalties. See RCW 90.03.600.

43.83B.345 Rates of charges for water—Payment into bond redemption fund—Grants and loans—Contracts. (1) The department of ecology shall, by rule, establish rates of charges for all waters delivered from such facilities as constructed by the department with funds provided in RCW 43.83B.385 (2) or (3). Where the department provides water to public or municipal corporations or other governmental bodies having authority to distribute water, the payment for the water may be made pursuant to contract over a period not exceeding twenty-five years from the date of delivery. In all other cases, the department shall obtain payment for waters prior to its delivery to a purchaser. All payments received shall be deposited into the state emergency water projects bond redemption fund of 1977.

(2) Public bodies, eligible to obtain funds through grants or loans or combinations thereof under the provisions of *RCW 43.83B.300 through 43.83B.345 and 43.83B.210 as now or hereafter amended, are authorized to enter into contracts with the department of ecology for the purpose of repaying loans authorized by RCW 43.83B.380 and 43.83B.385 and for the purpose of purchasing water under this section.

(3) The department of ecology is authorized to enter into appropriate contracts to ensure effective delivery of water and the operation and maintenance of facilities constructed pursuant to *RCW 43.83B.300 through 43.83B.385, 43.83B.901, and 43.83B.210. [1977 ex.s. c 1 § 10.]

***Reviser's note:** RCW 43.83B.305 through 43.83B.330 and 43.83B.340 through 43.83B.344 were repealed by 1989 c 171 § 12.

43.83B.350 Loans or grants from department of ecology—Authorized—Limitations. See RCW 43.83B.210.

43.83B.355 Form, sale, conditions, etc., of bonds—"Water supply facilities for water withdrawal and distribution" defined. The state finance committee is authorized to prescribe the form of the bonds authorized in RCW 43.83B.300, the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds.

As used in RCW 43.83B.300, and 43.83B.355 through 43.83B.375, the term "water supply facilities for water withdrawal and distribution" shall mean municipal, industrial, and agricultural water supply and distribution systems

including, but not limited to, all equipment, utilities, structures, real property, and interest in and improvements on real property necessary for or incidental to the acquisition, construction, installation, improvement, or use of any water supply or distribution system furnishing water for agricultural, municipal or industrial purposes. [1977 ex.s. c 1 § 12.]

43.83B.360 State emergency water projects revolving account—Proceeds from sale of bonds. The proceeds from the sale of bonds authorized by RCW 43.83B.300, and 43.83B.355 through 43.83B.375 shall be deposited in the state emergency water projects revolving account, hereby created in the state treasury, and shall be used exclusively for the purposes specified in RCW 43.83B.300, and 43.83B.355 through 43.83B.375 and for the payment of expenses incurred in the issuance and sale of such bonds. [1991 sp.s. c 13 § 33; 1985 c 57 § 46; 1977 ex.s. c 1 § 13.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.83B.365 Administration of proceeds from sale of bonds. The principal proceeds from the sale of the bonds authorized in RCW 43.83B.300, and 43.83B.355 through 43.83B.375 shall be administered by the director of the department of ecology. [1977 ex.s. c 1 § 14.]

43.83B.370 Retirement of bonds and notes from emergency water projects bond redemption fund—Remedies of bond holders. The state emergency water projects bond redemption fund of 1977, hereby created in the state treasury, shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.83B.300, and 43.83B.355 through 43.83B.375. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 emergency water projects bond redemption fund an amount equal to the amount certified by the state finance committee to be due on such payment date.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed herein. [1977 ex.s. c 1 § 15.]

43.83B.375 Bonds legal investment for public funds. The bonds authorized by RCW 43.83B.300, and 43.83B.355 through 43.83B.375 shall be a legal investment for all state funds under state control and all funds of municipal corporations. [1977 ex.s. c 1 § 16.]

43.83B.380 Appropriations to department of health—Authorized projects—Conditions. There is hereby appropriated to the department of health the sum of nine million seven hundred thirty-seven thousand dollars, or so much thereof as may be necessary, for the biennium ending

June 30, 1977, from the general fund—state and local improvements revolving account—water supply facilities for the purposes authorized in *RCW 43.83B.300 through 43.83B.345 and 43.83B.210 as now or hereafter amended relating to the emergency water conditions arising from the drought forecast for the summer and fall of 1977 affecting municipal and industrial water supply distribution facilities. Prior to the expenditure of funds for projects approved by the department, the department shall file a listing of the approved projects with the senate ways and means committee and the house appropriations committee.

(2) There is hereby appropriated to the department of health the sum of five million three hundred twenty-seven thousand dollars, or so much thereof as may be necessary, for the biennium ending June 30, 1977, from the general fund—state and local improvements revolving account—water supply facilities to be expended for municipal and industrial water supply and distribution facility projects for which applications are in progress on March 25, 1977 and have arisen from the drought forecast for the summer and fall of 1977. Prior to the expenditure of funds for projects approved by the department, the department shall file a listing of the approved projects with the senate ways and means committee and the house appropriations committee.

The municipal and industrial water supply and distribution facilities receiving funds from the appropriations contained in this section shall comply with the eligible costs criteria, health and design standards, and contract performance requirements of the municipal and industrial funding program under chapter 43.83B RCW. All projects shall be evaluated by applying the said chapter's evaluation and prioritization criteria to insure that only projects related to water shortage problems receive funding. The projects funded shall be limited to those projects providing interties with adjacent utilities, an expanded source of supply, conservation projects which will conserve or maximize efficiency of the existing supply, or a new source of supply. No obligation to provide a grant for a project authorized under this section shall be incurred after June 30, 1977. [1991 c 3 § 300; 1977 ex.s. c 1 § 17.]

*Reviser's note: RCW 43.83B.305 through 43.83B.330 and 43.83B.340 through 43.83B.344 were repealed by 1989 c 171 § 12.

43.83B.385 Appropriations to department of ecology—Authorized projects—Findings. (1) There is hereby appropriated to the department of ecology for the biennium ending June 30, 1977, from the state emergency water projects revolving account in the general fund, the sum of seven million dollars, or so much thereof as may be necessary, which shall be expended for the financing of the following agricultural water supply and distribution projects from surface water sources: Kennewick Irrigation District; Kittitas Reclamation District; Stemilt Irrigation District; Wenatchee Heights Reclamation District; and the Wenatchee Reclamation District.

(2) There is hereby appropriated to the department of ecology for the biennium ending June 30, 1977, from the state emergency water projects revolving account in the general fund, the sum of five million dollars, or so much thereof as may be necessary, which shall be expended for the financing and construction of agricultural water supply

and distribution projects from ground water sources primarily in the Moxee-Ahtanum and Park Creek aquifer areas.

(3) There is hereby appropriated to the department of ecology for the biennium ending June 30, 1977, from the state emergency water supply revolving account in the general fund the sum of six million dollars, or so much thereof as may be necessary, which shall be expended for water withdrawal projects relating to ground and surface waters as provided for in subsections (1) and (2) of this section and for the financing and construction of agricultural water supply and distribution projects from ground and surface water sources which may become required by public bodies other than those identified in this section as a result of the drought forecast for the summer and fall of 1977.

The department may expend funds from the appropriations contained in subsections (1), (2), and (3) of this section to make loans or combinations of loans and grants to public bodies as defined in RCW 43.83B.050. The grant portion of a combination loan and grant to a public body for any project shall not exceed fifteen percent of the total amount received by such project under this section.

The department may expend funds from the appropriations contained in subsections (1), (2), and (3) of this section to make loans or combinations of loans and grants to public bodies as defined in RCW 43.83B.050 to satisfy the matching requirements of RCW 43.83B.210 as now or hereafter amended.

Prior to the funding of any agriculture projects not specifically set forth in this section the department must make a formal finding that: An emergency water shortage condition exists; the project proposed for funding will alleviate the water shortage; the public body recipient of any funds has reasonable capability to repay the loan involved; and the water from the project will be used for a beneficial purpose as a substitute for water not available due to drought conditions. [1977 ex.s. c 1 § 18.]

43.83B.400 Drought conditions—Defined—Intent.

It is the intent of the legislature to provide emergency powers to the department of ecology to enable it to take actions, in a timely and expeditious manner, that are designed to alleviate hardships and reduce burdens on various water users and uses arising from drought conditions. As used in this chapter, "drought condition" means that the water supply for a geographical area or for a significant portion of a geographical area is below seventy-five percent of normal and the water shortage is likely to create undue hardships for various water uses and users. [1989 c 171 § 1.]

Severability—1989 c 171: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 171 § 14.]

43.83B.405 Drought conditions—Withdrawals and diversions—Orders, procedure. (1) Whenever it appears to the department of ecology that a drought condition either exists or is forecast to occur within the state or portions thereof, the department of ecology is authorized to issue orders, pursuant to rules previously adopted, to implement the powers as set forth in RCW 43.83B.410 through 43.83B.420. The department shall, immediately upon the

issuance of an order under this section, cause said order to be published in newspapers of general circulation in the areas of the state to which the order relates. Prior to the issuance of an order, the department shall (a) consult with and obtain the views of the federal and state government entities identified in the drought contingency plan periodically revised by the department pursuant to RCW 43.83B.410(4), and (b) obtain the written approval of the governor. Orders issued under this section shall be deemed orders for the purposes of chapter 34.05 RCW.

(2) Any order issued under subsection (1) of this section shall contain a termination date for the order. The termination date shall be not later than one calendar year from the date the order is issued. Although the department may, with the written approval of the governor, change the termination date by amending the order, no such amendment or series of amendments may have the effect of extending its termination to a date which is later than two calendar years after the issuance of the order.

(3) The provisions of subsection (2) of this section do not preclude the issuance of more than one order under subsection (1) of this section for different areas of the state or sequentially for the same area as the need arises for such an order or orders. [1989 c 171 § 2.]

Severability—1989 c 171: See note following RCW 43.83B.400.

43.83B.410 Drought conditions—Withdrawals and diversions—Orders, authority granted. Upon the issuance of an order under RCW 43.83B.405, the department of ecology is empowered to:

(1)(a) Authorize emergency withdrawal of public surface and ground waters, including dead storage within reservoirs, on a temporary basis and authorize associated physical works which may be either temporary or permanent. The termination date for the authority to make such an emergency withdrawal may not be later than the termination date of the order issued under RCW 43.83B.405 under which the power to authorize the withdrawal is established. The department of ecology may issue such withdrawal authorization when, after investigation and after providing appropriate federal, state, and local governmental bodies an opportunity to comment, the following are found:

(i) The waters proposed for withdrawal are to be used for a beneficial use involving a previously established activity or purpose;

(ii) The previously established activity or purpose was furnished water through rights applicable to the use of a public body of water that cannot be exercised due to the lack of water arising from natural drought conditions; and

(iii) The proposed withdrawal will not reduce flows or levels below essential minimums necessary (A) to assure the maintenance of fisheries requirements, and (B) to protect federal and state interests including, among others, power generation, navigation, and existing water rights;

(b) All withdrawal authorizations issued under this section shall contain provisions that allow for termination of withdrawals, in whole or in part, whenever withdrawals will conflict with flows and levels as provided in (a)(iii) of this subsection. Domestic and irrigation uses of public surface and ground waters shall be given priority in determining "beneficial uses." As to water withdrawal and associated

works authorized under this subsection, the requirements of chapter 43.21C RCW and public bidding requirements as otherwise provided by law are waived and inapplicable. All state and local agencies with authority to issue permits or other authorizations for such works shall, to the extent possible, expedite the processing of the permits or authorizations in keeping with the emergency nature of the requests and shall provide a decision to the applicant within fifteen calendar days of the date of application. All state departments or other agencies having jurisdiction over state or other public lands, if such lands are necessary to effectuate the withdrawal authorizations issued under this subsection, shall provide short-term easements or other appropriate property interest upon the payment of the fair market value. This mandate shall not apply to any lands of the state that are reserved for a special purpose or use that cannot properly be carried out if the property interest were conveyed;

(2) Approve a temporary change in purpose, place of use, or point of diversion, consistent with existing state policy allowing transfer or lease of waters between willing parties, as provided for in RCW 90.03.380, 90.03.390, and 90.44.100. However, compliance with any requirements of (a) notice of newspaper publication of these sections or (b) the state environmental policy act, chapter 43.21C RCW, is not required when such changes are necessary to respond to drought conditions as determined by the department of ecology. An approval of a temporary change of a water right as authorized under this subsection is not admissible as evidence in either supporting or contesting the validity of water claims in *State of Washington, Department of Ecology v. Acquavella*, Yakima county superior court number 77-2-01484-5 or any similar proceeding where the existence of a water right is at issue.

(3) Employ additional persons for specified terms of time, consistent with the term of a drought condition, as are necessary to ensure the successful performance of the activities associated with implementing the emergency drought program of this chapter.

(4) Revise the drought contingency plan previously developed by the department; and

(5) Acquire needed emergency drought-related equipment. [1989 c 171 § 3.]

Severability—1989 c 171: See note following RCW 43.83B.400.

43.83B.415 Drought conditions—Loans and grants.

(1) The department of ecology is authorized to make loans, grants, or combinations of loans and grants from emergency agricultural water supply funds when necessary to provide water to alleviate emergency drought conditions in order to ensure the survival of irrigated crops and the state's fisheries. For the purposes of this section, "emergency agricultural water supply funds" means funds appropriated from the state emergency water projects revolving account created under RCW 43.83B.360. The department of ecology may make the loans, grants, or combinations of loans and grants as matching funds in any case where federal, local, or other funds have been made available on a matching basis. The department may make a loan of up to ninety percent of the total eligible project cost or combination loan and grant up to one hundred percent of the total single project cost. The grant portion for any single project shall not exceed twenty

percent of the total project cost except that, for activities forecast to have fifty percent or less of normal seasonal water supply, the grant portion for any single project or entity shall not exceed forty percent of the total project cost. No single entity shall receive more than ten percent of the total emergency agricultural water supply funds available for drought relief. These funds shall not be used for nonagricultural drought relief purposes unless there are no other capital budget funds available for these purposes. In any biennium the total expenditures of emergency agricultural water supply funds for nonagricultural drought relief purposes may not exceed ten percent of the total of such funds available during that biennium.

(2)(a) Except as provided in (b) of this subsection, after June 30, 1989, emergency agricultural water supply funds, including the repayment of loans and any accrued interest, shall not be used for any purpose except during drought conditions as determined under RCW 43.83B.400 and 43.83B.405.

(b) Emergency agricultural water supply funds may be used on a one-time basis for the development of procedures to be used by state governmental entities to implement the state's drought contingency plan. [1989 c 171 § 4.]

Severability—1989 c 171: See note following RCW 43.83B.400.

43.83B.420 Rules. The department shall adopt such rules as are necessary to ensure the successful implementation of this chapter. [1989 c 171 § 5.]

Severability—1989 c 171: See note following RCW 43.83B.400.

43.83B.425 Applicability—Construction. Nothing in this chapter shall:

(1) Authorize any interference whatsoever with existing water rights;

(2) Authorize the establishment of rights to withdrawal of waters of a permanent nature or of rights with any priority;

(3) Authorize the establishment of a water right under RCW 90.03.250 or 90.44.060;

(4) Preclude any person from filing an application pursuant to RCW 90.03.250 or 90.44.060. [1989 c 171 § 6.]

Severability—1989 c 171: See note following RCW 43.83B.400.

43.83B.900 Severability—1975 1st ex.s. c 295. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 295 § 17.]

43.83B.901 Severability—1977 ex.s. c 1. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 1 § 19.]

Chapter 43.83C

RECREATION IMPROVEMENTS BOND ISSUE

Sections

43.83C.010 Declaration.

43.83C.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.

43.83C.030 Proceeds to be deposited in state and local improvements revolving account.

43.83C.040 Administration of proceeds—Division into shares—Use of funds.

43.83C.050 Definitions.

43.83C.060 Referral to electorate.

43.83C.070 Form, terms, conditions, etc., of bonds.

43.83C.080 Anticipation notes—Pledge and promise—Seal.

43.83C.090 Retirement of bonds from recreation improvements bond redemption fund—Retail sales tax collections—Remedies of bond holders.

43.83C.100 Legislature may provide additional means for payment of bonds.

43.83C.110 Bonds legal investment for public funds.

43.83C.010 Declaration. The long-range development goals for the state of Washington must include the acquisition, preservation, and improvement of recreation areas and facilities for the use and enjoyment of present and future residents of the state and the further development of the state's tourism and recreation economic base. [1972 ex.s. c 129 § 1.]

43.83C.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, preservation, development, and improvement of recreation areas and facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within twenty years of the date of issuance or within thirty years should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1977 ex.s. c 242 § 3; 1972 ex.s. c 129 § 2.]

Severability—1977 ex.s. c 242: See note following RCW 43.83A.020.

43.83C.030 Proceeds to be deposited in state and local improvements revolving account. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account hereby created in the state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1991 sp.s. c 13 § 54; 1985 c 57 § 47; 1972 ex.s. c 129 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.83C.040 Administration of proceeds—Division into shares—Use of funds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account of the general fund under the terms of this chapter shall be divided into three shares as follows:

(1) Thirty-five percent of such proceeds shall be administered, subject to legislative appropriation, by the interagency committee for outdoor recreation through the outdoor recreation account and allocated to the state of Washington, or any agency or department thereof, for the acquisition, preservation, and development of recreation areas and facilities by the state. The committee may use or permit the use of any portion of such share as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter.

(2) Thirty-five percent of such proceeds shall be administered, subject to legislative appropriation, by the interagency committee for outdoor recreation through the outdoor recreation account and allocated to public bodies for the acquisition, preservation, development, and improvement of recreational areas and facilities within the jurisdiction of such bodies. The committee may use or permit the use of any portion of such share for loans or grants to public bodies including use as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter.

(3) Thirty percent of such proceeds shall be allocated to the state parks and recreation commission, subject to legislative appropriation, for improvement of existing state parks and the acquisition and preservation of historic sites and buildings. The commission may use or permit the use of any portion of such share as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter.

In the event that the bonds authorized by this chapter are sold in more than one series the above division into shares shall apply to the total proceeds of the bonds authorized by this chapter and not to the proceeds of each separate series. [1972 ex.s. c 129 § 4.]

43.83C.050 Definitions. As used in this chapter, the phrase "acquisition, preservation, development, and improvement of recreation areas and facilities" shall include the acquisition, development, and improvement of real property, or any interest therein, for park and recreation purposes, including the acquisition and construction of all structures, utilities, equipment, and improvements necessary or incidental to such purposes, the acquisition and preservation of historic sites and buildings and of scenic and environmentally valuable areas of the state, and the improvement of existing park and recreation areas and facilities.

As used in this chapter, the term "public body" means any political subdivision, taxing district, or municipal corporation of the state of Washington, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1972 ex.s. c 129 § 5.]

43.83C.060 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1972 ex.s. c 129 § 6.]

Reviser's note: Chapter 43.83C RCW was adopted and ratified by the people at the November 7, 1972, general election (Referendum Bill No. 28). Governor's proclamation declaring approval of measure is dated December 7, 1972.

State Constitution Art. 2 § 1(d) provides ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved"

43.83C.070 Form, terms, conditions, etc., of bonds. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value. [1972 ex.s. c 129 § 7.]

43.83C.080 Anticipation notes—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1972 ex.s. c 129 § 8.]

43.83C.090 Retirement of bonds from recreation improvements bond redemption fund—Retail sales tax collections—Remedies of bond holders. The recreation improvements bond redemption fund is hereby created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the recreation improvements bond redemption fund from moneys transmitted to the state treasurer by the state department of revenue and certified by the department to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest. The owner

and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1972 ex.s. c 129 § 9.]

43.83C.100 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1972 ex.s. c 129 § 10.]

43.83C.110 Bonds legal investment for public funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and for all funds of any public body. [1972 ex.s. c 129 § 11.]

Chapter 43.83D

SOCIAL AND HEALTH SERVICES FACILITIES 1972 BOND ISSUE

Sections

- 43.83D.010 Declaration.
- 43.83D.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.83D.030 Proceeds to be deposited in state and local improvements revolving account.
- 43.83D.040 Administration of proceeds—Comprehensive plan—Use of funds.
- 43.83D.050 Definitions.
- 43.83D.060 Referral to electorate.
- 43.83D.070 Form, terms, conditions, etc., of bonds.
- 43.83D.080 Anticipation notes—Pledge and promise—Seal.
- 43.83D.090 Retirement of bonds from social and health service facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders.
- 43.83D.100 Legislature may provide additional means for payment of bonds.
- 43.83D.110 Bonds legal investment for public funds.

43.83D.010 Declaration. The physical and mental health of the people of the state directly affects the achievement of economic progress and full employment. The establishment of a system of regional and community health and social service facilities will provide the improved and convenient health and social services needed for an efficient work force and a healthy and secure people. [1972 ex.s. c 130 § 1.]

43.83D.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of health and social service facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twenty-five million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within twenty years of the date of issuance or within thirty years should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered

for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1977 ex.s. c 242 § 4; 1972 ex.s. c 130 § 2.]

Severability—1977 ex.s. c 242: See note following RCW 43.83A.020.

43.83D.030 Proceeds to be deposited in state and local improvements revolving account. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account in the state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1991 sp.s. c 13 § 55; 1985 c 57 § 48; 1972 ex.s. c 130 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.83D.040 Administration of proceeds—Comprehensive plan—Use of funds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account of the general fund under the terms of this chapter shall be administered by the state department of social and health services, subject to legislative appropriation. The department shall prepare a comprehensive plan for a system of social and health service facilities for the state and may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish such plan by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter. [1972 ex.s. c 130 § 4.]

43.83D.050 Definitions. As used in this chapter, the term "social and health service facilities" shall mean real property, and interests therein, equipment, buildings, structures, mobile units, parking facilities, utilities, landscaping, and all incidental improvements and appurtenances, developed as a part of a comprehensive plan for a system of social and health service facilities for the state including, without limitation, facilities for social services, adult and juvenile correction or detention, child welfare, day care, drug abuse and alcoholism treatment, mental health, public health, developmental disabilities, and vocational rehabilitation.

As used in this chapter, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1972 ex.s. c 130 § 5.]

43.83D.060 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in

accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1972 ex.s. c 130 § 6.]

Reviser's note: Chapter 43.83D RCW was adopted and ratified by the people at the November 7, 1972, general election (Referendum Bill No. 29). Governor's proclamation declaring approval of measure is dated December 7, 1972.

State Constitution Art. 2 § 1(d) provides ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved. . . ."

43.83D.070 Form, terms, conditions, etc., of bonds.

The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value. [1972 ex.s. c 130 § 7.]

43.83D.080 Anticipation notes—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1972 ex.s. c 130 § 8.]

43.83D.090 Retirement of bonds from social and health service facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders. The social and health service facilities bond redemption fund is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements, and on July 1 of each year the state treasurer shall deposit such amount in the social and health service facilities bond redemption fund from moneys transmitted to the state treasurer by the state department of revenue and certified by the department to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest. The owner and holder of each of the bonds or the trustee for any of the bonds may, by mandamus or other appropriate proceeding, require the transfer and payment of funds as directed herein. [1972 ex.s. c 130 § 9.]

43.83D.100 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1972 ex.s. c 130 § 10.]

43.83D.110 Bonds legal investment for public funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1972 ex.s. c 130 § 11.]

Chapter 43.83F

CAPITOL FACILITIES REVENUE BONDS, 1969— EAST CAPITOL SITE BONDS, 1969

Sections

- 43.83F.010 Refunding bonds—Issuance—Authorization.
- 43.83F.020 Refunding bonds—Powers and duties of state finance committee.
- 43.83F.030 Refunding bonds—Administration of proceeds from sale—Exception.
- 43.83F.040 Refunding bonds—Payment from bond redemption fund—Procedure—General obligation of state.
- 43.83F.050 Refunding bonds—Legislature may provide additional means for payment.
- 43.83F.060 Refunding bonds—Legal investment for state and other public bodies.
- 43.83F.900 Severability—1974 ex.s. c 113.

43.83F.010 Refunding bonds—Issuance—Authorization. The state finance committee is authorized to issue general obligation bonds of the state in the amount of twenty-one million dollars, or so much thereof as may be required to refund, at or prior to maturity, the outstanding "State of Washington Capitol Facilities Revenue Bonds, 1969", dated October 1, 1969, and the outstanding "State of Washington East Capitol Site Bonds, 1969", dated October 1, 1969, and to pay any premium payable with respect thereto and all interest thereon, and to pay all costs incidental thereto and to the issuance of the bonds authorized by this chapter. The bonds authorized by this chapter shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1, of the state Constitution. [1974 ex.s. c 113 § 1.]

43.83F.020 Refunding bonds—Powers and duties of state finance committee. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds. Such bonds shall be payable at such places as the committee may provide. [1974 ex.s. c 113 § 2.]

43.83F.030 Refunding bonds—Administration of proceeds from sale—Exception. The proceeds from the sale of bonds authorized by this chapter shall be set aside for the payment of the bonds to be refunded in accordance with chapter 39.53 RCW, except that investment and reinvestment thereof shall be limited to direct obligations of the United States of America. [1974 ex.s. c 113 § 3.]

43.83F.040 Refunding bonds—Payment from bond redemption fund—Procedure—General obligation of state. The state building refunding bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds authorized by this chapter. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in the state building bond redemption fund from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. Bonds issued under the provisions of this chapter shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1974 ex.s. c 113 § 4.]

43.83F.050 Refunding bonds—Legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in this chapter, and this chapter shall not be deemed to provide an exclusive method for such payment. [1974 ex.s. c 113 § 5.]

43.83F.060 Refunding bonds—Legal investment for state and other public bodies. The bonds authorized in this chapter shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1974 ex.s. c 113 § 6.]

43.83F.900 Severability—1974 ex.s. c 113. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1974 ex.s. c 113 § 8.]

Chapter 43.83H

SOCIAL AND HEALTH SERVICES FACILITIES— BOND ISSUES

Sections

1975-'76 BOND ISSUE

- 43.83H.010 General obligation bonds—Authorized—Issuance, sale, terms, etc.
- 43.83H.020 "Social and health services facilities" defined.
- 43.83H.030 Proceeds of bonds.
- 43.83H.040 Administration of proceeds.
- 43.83H.050 Retirement of bonds from social and health services construction bond redemption fund—Source—Remedies of bond holders.
- 43.83H.060 Legal investment for public funds.

1977 BOND ISSUE

- 43.83H.100 General obligation bonds—Authorized—Issuance, sale, terms, etc.
- 43.83H.110 "Social and health services facilities" defined.
- 43.83H.120 Anticipation notes—Proceeds of bonds and notes.
- 43.83H.130 Administration of proceeds.
- 43.83H.140 Retirement of bonds from social and health services construction bond redemption fund of 1976—Source—Remedies of bond holders.
- 43.83H.150 Legal investment for public funds.

1979 BOND ISSUE

- 43.83H.160 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Pledge and promise.
- 43.83H.162 "Social and health services facilities" defined.
- 43.83H.164 Bond anticipation notes—Deposit of proceeds of bonds and notes in social and health services construction account and social and health services bond redemption fund of 1979.
- 43.83H.166 Administration of proceeds.
- 43.83H.168 Retirement of bonds and notes from social and health services bond redemption fund of 1979—Retirement of bonds and notes from state general obligation bond retirement fund—Remedies of bondholders.
- 43.83H.170 Bonds legal investment for public funds.

1981 BOND ISSUE

- 43.83H.172 General obligation bonds—Authorized—Issuance—Pledge and promise.
- 43.83H.174 "Social and health services facilities" defined.
- 43.83H.176 Deposit of proceeds in state social and health services construction account—Use.
- 43.83H.178 Administration of proceeds.
- 43.83H.180 Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders.
- 43.83H.182 Bonds legal investment for public funds.

1984 BOND ISSUE

- 43.83H.184 General obligation bonds—Authorized—Issuance—Price—Appropriation required.
- 43.83H.186 Deposit of proceeds in state social and health services construction account—Use.
- 43.83H.188 Administration of proceeds.
- 43.83H.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
- 43.83H.192 Legislature may provide additional means for payment of bonds.
- 43.83H.194 Bonds legal investment for public funds.

CONSTRUCTION

- 43.83H.900 Severability—1975-'76 2nd ex.s. c 125.
- 43.83H.910 Severability—1977 ex.s. c 342.
- 43.83H.912 Severability—1979 ex.s. c 252.
- 43.83H.914 Severability—1981 c 234.
- 43.83H.915 Severability—1984 c 269.

1975-'76 BOND ISSUE

43.83H.010 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving,

and equipping of social and health services facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty-one million four hundred thousand dollars or so much thereof as shall be required to finance social and health services facilities. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington.

The state finance committee is authorized to prescribe the form of such bonds, the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1975-'76 2nd ex.s. c 125 § 1.]

43.83H.020 "Social and health services facilities" defined. As used in this chapter, the term "social and health services facilities" shall include, without limitation, facilities for use in veterans' service programs, adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the social and health services construction account in the general fund by chapter 276, Laws of 1975 1st ex. sess., the capital appropriations act, or subsequent capital appropriations acts. [1975-'76 2nd ex.s. c 125 § 2.]

43.83H.030 Proceeds of bonds. The proceeds from the sale of bonds authorized by *this chapter shall be deposited in the state social and health services construction account hereby created in the state treasury and shall be used exclusively for the purposes specified in this chapter and for the payment of expenses incurred in the issuance and sale of such bonds. [1991 sp.s. c 13 § 56; 1985 c 57 § 49; 1975-'76 2nd ex.s. c 125 § 3.]

*Reviser's note: A literal translation of "this chapter" is RCW 43.83H.010 through 43.83H.060 and 43.83H.900.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.83H.040 Administration of proceeds. The principal proceeds from the sale of the bonds authorized in this chapter and deposited in the social and health services construction account in the general fund shall be administered by the secretary of the department of social and health services. [1975-'76 2nd ex.s. c 125 § 4.]

Reviser's note: A literal translation of "this chapter" is RCW 43.83H.010 through 43.83H.060 and 43.83H.900.

43.83H.050 Retirement of bonds from social and health services construction bond redemption fund—Source—Remedies of bond holders. The state social and

health services bond redemption fund of 1976 is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds and notes authorized by this chapter or any social and health services facilities bonds and notes hereafter authorized by the legislature. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the state social and health services bond redemption fund of 1976 from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed herein. [1975-'76 2nd ex.s. c 125 § 5.]

Reviser's note: A literal translation of "this chapter" is RCW 43.83H.010 through 43.83H.060 and 43.83H.900.

43.83H.060 Legal investment for public funds. The bonds authorized by this chapter shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975-'76 2nd ex.s. c 125 § 6.]

Reviser's note: A literal translation of "this chapter" is RCW 43.83H.010 through 43.83H.060 and 43.83H.900.

1977 BOND ISSUE

43.83H.100 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twenty million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by RCW 43.83H.100 through 43.83H.150 and 43.83H.910 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

The state finance committee is authorized to prescribe the form of such bonds, the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1977 ex.s. c 342 § 1.]

43.83H.110 "Social and health services facilities" defined. As used in RCW 43.83H.100 through 43.83H.150 and 43.83H.910, the term "social and health services facilities", shall include, without limitation, facilities for use in adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the state social and health services construction account in the general fund by chapter 338, Laws of 1977 ex. sess., the capital appropriations act, or subsequent capital appropriations acts. [1977 ex.s. c 342 § 2.]

43.83H.120 Anticipation notes—Proceeds of bonds and notes. At the time the state finance committee determines to issue such bonds authorized in RCW 43.83H.100 or a portion thereof, it may, pending the issuance thereof, issue in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 43.83H.100 through 43.83H.150 and 43.83H.910 shall be deposited in the state social and health services construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83H.100 through 43.83H.150 and 43.83H.910 and for the payment of expenses incurred in the issuance and sale of such bonds and notes: PROVIDED, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the state social and health services bond redemption fund of 1976 in the state treasury. [1977 ex.s. c 342 § 3.]

43.83H.130 Administration of proceeds. The proceeds from the sale of the bonds authorized in RCW 43.83H.100 through 43.83H.150 and 43.83H.910 and deposited in the state social and health services construction account in the general fund shall be administered by the secretary of the department of social and health services. [1977 ex.s. c 342 § 4.]

43.83H.140 Retirement of bonds from social and health services construction bond redemption fund of 1976—Source—Remedies of bond holders. The state social and health services bond redemption fund of 1976 in the state treasury shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.83H.100 through 43.83H.150 and 43.83H.910. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1976 state social and health services bond redemption fund an amount equal to the amount certified by the state finance committee to be due on such payment date.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropri-

ate proceeding, may require and compel the transfer and payment of funds as directed herein. [1977 ex.s. c 342 § 5.]

43.83H.150 Legal investment for public funds. The bonds authorized by RCW 43.83H.100 through 43.83H.150 and 43.83H.910 shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 ex.s. c 342 § 6.]

1979 BOND ISSUE

43.83H.160 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Pledge and promise. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred and two million dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83H.160 through 43.83H.170 and 43.83H.912 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

The state finance committee is authorized to prescribe the form of the bonds, the time of sale of all or any portion or portions of the bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1979 ex.s. c 252 § 1.]

43.83H.162 "Social and health services facilities" defined. As used in RCW 43.83H.160 through 43.83H.170 and 43.83H.912, the term "social and health services facilities", shall include, without limitation, facilities for use in adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the state social and health services construction account in the general fund by the capital appropriations act, or subsequent capital appropriations acts. [1979 ex.s. c 252 § 2.]

43.83H.164 Bond anticipation notes—Deposit of proceeds of bonds and notes in social and health services construction account and social and health services bond redemption fund of 1979. At the time the state finance committee determines to issue the bonds authorized in RCW 43.83H.160, or a portion thereof, it may, pending the issuance thereof, issue in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". The proceeds from the sale of bonds

and notes authorized by RCW 43.83H.160 through 43.83H.170 and 43.83H.912 shall be deposited in the state social and health services construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83H.160 through 43.83H.170 and 43.83H.912 and for the payment of expenses incurred in the issuance and sale of the bonds and notes: PROVIDED, That such portion of the proceeds of the sale of the bonds as may be required for the payment of the principal and interest on the anticipation notes as have been issued shall be deposited in the state social and health services bond redemption fund of 1979, hereby created, in the state treasury. [1979 ex.s. c 252 § 3.]

43.83H.166 Administration of proceeds. The proceeds from the sale of the bonds authorized in RCW 43.83H.160 through 43.83H.170 and 43.83H.912 and deposited in the state social and health services construction account in the general fund shall be administered by the secretary of the department of social and health services. [1979 ex.s. c 252 § 4.]

43.83H.168 Retirement of bonds and notes from social and health services bond redemption fund of 1979—Retirement of bonds and notes from state general obligation bond retirement fund—Remedies of bondholders. The state social and health services bond redemption fund of 1979 hereby created in the state treasury shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.83H.160 through 43.83H.170 and 43.83H.912. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1979 state social and health services bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess. and becomes effective by statute prior to the issuance of any of the bonds authorized by RCW 43.83H.160 through 43.83H.170 and 43.83H.912, the state general obligation bond retirement fund shall be used for purposes of RCW 43.83H.160 through 43.83H.170 and 43.83H.912 in lieu of the state social and health services bond redemption fund of 1979, and the state social and health services bond redemption fund of 1979 shall cease to exist.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed in this section. [1979 ex.s. c 252 § 5.]

State general obligation bond retirement fund: RCW 43.83.160.

43.83H.170 Bonds legal investment for public funds. The bonds authorized by RCW 43.83H.160 through

43.83H.170 and 43.83H.912 shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1979 ex.s. c 252 § 6.]

1981 BOND ISSUE

43.83H.172 General obligation bonds—Authorized—Issuance—Pledge and promise. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services and department of corrections facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred eight-seven [eighty-seven] million four hundred twenty-five thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83H.172 through 43.83H.182 may be offered for sale without prior legislative appropriation.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. [1983 1st ex.s. c 54 § 8; 1982 1st ex.s. c 23 § 3; 1981 c 234 § 1.]

Severability—1983 1st ex.s. c 54: See RCW 43.83.196.

43.83H.174 "Social and health services facilities" defined. As used in RCW 43.83H.172 through 43.83H.182, the term "social and health services facilities" shall include, without limitation, facilities for use in adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the state social and health services construction account in the general fund by the capital appropriations act, or subsequent capital appropriations acts. [1981 c 234 § 2.]

43.83H.176 Deposit of proceeds in state social and health services construction account—Use. The proceeds from the sale of bonds authorized by RCW 43.83H.172 through 43.83H.182 shall be deposited in the state social and health services construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83H.172 through 43.83H.182 and for the payment of expenses incurred in the issuance and sale of the bonds. [1981 c 234 § 3.]

43.83H.178 Administration of proceeds. The proceeds from the sale of the bonds authorized in RCW 43.83H.172 through 43.83H.182 and deposited in the state social and health services construction account in the general fund shall be administered by the secretary of social and health services. [1981 c 234 § 4.]

43.83H.180 Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the purpose of the payment of interest on and retirement of the bonds authorized to be issued by RCW 43.83H.172 through 43.83H.182.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed in this section. [1981 c 234 § 5.]

State general obligation bond retirement fund: RCW 43.83.160.

43.83H.182 Bonds legal investment for public funds. The bonds authorized by RCW 43.83H.172 through 43.83H.180 shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1981 c 234 § 6.]

1984 BOND ISSUE

43.83H.184 General obligation bonds—Authorized—Issuance—Price—Appropriation required. For the purpose of providing needed capital improvements consisting of fire safety projects and the design, construction, repair, renovating, and equipping of buildings and facilities of the department of social and health services, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of fourteen million six hundred sixty thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1984 c 269 § 1.]

43.83H.186 Deposit of proceeds in state social and health services construction account—Use. The proceeds from the sale of the bonds authorized in RCW 43.83H.184 shall be deposited in the state social and health services construction account in the general fund and shall be used exclusively for the purposes specified in RCW 43.83H.184 and for the payment of expenses incurred in the issuance and sale of the bonds. [1984 c 269 § 2.]

43.83H.188 Administration of proceeds. The proceeds from the sale of the bonds deposited under RCW 43.83H.186 in the state social and health services construction account of the general fund shall be administered by the department of social and health services, subject to legislative appropriation. [1984 c 269 § 3.]

43.83H.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation

bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.83H.184.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.83H.184 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1984 c 269 § 4.]

State general obligation bond retirement fund: RCW 43.83.160.

43.83H.192 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.83H.184, and RCW 43.83H.190 shall not be deemed to provide an exclusive method for the payment. [1984 c 269 § 5.]

43.83H.194 Bonds legal investment for public funds. The bonds authorized in RCW 43.83H.184 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1984 c 269 § 6.]

CONSTRUCTION

43.83H.900 Severability—1975-'76 2nd ex.s. c 125. If any provision of this 1976 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 125 § 8.]

43.83H.910 Severability—1977 ex.s. c 342. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 342 § 7.]

43.83H.912 Severability—1979 ex.s. c 252. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 252 § 7.]

43.83H.914 Severability—1981 c 234. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 c 234 § 7.]

43.83H.915 Severability—1984 c 269. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 269 § 7.]

- 43.831.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
- 43.831.192 Legislature may provide additional means for payment of bonds.
- 43.831.194 Bonds legal investment for public funds.

CONSTRUCTION

- 43.831.900 Severability—1975-'76 2nd ex.s. c 132.
- 43.831.910 Severability—1977 ex.s. c 343.
- 43.831.912 Severability—1979 ex.s. c 224.
- 43.831.914 Severability—1981 c 231.
- 43.831.915 Severability—1983 1st ex.s. c 59.

1975-'76 BOND ISSUE

43.831.010 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the *department of fisheries, the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of five million one hundred thirty-two thousand nine hundred dollars, or so much thereof as shall be required to finance the capital projects relating to the *department of fisheries as determined by the legislature in its capital appropriations act, chapter 133, Laws of 1975-'76 2nd ex. sess. for such purposes, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1, of the Constitution of the state of Washington. [1975-'76 2nd ex.s. c 132 § 1.]

*Reviser's note: Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

43.831.020 Bond anticipation notes—Proceeds of bonds and interest on notes. When the state finance committee has determined to issue such general obligation bonds or a portion thereof as authorized in RCW 43.831.010, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued. [1975-'76 2nd ex.s. c 132 § 2.]

43.831.030 Bonds and notes—Powers and duties of state finance committee. The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes provided for in RCW 43.831.010 and 43.831.020, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1975-'76 2nd ex.s. c 132 § 3.]

Chapter 43.83I

DEPARTMENT OF FISHERIES—BOND ISSUES

Sections

1975-'76 BOND ISSUE

- 43.831.010 General obligation bonds—Authorized—Issuance, sale, terms, etc.
- 43.831.020 Bond anticipation notes—Proceeds of bonds and interest on notes.
- 43.831.030 Bonds and notes—Powers and duties of state finance committee.
- 43.831.040 Fisheries capital projects account created—Proceeds deposited in—Exception.
- 43.831.050 1976 fisheries bond retirement fund created.
- 43.831.060 Legal investment for public funds.

1977 BOND ISSUE

- 43.831.100 General obligation bonds—Authorized—Issuance, sale, terms, etc.
- 43.831.110 Bond anticipation notes—Proceeds of bonds and interest on notes.
- 43.831.120 Bonds and notes—Powers and duties of state finance committee.
- 43.831.130 Proceeds deposited in fisheries capital projects account—Exception.
- 43.831.140 1977 fisheries bond retirement fund created.
- 43.831.150 Legal investment for public funds.

1979 BOND ISSUE

- 43.831.160 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required.
- 43.831.162 Bond anticipation notes—Payment.
- 43.831.164 Form, terms, conditions, etc., of bonds and notes—Pledge and promise.
- 43.831.168 Retirement of bonds from 1977 fisheries bond retirement fund.
- 43.831.170 Bonds legal investment for public funds.

1981 BOND ISSUE

- 43.831.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required.
- 43.831.174 Bond anticipation notes.
- 43.831.176 Form, terms, conditions, etc., of bonds and notes—Pledge and promise.
- 43.831.178 Proceeds deposited in fisheries capital projects account—Use.
- 43.831.180 Retirement of bonds from 1977 fisheries bond retirement fund.
- 43.831.182 Bonds legal investment for public funds.

1983 BOND ISSUE

- 43.831.184 General obligation bonds—Authorized—Issuance—Appropriation required.
- 43.831.186 Deposit of proceeds in fisheries capital projects account—Use.
- 43.831.188 Administration of proceeds.

43.83I.040 Fisheries capital projects account created—Proceeds deposited in—Exception. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 43.83I.020, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in RCW 43.83I.010 through 43.83I.060, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the fisheries capital projects account of the general fund hereby created in the state treasury. All such proceeds shall be used exclusively for the purposes specified in RCW 43.83I.010 through 43.83I.060 and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1975-'76 2nd ex.s. c 132 § 4.]

43.83I.050 1976 fisheries bond retirement fund created. The 1976 fisheries bond retirement fund is hereby created in the state treasury for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to RCW 43.83I.010 through 43.83I.060.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1976 fisheries bond retirement fund an amount equal to the amount certified by the state finance committee. [1975-'76 2nd ex.s. c 132 § 5.]

43.83I.060 Legal investment for public funds. The bonds authorized in RCW 43.83I.010 through 43.83I.060 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975-'76 2nd ex.s. c 132 § 6.]

1977 BOND ISSUE

43.83I.100 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the *department of fisheries, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of five million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by RCW 43.83I.100 through 43.83I.150 and 43.83I.910 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1977 ex.s. c 343 § 1.]

*Reviser's note: Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

43.83I.110 Bond anticipation notes—Proceeds of bonds and interest on notes. When the state finance committee has determined to issue such general obligation

bonds or a portion thereof as authorized in RCW 43.83I.100, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued. [1977 ex.s. c 343 § 2.]

43.83I.120 Bonds and notes—Powers and duties of state finance committee. The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes provided for in RCW 43.83I.100 and 43.83I.110, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1977 ex.s. c 343 § 3.]

43.83I.130 Proceeds deposited in fisheries capital projects account—Exception. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 43.83I.110, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in RCW 43.83I.100 through 43.83I.150, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the fisheries capital projects account of the general fund in the state treasury. All such proceeds shall be used exclusively for the purposes specified in RCW 43.83I.100 through 43.83I.150 and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1977 ex.s. c 343 § 4.]

43.83I.140 1977 fisheries bond retirement fund created. The 1977 fisheries bond retirement fund is hereby created in the state treasury for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to RCW 43.83I.100 through 43.83I.150.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 fisheries bond retirement fund an amount equal to the amount certified by the state finance committee to be due on such payment date. [1977 ex.s. c 343 § 5.]

43.83I.150 Legal investment for public funds. The bonds authorized in RCW 43.83I.100 through 43.83I.150 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 ex.s. c 343 § 6.]

1979 BOND ISSUE

43.83I.160 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the *department of fisheries, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of five million forty-five thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83I.160 through 43.83I.170 and 43.83I.912 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1987 1st ex.s. c 3 § 10; 1979 ex.s. c 224 § 1.]

***Reviser's note:** Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

Severability—1987 1st ex.s. c 3: See RCW 43.99G.901.

43.83I.162 Bond anticipation notes—Payment. When the state finance committee has determined to issue the general obligation bonds or a portion thereof as authorized in RCW 43.83I.160, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of the bonds as may be required for the payment of the principal and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued. [1979 ex.s. c 224 § 2.]

43.83I.164 Form, terms, conditions, etc., of bonds and notes—Pledge and promise. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds and/or the bond anticipation notes provided for in RCW 43.83I.160 and 43.83I.162, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1979 ex.s. c 224 § 3.]

43.83I.168 Retirement of bonds from 1977 fisheries bond retirement fund. The 1977 fisheries bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and interest on the bonds authorized to be issued under RCW 43.83I.160 through 43.83I.170.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state

revenues received in the state treasury and deposit in the 1977 fisheries bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date. [1979 ex.s. c 224 § 5.]

43.83I.170 Bonds legal investment for public funds. The bonds authorized in RCW 43.83I.160 through 43.83I.168 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1979 ex.s. c 224 § 6.]

1981 BOND ISSUE

43.83I.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the *department of fisheries, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of six million five hundred thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83I.172 through 43.83I.182 may be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1981 c 231 § 1.]

***Reviser's note:** Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

43.83I.174 Bond anticipation notes. When the state finance committee has determined to issue the general obligation bonds or a portion thereof as authorized in RCW 43.83I.172, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes." [1981 c 231 § 2.]

43.83I.176 Form, terms, conditions, etc., of bonds and notes—Pledge and promise. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds and/or the bond anticipation notes provided for in RCW 43.83I.172 and 43.83I.174, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1981 c 231 § 3.]

43.83I.178 Proceeds deposited in fisheries capital projects account—Use. The proceeds from the sale of the bonds and/or bond anticipation notes authorized in RCW 43.83I.172 through 43.83I.182, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the fisheries capital projects account of the general fund in the state treasury.

All of these proceeds shall be used exclusively for the purposes specified in RCW 43.831.172 through 43.831.182 and for the payment of the expenses incurred in connection with the sale and issuance of the bonds and bond anticipation notes. [1981 c 231 § 4.]

43.831.180 Retirement of bonds from 1977 fisheries bond retirement fund. The 1977 fisheries bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and interest on the bonds authorized to be issued under RCW 43.831.172 through 43.831.182.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 fisheries bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date. [1981 c 231 § 5.]

43.831.182 Bonds legal investment for public funds. The bonds authorized in RCW 43.831.172 through 43.831.180 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1981 c 231 § 6.]

1983 BOND ISSUE

43.831.184 General obligation bonds—Authorized—Issuance—Appropriation required. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, refurbishing, furnishing, and equipping of state buildings and facilities for the *department of fisheries, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one million one hundred sixty-five thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized in this section may be offered for sale without prior legislative appropriation. [1983 1st ex.s. c 59 § 1.]

**Reviser's note:* Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

43.831.186 Deposit of proceeds in fisheries capital projects account—Use. The proceeds from the sale of the bonds authorized in RCW 43.831.184 shall be deposited in the fisheries capital projects account in the state general fund and shall be used exclusively for the purposes specified in RCW 43.831.184 and for the payment of expenses incurred in the issuance and sale of the bonds. [1983 1st ex.s. c 59 § 2.]

43.831.188 Administration of proceeds. The proceeds from the sale of the bonds deposited under RCW 43.831.186 in the fisheries capital projects account of the

general fund shall be administered by the department of fish and wildlife, subject to legislative appropriation. [1994 c 264 § 29; 1983 1st ex.s. c 59 § 3.]

43.831.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.831.184.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.831.184 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1983 1st ex.s. c 59 § 4.]

State general obligation bond retirement fund: RCW 43.83.160.

43.831.192 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.831.184, and RCW 43.831.190 shall not be deemed to provide an exclusive method for the payment. [1983 1st ex.s. c 59 § 5.]

43.831.194 Bonds legal investment for public funds. The bonds authorized in RCW 43.831.184 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1983 1st ex.s. c 59 § 6.]

CONSTRUCTION

43.831.900 Severability—1975-'76 2nd ex.s. c 132. If any provision of this 1976 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 132 § 8.]

43.831.910 Severability—1977 ex.s. c 343. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the

application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 343 § 7.]

43.83I.912 Severability—1979 ex.s. c 224. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 224 § 7.]

43.83I.914 Severability—1981 c 231. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 c 231 § 7.]

43.83I.915 Severability—1983 1st ex.s. c 59. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 59 § 7.]

Chapter 43.84

INVESTMENTS AND INTERFUND LOANS

Sections

- 43.84.031 Management of permanent funds—Procedural policies—Limitation on purchase, sale or exchange prices for securities.
- 43.84.041 Management of permanent funds—Disposition of securities.
- 43.84.051 Management of permanent funds—Collection of interest, income and principal of securities—Disposition.
- 43.84.061 Management of permanent funds—Degree of judgment and care required in making investments.
- 43.84.080 Investment of current state funds.
- 43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited.
- 43.84.095 Exemption from reserve fund—Motor vehicle fund income from United States securities.
- 43.84.120 Investment in state warrants.
- 43.84.130 Separate accounting as to permanent school fund.
- 43.84.140 Investment of scientific school, agricultural college, and state university funds in regents' revenue bonds.
- 43.84.150 Authority of state investment board to invest, reinvest, manage, etc., investments acquired.
- 43.84.160 Investment counseling fees payable from earnings.
- 43.84.170 Investment of surplus moneys in common school fund, agricultural college fund, normal school fund, scientific school fund or university fund.

Federal home owner's loan corporation bonds, valid investment for public and trust funds: RCW 39.60.010.

Firemen's pension board, investments by: RCW 41.16.040.

Highway construction bonds, investment in: Chapter 47.10 RCW.

Housing authority bonds, authorized as legal investments: RCW 35.82.220.

Industrial insurance funds: Chapter 51.44 RCW.

Investment accounting: RCW 43.33A.180.

Judicial retirement—Investment for supplemental retirement: RCW 2.14.080.

Metropolitan municipal corporation obligations, authorized for public deposits: RCW 35.58.510.

Mutual savings banks, investments in state bonds: RCW 32.20.050.

Port district toll facility bonds and notes as legal investments: RCW 53.34.150.

Public utility district revenue obligations as legal investments: RCW 54.24.120.

School building construction bonds: Chapter 28A.525 RCW.

Schools and school districts' bonds, investment of permanent school fund in: State Constitution Art. 16 § 5.

State-wide city employees' retirement system funds: RCW 41.44.100.

United States corporation bonds, valid investment for public and trust funds: RCW 39.60.010.

Urban renewal bonds: RCW 35.81.110.

43.84.031 Management of permanent funds—Procedural policies—Limitation on purchase, sale or exchange prices for securities. Subject to the limitation of authority delegated by RCW 43.84.031 through 43.84.061 and RCW 43.84.150, the state investment board shall adopt procedural policies governing the management of said permanent trust funds. [1981 c 3 § 17; 1973 1st ex.s. c 103 § 5; 1965 ex.s. c 104 § 3.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Severability—1973 1st ex.s. c 103: See note following RCW 2.10.080.

State investment board: Chapter 43.33A RCW.

43.84.041 Management of permanent funds—Disposition of securities. All securities purchased or held on behalf of said funds, shall be held and disbursed through the state treasury and shall be in the physical custody of the state treasurer, who may deposit with the fiscal agent of the state, or with a state depository, such of said securities as he shall consider advisable to be held in safekeeping by said agent or bank for collection of principal and interest, or of the proceeds of sale thereof. [1965 ex.s. c 104 § 4.]

43.84.051 Management of permanent funds—Collection of interest, income and principal of securities—Disposition. It shall be the duty of the state treasurer to collect the interest, or other income on, and the principal of the securities held in his or her custody pursuant to RCW 43.84.041 as the said sums become due and payable, and to pay the same when so collected into the respective funds to which the principal and interest shall accrue, less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160. [1991 sp.s. c 13 § 93; 1965 ex.s. c 104 § 5.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

43.84.061 Management of permanent funds—Degree of judgment and care required in making investments. Any investments made hereunder shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. [1965 ex.s. c 104 § 6.]

43.84.080 Investment of current state funds. Wherever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, the state treasurer may invest or reinvest such portion of such funds or balanc-

es as the state treasurer deems expedient in the following defined securities or classes of investments:

(1) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States;

(2) In state, county, municipal, or school district bonds, or in warrants of taxing districts of the state. Such bonds and warrants shall be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations. The state treasurer may purchase such bonds or warrants directly from the taxing district or in the open market at such prices and upon such terms as it may determine, and may sell them at such times as it deems advisable;

(3) In motor vehicle fund warrants when authorized by agreement between the state treasurer and the department of transportation requiring repayment of invested funds from any moneys in the motor vehicle fund available for state highway construction;

(4) In federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(5) Bankers' acceptances purchased on the secondary market;

(6) Negotiable certificates of deposit of any national or state commercial or mutual savings bank or savings and loan association doing business in the United States: PROVIDED, That the treasurer shall adhere to the investment policies and procedures adopted by the state investment board;

(7) Commercial paper: PROVIDED, That the treasurer shall adhere to the investment policies and procedures adopted by the state investment board. [1982 c 148 § 1; 1981 c 3 § 18; 1979 ex.s. c 154 § 1; 1975 1st ex.s. c 4 § 1; 1971 c 16 § 1; 1967 c 211 § 1; 1965 c 8 § 43.84.080. Prior: 1961 c 281 § 11; 1955 c 197 § 1; 1935 c 91 § 1; RRS § 5508-1.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Severability—1961 c 281: See note following RCW 47.12.180.

Motor vehicle fund warrants for state highway acquisition: RCW 47.12.180 through 47.12.240.

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited. (1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not

require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the Eastern Washington University capital projects account, the education construction fund, the emergency reserve fund, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the perpetual surveillance and maintenance account, the public employees' retirement system plan I account, the public employees' retirement system plan II account, the Puyallup tribal settlement account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system plan II account, the transportation infrastructure account, the tuition recovery trust fund, the University of

Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the central Puget Sound public transportation account, the city hardship assistance account, the county arterial preservation account, the department of licensing services account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the gasohol exemption holding account, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the marine operating fund, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the small city account, the special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation revolving loan account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1996 c 262 § 4. Prior: 1995 c 394 § 1; 1995 c 122 § 12; prior: 1994 c 2 § 6 (Initiative Measure No. 601, approved November 2, 1993); 1993 sp.s. c 25 § 511; 1993 sp.s. c 8 § 1; 1993 c 500 § 6; 1993 c 492 § 473; 1993 c 445 § 4; 1993 c 329 § 2; 1993 c 4 § 9; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Transportation infrastructure account—Highway infrastructure account—Finding—Intent—Purpose—1996 c 262: See RCW 82.44.195.

Effective date—1996 c 262: See note following RCW 82.44.190.

Effective date—1995 c 394: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state

government and its existing public institutions, and takes effect June 1, 1995." [1995 c 394 § 3.]

Declaration—Intent—Purpose—1995 c 122: See RCW 59.21.006.

Severability—Effective date—1995 c 122: See RCW 59.21.904 and 59.21.905.

Severability—Effective dates—1994 c 2 (Initiative Measure No. 601): See RCW 43.135.903 and 43.135.904.

Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25: See notes following RCW 82.04.230.

Findings—Intent—1993 sp.s. c 25: See note following RCW 82.45.010.

Effective date—Application—1993 sp.s. c 8: "This act shall take effect July 1, 1993, but shall not be effective for earnings on balances prior to July 1, 1993." [1993 sp.s. c 8 § 3.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective date—1993 c 329: See note following RCW 90.50A.020.

Legislative declaration—Effective date—1993 c 4: See notes following RCW 47.56.770.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Applicability—1990 2nd ex.s. c 1: See note following RCW 82.14.050.

Severability—1990 2nd ex.s. c 1: See note following RCW 82.14.300.

Intent—Effective date—1989 c 419: See notes following RCW 4.92.006.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.84.095 Exemption from reserve fund—Motor vehicle fund income from United States securities. Whenever moneys of the motor vehicle fund shall be invested in bonds, notes, bills or certificates of the United States treasury payable at par upon demand, or within a term not greater than one year, it shall not be necessary to place any portion of the income therefrom in the reserve fund provided for in *RCW 43.84.090. [1965 c 8 § 43.84.095. Prior: 1953 c 56 § 1.]

*Reviser's note: RCW 43.84.090 was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

43.84.120 Investment in state warrants. Whenever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, and over and above the amount belonging to the permanent school fund as shown by the separation made by the state treasurer, the state treasurer may invest such portion of such funds or balances over and above that belonging to the permanent school fund in registered warrants of the state of Washington at such times and in such amounts, and may sell them at such times, as he deems advisable: PROVIDED, That those funds having statutory authority to make investments are excluded from the provisions of RCW 43.84.120.

Upon such investment being made, the state treasurer shall pay into the appropriate fund the amount so invested, and the warrants so purchased shall be deposited with the state treasurer, who shall collect all interest and principal payments falling due thereon and allocate the same to the

proper fund or funds. [1971 ex.s. c 88 § 4; 1965 c 8 § 43.84.120. Prior: 1951 c 232 § 2.]

Severability—1971 ex.s. c 88: See note following RCW 43.08.070.

43.84.130 Separate accounting as to permanent school fund. For the purposes of RCW 43.84.120 the state treasurer shall make and keep an accounting separation of the amount of cash balances in the state treasury belonging to the permanent school fund. [1965 c 8 § 43.84.130. Prior: 1951 c 232 § 1.]

43.84.140 Investment of scientific school, agricultural college, and state university funds in regents' revenue bonds. The state investment board is authorized to invest moneys in the scientific school permanent fund and the agricultural college permanent fund in regents' revenue bonds issued by the board of regents of Washington State University for the purposes provided for in RCW 28B.10.300 and to invest moneys in the state university permanent fund in regents' revenue bonds issued by the board of regents of the University of Washington for the purposes provided in RCW 28B.10.300. [1981 c 3 § 19; 1965 c 8 § 43.84.140. Prior: 1959 c 150 § 1.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.84.150 Authority of state investment board to invest, reinvest, manage, etc., investments acquired. Except where otherwise specifically provided by law, the state investment board shall have full power to invest, reinvest, manage, contract, or sell or exchange investments acquired. Investments shall be made in accordance with RCW 43.33A.140 and investment policy duly established and published by the state investment board. All funds shall be sufficiently diversified and no corporate fixed income issue or common stock holding may exceed three percent of the cost or six percent of the market value of the assets of any fund. [1981 c 98 § 1; 1981 c 3 § 20; 1979 c 119 § 3; 1977 ex.s. c 251 § 5; 1975-'76 2nd ex.s. c 17 § 2. Prior: 1975 1st ex.s. c 252 § 1; 1975 1st ex.s. c 81 § 1; 1973 1st ex.s. c 103 § 12.]

Effective date—1981 c 98: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 98 § 2.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Severability—1973 1st ex.s. c 103: See note following RCW 2.10.080.

43.84.160 Investment counseling fees payable from earnings. Investment counseling fees established by contract shall be payable from the investment earnings derived from those assets being managed by investment counsel. [1973 1st ex.s. c 103 § 13.]

Severability—1973 1st ex.s. c 103: See note following RCW 2.10.080.

43.84.170 Investment of surplus moneys in common school fund, agricultural college fund, normal school fund, scientific school fund or university fund. Whenever there are surplus moneys available for investment in the

permanent common school fund, the agricultural college permanent fund, the normal school permanent fund, the scientific school permanent fund, or the university permanent fund, the state investment board has full power to invest or reinvest such funds in the manner prescribed by RCW 43.84.150, and not otherwise. [1981 c 3 § 21; 1973 1st ex.s. c 103 § 14.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Severability—1973 1st ex.s. c 103: See note following RCW 2.10.080.

Agricultural permanent fund: RCW 43.79.130.

Normal school permanent fund: RCW 43.79.160.

Permanent common school fund: State Constitution Art. 9 § 3, RCW 28A.515.300.

Scientific permanent fund: RCW 43.79.110.

University permanent fund: RCW 43.79.060.

Chapter 43.85

STATE DEPOSITARIES

Sections

- 43.85.070 Deposits deemed in state treasury—Liability.
 - 43.85.130 Deposit of commissioner of public lands and department of natural resources funds—Natural resources deposit fund—Repayments.
 - 43.85.190 Investment deposits and rate of interest.
 - 43.85.200 Investment deposits and rate of interest—State moneys defined.
 - 43.85.210 Investment deposits and rate of interest—Demand and time accounts authorized.
 - 43.85.220 Investment deposits and rate of interest—Members of federal reserve or federal deposit insurance corporation.
 - 43.85.230 Investment deposits and rate of interest—Term deposit basis.
- Public depositaries, deposit and investment of public funds:* Chapter 39.58 RCW.

43.85.070 Deposits deemed in state treasury—Liability. The state treasurer may deposit with any qualified public depositary which has fully complied with all requirements of law and the regulations of the public deposit protection commission any state moneys in his hands or under his official control and any sum so on deposit shall be deemed to be in the state treasury, and he shall not be liable for any loss thereof resulting from the failure or default of any such depositary without fault or neglect on his part or on the part of his assistants or clerks. [1969 ex.s. c 193 § 18; 1965 c 8 § 43.85.070. Prior: 1945 c 129 § 2; 1943 c 134 § 1; 1935 c 139 § 3; 1931 c 87 § 2; 1907 c 37 § 4; Rem. Supp. 1945 § 5551.]

Construction—Severability—1969 ex.s. c 193: See notes following RCW 39.58.010.

Liability of treasurers for losses of deposits: RCW 39.58.140.

43.85.130 Deposit of commissioner of public lands and department of natural resources funds—Natural resources deposit fund—Repayments. (1) The department shall deposit daily all moneys and fees collected or received by the commissioner of public lands and the department of natural resources in the discharge of official duties as follows:

(a) The department shall pay moneys received as advance payments, deposits, and security from successful

bidders under RCW 79.01.132 and 79.01.204 to the state treasurer for deposit under subsection (1)(b) of this section. Moneys received from unsuccessful bidders shall be returned as provided in RCW 79.01.204;

(b) The department shall pay all moneys received on behalf of a trust fund or account to the state treasurer for deposit in the trust fund or account after making the deduction authorized under RCW 76.12.030, 76.12.120, and 79.64.040;

(c) The natural resources deposit fund is hereby created. The state treasurer is the custodian of the fund. All moneys or sums which remain in the custody of the commissioner of public lands awaiting disposition or where the final disposition is not known shall be deposited into the natural resources deposit fund. Disbursement from the fund shall be on the authorization of the commissioner or the commissioner's designee, without necessity of appropriation;

(d) If it is required by law that the department repay moneys disbursed under subsections (1)(a) and (1)(b) of this section the state treasurer shall transfer such moneys, without necessity of appropriation, to the department upon demand by the department from those trusts and accounts originally receiving the moneys.

(2) Money shall not be deemed to have been paid to the state upon any sale or lease of land until it has been paid to the state treasurer. [1981 2nd ex.s. c 4 § 1; 1965 c 8 § 43.85.130. Prior: (i) 1911 c 51 § 1; RRS § 5555. (ii) 1909 c 133 § 1, part; 1907 c 96 § 1, part; RRS § 5501, part.]

Moneys received and invested prior to December 1, 1981: "Moneys received as deposits from successful bidders, advance payments, and security under RCW 79.01.132 and 79.01.204, which have been invested prior to December 1, 1981, in time deposits, shall be subject to RCW 43.85.130 as each time deposit matures." [1981 2nd ex.s. c 4 § 2.]

Severability—1981 2nd ex.s. c 4: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 2nd ex.s. c 4 § 16.]

43.85.190 Investment deposits and rate of interest.

It is the purpose of RCW 43.85.190 through 43.85.230 to authorize the state treasurer to make investment deposits of state moneys or funds in his custody in qualified public depositories at a rate of interest permitted by any applicable statute or regulation. [1983 c 66 § 17; 1983 c 3 § 113; 1969 ex.s. c 193 § 21; 1965 c 8 § 43.85.190. Prior: 1955 c 198 § 1.]

Severability—1983 c 66: See note following RCW 39.58.010.

Construction—Severability—1969 ex.s. c 193: See notes following RCW 39.58.010.

43.85.200 Investment deposits and rate of interest—State moneys defined. All moneys or funds belonging to or in the custody of the state under the control of the state treasurer shall be considered as state moneys or funds: [1965 c 8 § 43.85.200. Prior: 1955 c 198 § 2.]

43.85.210 Investment deposits and rate of interest—Demand and time accounts authorized. The state treasurer may deposit state moneys or funds at interest in any qualified public depository upon a demand or time account basis. [1983 c 66 § 18; 1965 c 8 § 43.85.210. Prior: 1955 c 198 § 3.]

Severability—1983 c 66: See note following RCW 39.58.010.

43.85.220 Investment deposits and rate of interest—Members of federal reserve or federal deposit insurance corporation. If state depositories are member banks of the federal reserve system, or are banks the deposits of which, within certain limits, are insured by the federal deposit insurance corporation and, as such, are prohibited by a statute of the United States or by a lawful regulation of the federal reserve system or of the federal deposit insurance corporation, or of any authorized agency of the federal government, from paying interest upon demand deposits of public funds of a state, the payment of interest shall not be required of such depositories to the extent and for the period of time that payment thereof is prohibited. [1965 c 8 § 43.85.220. Prior: 1955 c 198 § 4.]

43.85.230 Investment deposits and rate of interest—Term deposit basis. The state treasurer may deposit moneys not required to meet current demands upon a term deposit basis not to exceed five years at such interest rates and upon such conditions as to withdrawals of such moneys as may be agreed upon between the state treasurer and any qualified public depository. [1993 c 512 § 32; 1984 c 177 § 20; 1983 c 66 § 19; 1965 c 8 § 43.85.230. Prior: 1955 c 198 § 5.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Severability—1983 c 66: See note following RCW 39.58.010.

Chapter 43.86A

SURPLUS FUNDS—INVESTMENT PROGRAM

Sections

43.86A.010 Finding—Objectives.

43.86A.020 Surplus funds held as demand deposits to be limited.

43.86A.030 Time certificate of deposit investment program—Funds available for—Allocation.

43.86A.040 Other investment powers of state treasurer not limited.

43.86A.050 Implementation of chapter by state treasurer.

43.86A.060 Linked deposit program—Minority and women's business enterprises.

43.86A.070 Linked deposit program—Liability.

Public funds, deposit and investment, public depositories: Chapter 39.58 RCW.

43.86A.010 Finding—Objectives. The legislature finds that a procedure should be established for the management of short term treasury surplus funds by the state treasurer in order to insure a maximum return while they are on deposit in public depositories. The objectives of this procedure are to minimize noninterest earning demand deposits and provide fair compensation to financial institutions for services rendered to the state through the investment of state funds in time deposits. [1983 c 66 § 20; 1973 c 123 § 1.]

Severability—1983 c 66: See note following RCW 39.58.010.

43.86A.020 Surplus funds held as demand deposits to be limited. After March 19, 1973, the state treasurer shall limit surplus funds held as demand deposits to an amount necessary for current operating expenses including

direct warrant redemption payments, investments and revenue collection. The state treasurer may hold such additional funds as demand deposits as he deems necessary to insure efficient treasury management. [1973 c 123 § 2.]

43.86A.030 Time certificate of deposit investment program—Funds available for—Allocation. (1) Funds held in public depositories not as demand deposits as provided in RCW 43.86A.020 and 43.86A.030, shall be available for a time certificate of deposit investment program according to the following formula: The state treasurer shall apportion to all participating depositories an amount equal to five percent of the three year average mean of general state revenues as certified in accordance with Article VIII, section 1(b) of the state Constitution, or fifty percent of the total surplus treasury investment availability, whichever is less. Within thirty days after certification, those funds determined to be available according to this formula for the time certificate of deposit investment program shall be deposited in qualified public depositories. These deposits shall be allocated among the participating depositories on a basis to be determined by the state treasurer.

(2) The state treasurer may use up to fifty million dollars per year of all funds available under this section for the purposes of RCW 43.86A.060. The amounts made available to these public depositories shall be equal to the amounts of outstanding loans made under RCW 43.86A.060.

(3) The formula so devised shall be a matter of public record giving consideration to, but not limited to deposits, assets, loans, capital structure, investments or some combination of these factors. However, if in the judgment of the state treasurer the amount of allocation for certificates of deposit as determined by this section will impair the cash flow needs of the state treasury, the state treasurer may adjust the amount of the allocation accordingly. [1993 c 512 § 33; 1982 c 74 § 1; 1973 c 123 § 3.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.86A.040 Other investment powers of state treasurer not limited. Except as provided in RCW 43.86A.020 and 43.86A.030, nothing in this chapter shall be construed as a limitation upon the powers of the state treasurer to determine the amount of surplus treasury funds which may be invested in time certificates of deposit. [1973 c 123 § 4.]

43.86A.050 Implementation of chapter by state treasurer. The state treasurer shall devise the necessary formulae and methodology to implement the provisions of this chapter. Periodically, but at least once every six months, the state treasurer shall review all rules and shall adopt, amend or repeal them as may be necessary. These rules and a list of time certificate of deposit allocations shall be published in the treasurer's monthly financial report as required under the provisions of RCW 43.08.150. [1973 c 123 § 5.]

43.86A.060 Linked deposit program—Minority and women's business enterprises. (1) The state treasurer shall establish a linked deposit program for investment of deposits

in qualified public depositories. As a condition of participating in the program, qualified public depositories must make qualifying loans as provided in this section. The state treasurer may purchase a certificate of deposit that is equal to the amount of the qualifying loan made by the qualified public depository or may purchase a certificate of deposit that is equal to the aggregate amount of two or more qualifying loans made by one or more qualified public depositories.

(2) Qualifying loans made under this section are those that:

(a) Are loans that have terms that do not exceed ten years;

(b) Are made to a minority or women's business enterprise that has received state certification under chapter 39.19 RCW;

(c) Are made to minority or women's business enterprises that are considered a small business as defined in *RCW 43.31.025;

(d) Are made where the interest rate on the loan to the minority or women's business enterprise does not exceed an interest rate that is two hundred basis points below the interest rate the qualified public depository would charge for a loan for a similar purpose and a similar term; and

(e) Are made where the points or fees charged at loan closing do not exceed one percent of the loan amount.

(3) In setting interest rates of time certificate of deposits, the state treasurer shall offer rates so that a two hundred basis point preference will be given to the qualified public depository. [1993 c 512 § 30.]

Reviser's note—Sunset Act application: (1) The linked deposit program is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.381. RCW 46.86A.060, 43.63A.690, and 43.86A.070 are scheduled for future repeal under RCW 43.131.382.

* (2) RCW 43.31.025 was repealed by 1993 c 280 § 82, effective July 1, 1994.

Finding—Intent—1993 c 512: "The legislature finds that minority and women's business enterprises have been historically excluded from access to capital in the marketplace. The lack of capital has been a major barrier to the development and expansion of business by various minority groups and women. There has been a significant amount of attention on the capital needs of minority and women's business enterprises. It is the intent of the legislature to remedy the problem of a lack of access to capital by minority and women's business enterprises, and other small businesses by authorizing the state treasurer to operate a program that links state deposits to business loans by financial institutions to minority and women's business enterprises." [1993 c 512 § 29.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.86A.070 Linked deposit program—Liability. The state and those acting as its agents are not liable in any manner for payment of the principal or interest on qualifying loans made under RCW 43.86A.060. Any delay in payments or defaults on the part of the borrower does not in any manner affect the deposit agreement between the qualified public depository and the state treasurer. [1993 c 512 § 34.]

Sunset Act application: See note following RCW 43.86A.060.

Finding—Intent—1993 c 512: See note following RCW 43.86A.060.

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Chapter 43.88

STATE BUDGETING, ACCOUNTING, AND REPORTING SYSTEM

(Formerly: Budget and accounting)

Sections

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 43.88.903 Severability—1977 c 23.
 43.88.910 Effective date—1975 1st ex.s. c 293.

Agreements and transactions between state agencies, charges, credits, transfers, and advances: RCW 39.34.130 through 39.34.170.

Debts owed state: RCW 43.17.240.

Director of financial management: Chapter 43.41 RCW.

Displaced homemaker act, contributions for as subject to chapter: RCW 28B.04.110.

Funds subject to council for the prevention of child abuse and neglect: RCW 43.121.100.

Investments and interfund loans: Chapter 43.84 RCW.

Post-audit: RCW 43.09.290 through 43.09.330.

Reporting periods: RCW 43.01.035.

State board for community and technical colleges: RCW 28B.50.070.

State finance committee: Chapter 43.33 RCW.

State payroll revolving account, agency payroll revolving fund: RCW 42.16.010 through 42.16.017.

43.88.010 Purpose—Intent. It is the purpose of this chapter to establish an effective state budgeting, accounting, and reporting system for all activities of the state government, including both capital and operating expenditures; to prescribe the powers and duties of the governor as these relate to securing such fiscal controls as will promote effective budget administration; and to prescribe the responsibilities of agencies of the executive branch of the state government.

It is the intent of the legislature that the powers conferred by this chapter, as amended, shall be exercised by the executive in cooperation with the legislature and its standing, special, and interim committees in its status as a separate and coequal branch of state government. [1986 c 215 § 1; 1981 c 270 § 1; 1973 1st ex.s. c 100 § 1; 1965 c 8 § 43.88.010. Prior: 1959 c 328 § 1.]

Effective date—1981 c 270: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 270 § 18.]

Severability—1981 c 270: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of

the act or the application of the provision to other persons or circumstances is not affected." [1981 c 270 § 17.]

43.88.020 Definitions. (1) "Budget" means a proposed plan of expenditures for a given period or purpose and the proposed means for financing these expenditures.

(2) "Budget document" means a formal statement, either written or provided on any electronic media or both, offered by the governor to the legislature, as provided in RCW 43.88.030.

(3) "Director of financial management" means the official appointed by the governor to serve at the governor's pleasure and to whom the governor may delegate necessary authority to carry out the governor's duties as provided in this chapter. The director of financial management shall be head of the office of financial management which shall be in the office of the governor.

(4) "Agency" means and includes every state office, officer, each institution, whether educational, correctional, or other, and every department, division, board, and commission, except as otherwise provided in this chapter.

(5) "Public funds", for purposes of this chapter, means all moneys, including cash, checks, bills, notes, drafts, stocks, and bonds, whether held in trust, for operating purposes, or for capital purposes, and collected or disbursed under law, whether or not such funds are otherwise subject to legislative appropriation, including funds maintained outside the state treasury.

(6) "Regulations" means the policies, standards, and requirements, stated in writing, designed to carry out the purposes of this chapter, as issued by the governor or the governor's designated agent, and which shall have the force and effect of law.

(7) "Ensuing biennium" means the fiscal biennium beginning on July 1st of the same year in which a regular session of the legislature is held during an odd-numbered year pursuant to Article II, section 12 of the Constitution and which biennium next succeeds the current biennium.

(8) "Dedicated fund" means a fund in the state treasury, or a separate account or fund in the general fund in the state treasury, that by law is dedicated, appropriated, or set aside for a limited object or purpose; but "dedicated fund" does not include a revolving fund or a trust fund.

(9) "Revolving fund" means a fund in the state treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

(10) "Trust fund" means a fund in the state treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise, or bequest that limits the use of the fund to designated objects or purposes.

(11) "Administrative expenses" means expenditures for: (a) Salaries, wages, and related costs of personnel and (b) operations and maintenance including but not limited to costs of supplies, materials, services, and equipment.

(12) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(13) "Lapse" means the termination of authority to expend an appropriation.

(14) "Legislative fiscal committees" means the joint legislative audit and review committee, the legislative evaluation and accountability program committee, the ways and means committees of the senate and house of representatives, and, where appropriate, the legislative transportation committee.

(15) "Fiscal period" means the period for which an appropriation is made as specified within the act making the appropriation.

(16) "Primary budget driver" means the primary determinant of a budget level, other than a price variable, which causes or is associated with the major expenditure of an agency or budget unit within an agency, such as a caseload, enrollment, workload, or population statistic.

(17) "State tax revenue limit" means the limitation created by chapter 43.135 RCW.

(18) "General state revenues" means the revenues defined by Article VIII, section 1(c) of the state Constitution.

(19) "Annual growth rate in real personal income" means the estimated percentage growth in personal income for the state during the current fiscal year, expressed in constant value dollars, as published by the office of financial management or its successor agency.

(20) "Estimated revenues" means estimates of revenue in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast including estimates of revenues to support financial plans under RCW 44.40.070, that are prepared by the office of financial management in consultation with the interagency task force.

(21) "Estimated receipts" means the estimated receipt of cash in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast.

(22) "State budgeting, accounting, and reporting system" means a system that gathers, maintains, and communicates fiscal information. The system links fiscal information beginning with development of agency budget requests through adoption of legislative appropriations to tracking actual receipts and expenditures against approved plans.

(23) "Allotment of appropriation" means the agency's statement of proposed expenditures, the director of financial management's review of that statement, and the placement of the approved statement into the state budgeting, accounting, and reporting system.

(24) "Statement of proposed expenditures" means a plan prepared by each agency that breaks each appropriation out into monthly detail representing the best estimate of how the appropriation will be expended.

(25) "Undesignated fund balance (or deficit)" means unreserved and undesignated current assets or other resources available for expenditure over and above any current liabilities which are expected to be incurred by the close of the fiscal period.

(26) "Internal audit" means an independent appraisal activity within an agency for the review of operations as a service to management, including a systematic examination

of accounting and fiscal controls to assure that human and material resources are guarded against waste, loss, or misuse; and that reliable data are gathered, maintained, and fairly disclosed in a written report of the audit findings.

(27) "Performance verification" means an analysis that (a) verifies the accuracy of data used by state agencies in quantifying intended results and measuring performance toward those results, and (b) verifies whether or not the reported results were achieved.

(28) "Performance audit" has the same meaning as it is defined in RCW 44.28.005. [1996 c 288 § 23; 1995 c 155 § 1; 1994 c 184 § 9; 1993 c 406 § 2; 1991 c 358 § 6; 1990 c 229 § 4; 1987 c 502 § 1; 1986 c 215 § 2; 1984 c 138 § 6; 1982 1st ex.s. c 36 § 1. Prior: 1981 c 280 § 6; 1981 c 270 § 2; 1980 c 87 § 25; 1979 c 151 § 135; 1975-'76 2nd ex.s. c 83 § 4; 1973 1st ex.s. c 100 § 2; 1969 ex.s. c 239 § 9; 1965 c 8 § 43.88.020; prior: 1959 c 328 § 2.]

Short title—1993 c 406: "This act may be known and cited as the performance-based government act of 1993." [1993 c 406 § 7.]

Effective date—1991 c 358: See note following RCW 43.88.030.

Effective date—1990 c 229: See note following RCW 41.06.087.

Effective date—1981 c 280: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 280 § 10.]

Severability—1981 c 280: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 280 § 9.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Office of financial management: Chapter 43.41 RCW.

43.88.025 "Director" defined. Unless the context clearly requires a different interpretation, whenever "director" is used in this chapter, it shall mean the director of financial management created in RCW 43.41.060. [1979 c 151 § 136; 1969 ex.s. c 239 § 10.]

43.88.027 Annual financial report. The governor, through the director, shall prepare and publish within six months of the end of the fiscal year, as a matter of public record, an annual financial report that encompasses all funds and account groups of the state. [1984 c 247 § 2.]

43.88.030 Instructions for submitting budget requests—Content of the budget document or documents—Separate budget document or schedules—Format changes. (1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The director shall provide agencies that are required under RCW 44.40.070 to develop comprehensive six-year program and financial plans with a complete set of instructions for submitting these program and financial plans at the same time that instructions for submitting other budget requests are provided. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as

an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues as approved by the economic and revenue forecast council or upon the estimated revenues of the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast, including those revenues anticipated to support the six-year programs and financial plans under RCW 44.40.070. In estimating revenues to support financial plans under RCW 44.40.070, the office of financial management shall rely on information and advice from the inter-agency revenue task force. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

Supplemental and biennial documents shall reflect a six-year expenditure plan consistent with estimated revenues from existing sources and at existing rates for those agencies required to submit six-year program and financial plans under RCW 44.40.070. Any additional revenue resulting from proposed changes to existing statutes shall be separately identified within the document as well as related expenditures for the six-year period.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, those anticipated for the ensuing biennium, and those anticipated for the ensuing six-year period to support the six-year programs and financial plans required under RCW 44.40.070;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity and object;

(f) A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under *chapter 90.70 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium, as well as those required to support the six-year programs and financial plans required under RCW 44.40.070;

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a

reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A statement of the reason or purpose for a project;

(e) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

(f) A statement about the proposed site, size, and estimated life of the project, if applicable;

(g) Estimated total project cost;

(h) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(i) Estimated total project cost for each phase of the project as defined by the office of financial management;

(j) Estimated ensuing biennium costs;

(k) Estimated costs beyond the ensuing biennium;

(l) Estimated construction start and completion dates;

(m) Source and type of funds proposed;

(n) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(o) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(p) Such other information bearing upon capital projects as the governor deems to be useful;

(q) Standard terms, including a standard and uniform definition of maintenance for all capital projects;

(r) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (3), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative transportation committee, legislative evaluation and accountability program committee, and office of financial management.

(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative

concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session. [1994 c 247 § 7; 1994 c 219 § 2. Prior: 1991 c 358 § 1; 1991 c 284 § 1; 1990 c 115 § 1; prior: 1989 c 311 § 3; 1989 c 11 § 18; 1987 c 502 § 2; prior: 1986 c 215 § 3; 1986 c 112 § 1; 1984 c 138 § 7; 1981 c 270 § 3; 1980 c 87 § 26; 1977 ex.s. c 247 § 1; 1973 1st ex.s. c 100 § 3; 1965 c 8 § 43.88.030; prior: 1959 c 328 § 3.]

Reviser's note: *(1) All sections in chapter 90.70 RCW were sunsetted, repealed, or recodified. See Table of Disposition of Former RCW Sections. For implementation of the Puget Sound water quality plan, see chapter 90.71 RCW.

(2) This section was amended by 1994 c 219 § 2 and by 1994 c 247 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1994 c 247: See note following RCW 41.32.4991.

Finding—1994 c 219: "The legislature finds that the acquisition, construction, and management of state-owned and leased facilities has a profound and long-range effect upon the delivery and cost of state programs, and that there is an increasing need for better facility planning and management to improve the effectiveness and efficiency of state facilities." [1994 c 219 § 1.]

Effective date—1991 c 358: "This act shall take effect April 1, 1992." [1991 c 358 § 8.]

Severability—1989 c 11: See note following RCW 9A.56.220.

43.88.031 Capital appropriation bill—Estimated general fund debt service costs. A capital appropriation bill shall include the estimated general fund debt service costs associated with new capital appropriations contained in that bill for the biennia in which the appropriations occur and for the succeeding two biennia. [1991 c 284 § 2.]

43.88.032 Maintenance costs, operating budget—Debt-financed pass-through money, budget document. (1) Annual ongoing or routine maintenance costs shall be programmed in the operating budget rather than in the capital budget.

(2) All debt-financed pass-through money to local governments shall be programmed and separately identified in the budget document. [1994 c 219 § 4; 1989 c 311 § 1.]

Finding—1994 c 219: See note following RCW 43.88.030.

43.88.033 State expenditure limit—Budget document to reflect. The budget document submitted by the governor to the legislature under RCW 43.88.030 shall reflect the state expenditure limit established under chapter 43.135 RCW and shall not propose expenditures in excess of that limit. [1994 c 2 § 7 (Initiative Measure No. 601, approved November 2, 1993).]

Severability—Effective dates—1994 c 2 (Initiative Measure No. 601): See RCW 43.135.903 and 43.135.904.

43.88.035 Changes in accounting methods, practices or statutes—Explanation in budget document or appendix required—Contents. Any changes in accounting methods and practices or in statutes affecting expenditures or revenues for the ensuing biennium relative to the then

current fiscal period which the governor may wish to recommend shall be clearly and completely explained in the text of the budget document, in a special appendix thereto, or in an alternative budget document. This explanatory material shall include, but need not be limited to, estimates of revenues and expenditures based on the same accounting practices and methods and existing statutes relating to revenues and expenditure effective for the then current fiscal period, together with alternative estimates required by any changes in accounting methods and practices and by any statutory changes the governor may wish to recommend. [1973 1st ex.s. c 100 § 9.]

43.88.037 Comprehensive budgeting, accounting, and reporting system conforming to generally accepted accounting principles—Budget document to conform. (1) The director of financial management shall devise and maintain a comprehensive budgeting, accounting, and reporting system in conformance with generally accepted accounting principles applicable to state governments, as published in the accounting procedures manual pursuant to RCW 43.88.160(1).

(2) The director of financial management shall submit a budget document in conformance with generally accepted accounting principles applicable to state governments, as published in the accounting procedures manual pursuant to RCW 43.88.160(1). [1987 c 502 § 3; 1984 c 247 § 1.]

43.88.050 Cash deficit. Cash deficit of the current fiscal period is defined for purposes of this chapter as the amount by which the aggregate of disbursements charged to a fund will exceed the aggregate of estimated receipts credited to such fund in the current fiscal period, less the extent to which such deficit may have been provided for from available beginning cash surplus.

If, for any applicable fund or account, the estimated receipts for the next ensuing period plus cash beginning balances is less than the aggregate of estimated disbursements proposed by the governor for the next ensuing fiscal period, the governor shall include in Part I of the budget document proposals as to the manner in which the anticipated cash deficit shall be met, whether by an increase in the indebtedness of the state, by the imposition of new taxes, by increases in tax rates or an extension thereof, or in any like manner. The governor may propose orderly liquidation of the anticipated cash deficit over a period of one or more fiscal periods, if, in the governor's discretion, such manner of liquidation would best serve the public interest. [1987 c 502 § 4; 1965 c 8 § 43.88.050. Prior: 1959 c 328 § 5.]

Exception: RCW 43.88.265.

43.88.060 Legislative review of budget document and budget bill or bills—Time for submission. The governor shall submit the budget document for the 1975-77 biennium and each succeeding biennium to the legislature no later than the twentieth day of December in the year preceding the session during which the budget is to be considered: PROVIDED, That where a budget document is submitted for a fiscal period other than a biennium, such document shall be submitted no less than twenty days prior to the first day of the session at which such budget document is to be

considered. The governor shall also submit a budget bill or bills which for purposes of this chapter is defined to mean the appropriations proposed by the governor as set forth in the budget document. Such representatives of agencies as have been designated by the governor for this purpose shall, when requested, by either house of the legislature, appear to be heard with respect to the budget document and the budget bill or bills and to supply such additional information as may be required. [1977 ex.s. c 247 § 2; 1973 1st ex.s. c 100 § 4; 1965 c 8 § 43.88.060. Prior: 1959 c 328 § 6.]

43.88.065 Itemization of expenditures required by federal court order. Prior to January 15 of each year, each state agency shall separately itemize and submit to the secretary of the senate and chief clerk of the house any expenditures required to be made by the agency under any federal court order. The secretary and chief clerk shall transmit this information to the appropriate standing committees. In each instance, the legislature shall review the expenditures mandated by the federal court order with a view to determining whether the program affected by the court order should be continued or eliminated and funds for the program either appropriated or not appropriated accordingly. [1983 1st ex.s. c 47 § 2.]

43.88.067 Expenditures—Awards for judicial review of agency action—Report to legislature. The office of financial management shall report annually to the legislature on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to RCW 4.84.340 through 4.84.360. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and other relevant information that may aid the legislature in evaluating the scope and impact of the awards. [1995 c 403 § 905.]

Findings—1995 c 403: See note following RCW 4.84.340.

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

43.88.070 Appropriations. Appropriations shall be deemed maximum authorizations to incur expenditures but the governor shall exercise all due supervision and control to ensure that expenditure rates are such that program objectives are realized within these maximums. [1965 c 8 § 43.88.070. Prior: 1959 c 328 § 7.]

43.88.080 Adoption of budget. Adoption of the omnibus appropriation bill or bills by the legislature shall constitute adoption of the budget and the making of appropriations therefor. A budget for state government shall be finally adopted not later than thirty calendar days prior to the beginning of the ensuing biennium. [1973 1st ex.s. c 100 § 5; 1965 c 8 § 43.88.080. Prior: 1959 c 328 § 8.]

43.88.090 Development of budget—Detailed estimates—Mission statement, measurable goals, program objectives—Integration of strategic plans and performance assessment procedures—Governor-elect input. (1) For purposes of developing budget proposals to the legisla-

ture, the governor shall have the power, and it shall be the governor's duty, to require from proper agency officials such detailed estimates and other information in such form and at such times as the governor shall direct. The estimates for the legislature and the judiciary shall be transmitted to the governor and shall be included in the budget without revision. The estimates for state pension contributions shall be based on the rates provided in chapter 41.45 RCW. Copies of all such estimates shall be transmitted to the standing committees on ways and means of the house and senate at the same time as they are filed with the governor and the office of financial management.

The estimates shall include statements or tables which indicate, by agency, the state funds which are required for the receipt of federal matching revenues. The estimates shall be revised as necessary to reflect legislative enactments and adopted appropriations and shall be included with the initial biennial allotment submitted under RCW 43.88.110.

(2) Each state agency shall define its mission and establish measurable goals for achieving desirable results for those who receive its services and the taxpayers who pay for those services. Each agency shall also develop clear strategies and timelines to achieve its goals. This section does not require an agency to develop a new mission or goals in place of identifiable missions or goals that meet the intent of this section. The mission and goals of each agency must conform to statutory direction and limitations.

(3) For the purpose of assessing program performance, each state agency shall establish program objectives for each major program in its budget. The objectives must be consistent with the missions and goals developed under this section. The objectives must be expressed to the extent practicable in outcome-based, objective, and measurable form unless an exception to adopt a different standard is granted by the office of financial management and approved by the legislative committee on performance review. The office of financial management shall provide necessary professional and technical assistance to assist state agencies in the development of strategic plans that include the mission of the agency and its programs, measurable goals, strategies, and performance measurement systems.

(4) Each state agency shall adopt procedures for continuous self-assessment of each program and activity, using the mission, goals, objectives, and measurements required under subsections (2) and (3) of this section.

(5) It is the policy of the legislature that each agency's budget proposals must be directly linked to the agency's stated mission and program goals and objectives. Consistent with this policy, agency budget proposals must include integration of performance measures that allow objective determination of a program's success in achieving its goals. The office of financial management shall develop a plan to merge the budget development process with agency performance assessment procedures. The plan must include a schedule to integrate agency strategic plans and performance measures into agency budget requests and the governor's budget proposal over three fiscal biennia. The plan must identify those agencies that will implement the revised budget process in the 1997-1999 biennium, the 1999-2001 biennium, and the 2001-2003 biennium. In consultation with the legislative fiscal committees, the office of financial management shall recommend statutory and procedural

modifications to the state's budget, accounting, and reporting systems to facilitate the performance assessment procedures and the merger of those procedures with the state budget process. The plan and recommended statutory and procedural modifications must be submitted to the legislative fiscal committees by September 30, 1996.

(6) In the year of the gubernatorial election, the governor shall invite the governor-elect or the governor-elect's designee to attend all hearings provided in RCW 43.88.100; and the governor shall furnish the governor-elect or the governor-elect's designee with such information as will enable the governor-elect or the governor-elect's designee to gain an understanding of the state's budget requirements. The governor-elect or the governor-elect's designee may ask such questions during the hearings and require such information as the governor-elect or the governor-elect's designee deems necessary and may make recommendations in connection with any item of the budget which, with the governor-elect's reasons therefor, shall be presented to the legislature in writing with the budget document. Copies of all such estimates and other required information shall also be submitted to the standing committees on ways and means of the house and senate. [1996 c 317 § 10; 1994 c 184 § 10; 1993 c 406 § 3; 1989 c 273 § 26; 1987 c 505 § 35; 1984 c 247 § 3; 1981 c 270 § 4; 1979 c 151 § 137; 1975 1st ex.s. c 293 § 5; 1973 1st ex.s. c 100 § 6; 1965 c 8 § 43.88.090. Prior: 1959 c 328 § 9.]

Short title—1993 c 406: See note following RCW 43.88.020.

Severability—1989 c 273: See RCW 41.45.900.

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.100 Executive hearings. The governor may provide for hearings on all agency requests for expenditures to enable him to make determinations as to the need, value or usefulness of activities or programs requested by agencies. The governor may require the attendance of proper agency officials at his hearings and it shall be their duty to disclose such information as may be required to enable the governor to arrive at his final determination. [1965 c 8 § 43.88.100. Prior: 1959 c 328 § 10.]

43.88.110 Expenditure programs—Allotments—Reserves—Monitor capital appropriations—Predesign review for major capital construction. This section sets forth the expenditure programs and the allotment and reserve procedures to be followed by the executive branch for public funds.

(1) Allotments of an appropriation for any fiscal period shall conform to the terms, limits, or conditions of the appropriation.

(2) The director of financial management shall provide all agencies with a complete set of operating and capital instructions for preparing a statement of proposed expenditures at least thirty days before the beginning of a fiscal period. The set of instructions need not include specific appropriation amounts for the agency.

(3) Within forty-five days after the beginning of the fiscal period or within forty-five days after the governor signs the omnibus biennial appropriations act, whichever is later, all agencies shall submit to the governor a statement of

proposed expenditures at such times and in such form as may be required by the governor.

(4) The office of financial management shall develop a method for monitoring capital appropriations and expenditures that will capture at least the following elements:

(a) Appropriations made for capital projects including transportation projects;

(b) Estimates of total project costs including past, current, ensuing, and future biennial costs;

(c) Comparisons of actual costs to estimated costs;

(d) Comparisons of estimated construction start and completion dates with actual dates;

(e) Documentation of fund shifts between projects.

This data may be incorporated into the existing accounting system or into a separate project management system, as deemed appropriate by the office of financial management.

(5) The office of financial management, prior to approving allotments for major capital construction projects valued over five million dollars, shall institute procedures for reviewing such projects at the predesign stage that will reduce long-term costs and increase facility efficiency. The procedures shall include, but not be limited to, the following elements:

(a) Evaluation of facility program requirements and consistency with long-range plans;

(b) Utilization of a system of cost, quality, and performance standards to compare major capital construction projects; and

(c) A requirement to incorporate value-engineering analysis and constructability review into the project schedule.

(6) No expenditure may be incurred or obligation entered into for such major capital construction projects including, without exception, land acquisition, site development, predesign, design, construction, and equipment acquisition and installation, until the allotment of the funds to be expended has been approved by the office of financial management. This limitation does not prohibit the continuation of expenditures and obligations into the succeeding biennium for projects for which allotments have been approved in the immediate prior biennium.

(7) If at any time during the fiscal period the governor projects a cash deficit in a particular fund or account as defined by RCW 43.88.050, the governor shall make across-the-board reductions in allotments for that particular fund or account so as to prevent a cash deficit, unless the legislature has directed the liquidation of the cash deficit over one or more fiscal periods. Except for the legislative and judicial branches and other agencies headed by elective officials, the governor shall review the statement of proposed operating expenditures for reasonableness and conformance with legislative intent. Once the governor approves the statements of proposed operating expenditures, further revisions shall be made only at the beginning of the second fiscal year and must be initiated by the governor. However, changes in appropriation level authorized by the legislature, changes required by across-the-board reductions mandated by the governor, changes caused by executive increases to spending authority, and changes caused by executive decreases to spending authority for failure to comply with the provisions of chapter 36.70A RCW may require additional revisions. Revisions shall not be made retroactively. Revisions caused by executive increases to spending authority shall not be

made after June 30, 1987. However, the governor may assign to a reserve status any portion of an agency appropriation withheld as part of across-the-board reductions made by the governor and any portion of an agency appropriation conditioned on a contingent event by the appropriations act. The governor may remove these amounts from reserve status if the across-the-board reductions are subsequently modified or if the contingent event occurs. The director of financial management shall enter approved statements of proposed expenditures into the state budgeting, accounting, and reporting system within forty-five days after receipt of the proposed statements from the agencies. If an agency or the director of financial management is unable to meet these requirements, the director of financial management shall provide a timely explanation in writing to the legislative fiscal committees.

(8) It is expressly provided that all agencies shall be required to maintain accounting records and to report thereon in the manner prescribed in this chapter and under the regulations issued pursuant to this chapter. Within ninety days of the end of the fiscal year, all agencies shall submit to the director of financial management their final adjustments to close their books for the fiscal year. Prior to submitting fiscal data, written or oral, to committees of the legislature, it is the responsibility of the agency submitting the data to reconcile it with the budget and accounting data reported by the agency to the director of financial management.

(9) The director of financial management shall monitor agency operating expenditures against the approved statement of proposed expenditures and shall provide the legislature with quarterly explanations of major variances.

(10) The director of financial management may exempt certain public funds from the allotment controls established under this chapter if it is not practical or necessary to allot the funds. Allotment control exemptions expire at the end of the fiscal biennium for which they are granted. The director of financial management shall report any exemptions granted under this subsection to the legislative fiscal committees. [1994 c 219 § 5. Prior: 1991 sp.s. c 32 § 27; 1991 c 358 § 2; 1987 c 502 § 5; 1986 c 215 § 4; 1984 c 138 § 8; 1983 1st ex.s. c 47 § 1; 1982 2nd ex.s. c 15 § 1; 1981 c 270 § 5; 1979 c 151 § 138; 1975 1st ex.s. c 293 § 6; 1965 c 8 § 43.88.110; prior: 1959 c 328 § 11.]

Finding—1994 c 219: See note following RCW 43.88.030.

Section headings not law—1991 sp.s. c 32: See RCW 36.70A.902.

Effective date—1991 c 358: See note following RCW 43.88.030.

Severability—1982 2nd ex.s. c 15: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 2nd ex.s. c 15 § 5.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Exception: RCW 43.88.265.

43.88.114 Appropriations to council from motor vehicle excise taxes not subject to allotment. Appropriations of funds to the *council from motor vehicle excise taxes shall not be subject to allotment by the office of financial management. [1983 c 22 § 2.]

***Reviser's note:** The term "council" apparently refers to the municipal research council. See 1983 c 22.

Effective date—1983 c 22: See note following RCW 43.110.010.

43.88.120 Revenue estimates. Each agency engaged in the collection of revenues shall prepare estimated revenues and estimated receipts for the current and ensuing biennium and shall submit the estimates to the director of financial management and the director of revenue at times and in the form specified by the directors, along with any other information which the directors may request. For those agencies required to develop six-year programs and financial plans under RCW 44.40.070, six-year revenue estimates shall be submitted to the director of financial management and the legislative transportation committee unless the responsibility for reporting these revenue estimates is assumed elsewhere.

A copy of such revenue estimates shall be simultaneously submitted to the economic and revenue forecast work group when required by the office of the economic and revenue forecast council. [1991 c 358 § 3; 1987 c 502 § 6; 1984 c 138 § 10; 1981 c 270 § 8; 1973 1st ex.s. c 100 § 7; 1965 c 8 § 43.88.120. Prior: 1959 c 328 § 12.]

Effective date—1991 c 358: See note following RCW 43.88.030.

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.122 Transportation agency revenue forecasts—Variances. Where there are variances of revenue forecasts between the office of financial management and the interagency revenue task force, for those transportation agencies that are required to develop plans under RCW 44.40.070, the office of financial management shall submit (1) a reconciliation of the differences between the revenue forecasts and (2) the assumptions used by the office of financial management to the legislative transportation committee. [1991 c 358 § 7.]

Effective date—1991 c 358: See note following RCW 43.88.030.

43.88.130 When contracts and expenditures prohibited. No agency shall expend or contract to expend any money or incur any liability in excess of the amounts appropriated for that purpose: PROVIDED, That nothing in this section shall prevent the making of contracts or the spending of money for capital improvements, nor the making of contracts of lease or for service for a period exceeding the fiscal period in which such contract is made, when such contract is permitted by law. Any contract made in violation of this section shall be null and void. [1965 c 8 § 43.88.130. Prior: 1959 c 328 § 13.]

43.88.140 Lapsing of appropriations. All appropriations shall lapse at the end of the fiscal period for which the appropriations are made to the extent that they have not been expended or lawfully obligated. [1981 c 270 § 9; 1965 c 8 § 43.88.140. Prior: 1959 c 328 § 14.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.145 Capital projects—Transfer of excess appropriation authority. (1) The capital appropriations act may authorize the governor, through the director of financial management, to transfer the appropriation authority for a capital project that is in excess of the amount required for

the completion of the project to another capital project for which the appropriation is insufficient.

(a) No such transfer may be used to expand the capacity or change the intended use of the project beyond that intended by the legislature in making the appropriation.

(b) The transfer may be effected only between capital projects within a specific department, commission, agency, or institution of higher education.

(c) The transfer may be effected only if the project from which the transfer of funds is made is substantially complete and there are funds remaining, or bids have been let on the project from which the transfer of funds is made and it appears to a substantial certainty that the project can be completed within the biennium for less than the amount appropriated.

(2) For the purposes of this section, the legislature intends that each project be defined as proposed to the legislature in the governor's budget document, unless the legislative history demonstrates that the legislature intended to define the scope of a project in a different way.

(3) The office of financial management shall notify the legislative fiscal committees of the senate and the house of representatives at least thirty days before any transfer is effected under this section except emergency projects or any transfer under two hundred fifty thousand dollars, and shall prepare a report to such committees listing all completed transfers at the close of each fiscal year. [1994 c 219 § 6.]

Finding—1994 c 219: See note following RCW 43.88.030.

43.88.150 Priority of expenditures—Appropriated and nonappropriated funds—Matching funds, disburse state moneys proportionally. (1) For those agencies that make expenditures from both appropriated and nonappropriated funds for the same purpose, the governor shall direct such agencies to charge their expenditures in such ratio, as between appropriated and nonappropriated funds, as will conserve appropriated funds. This subsection does not apply to institutions of higher education, as defined in RCW 28B.10.016.

(2) Unless otherwise provided by law, if state moneys are appropriated for a capital project and matching funds or other contributions are required as a condition of the receipt of the state moneys, the state moneys shall be disbursed in proportion to and only to the extent that the matching funds or other contributions have been received and are available for expenditure.

(3) The office of financial management shall adopt guidelines for the implementation of this section. The guidelines may account for federal matching requirements or other requirements to spend other moneys in a particular manner. [1995 c 6 § 1; 1991 c 284 § 3; 1981 c 270 § 10; 1965 c 8 § 43.88.150. Prior: 1959 c 328 § 15.]

Effective date—1995 c 6: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 12, 1995]." [1995 c 6 § 2.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.155 Office of financial management. See chapter 43.41 RCW.

43.88.160 Fiscal management—Powers and duties of officers and agencies. This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.

(2) The director of financial management is responsible for quarterly reporting of primary operating budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

(3) The director of financial management shall report at least annually to the appropriate legislative committees regarding the status of all appropriated capital projects, including transportation projects, showing significant cost overruns or underruns. If funds are shifted from one project to another, the office of financial management shall also reflect this in the annual variance report. Once a project is complete, the report shall provide a final summary showing estimated start and completion dates of each project phase compared to actual dates, estimated costs of each project phase compared to actual costs, and whether or not there are any outstanding liabilities or unsettled claims at the time of completion.

(4) In addition, the director of financial management, as agent of the governor, shall:

(a) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be

adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting and financial controls. The system developed by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

Each agency head or authorized designee shall be assigned the responsibility and authority for establishing and maintaining internal audits following the standards of internal auditing of the institute of internal auditors;

(b) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(c) Establish policies for allowing the contracting of child care services;

(d) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(e) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter said plans, except that for the following agencies no amendment or alteration of said plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(f) Fix the number and classes of positions or authorized man years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empowered to fix said number or said classes for the following: Agencies headed by elective officials;

(g) Adopt rules to effectuate provisions contained in (a) through (f) of this subsection.

(5) The treasurer shall:

(a) Receive, keep, and disburse all public funds of the state not expressly required by law to be received, kept, and disbursed by some other persons: PROVIDED, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Receive, disburse, or transfer public funds under the treasurer's supervision or custody;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Coordinate agencies' acceptance and use of credit cards and other payment methods, if the agencies have received authorization under RCW 43.41.180;

(e) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to disburse public funds in the treasury except upon forms or by alternative means duly prescribed by the director of financial management. These forms or alternative means shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect and copies thereof are on file with the office of financial management; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made. When services are lawfully paid for in advance of full performance by any private individual or business entity other than as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general administration but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services. No payments shall be made in advance for any equipment maintenance services to be performed more than three months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with regulations issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(6) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official, or employee charged with the receipt, custody, or safekeeping of public funds. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the office of financial management. The current post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include determinations as to whether agencies, in making expenditures, complied with the laws of this state. The state auditor is authorized to perform or participate in performance verifications and performance audits as expressly authorized by the legislature in the

omnibus biennial appropriations acts or in the performance audit work plan approved by the joint legislative audit and review committee. The state auditor, upon completing an audit for legal and financial compliance under chapter 43.09 RCW or a performance verification, may report to the joint legislative audit and review committee or other appropriate committees of the legislature, in a manner prescribed by the joint legislative audit and review committee, on facts relating to the management or performance of governmental programs where such facts are discovered incidental to the legal and financial audit or performance verification. The auditor may make such a report to a legislative committee only if the auditor has determined that the agency has been given an opportunity and has failed to resolve the management or performance issues raised by the auditor. If the auditor makes a report to a legislative committee, the agency may submit to the committee a response to the report. This subsection (6) shall not be construed to authorize the auditor to allocate other than de minimis resources to performance audits except as expressly authorized in the appropriations acts or in the performance audit work plan. The results of a performance audit conducted by the state auditor that has been requested by the joint legislative audit and review committee must only be transmitted to the joint legislative audit and review committee.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken promptly, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110.

(e) Promptly report any irregularities to the attorney general.

(f) Investigate improper governmental activity under chapter 42.40 RCW.

(7) The joint legislative audit and review committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in chapter 44.28 RCW as well as performance audits and program evaluations. To this end the joint committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs, and generally for an improved level of fiscal management. [1996 c 288 § 25; 1994 c 184 § 11. Prior: 1993 c 500 § 7; 1993 c 406 § 4;

1993 c 194 § 6; 1992 c 118 § 8; 1992 c 118 § 7; 1991 c 358 § 4; prior: 1987 c 505 § 36; 1987 c 436 § 1; 1986 c 215 § 5; 1982 c 10 § 11; prior: 1981 c 280 § 7; 1981 c 270 § 11; 1979 c 151 § 139; 1975 1st ex.s. c 293 § 8; 1975 c 40 § 11; 1973 c 104 § 1; 1971 ex.s. c 170 § 4; 1967 ex.s. c 8 § 49; 1965 c 8 § 43.88.160; prior: 1959 c 328 § 16.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Short title—1993 c 406: See note following RCW 43.88.020.

Expiration date—1992 c 118 § 7: "Section 7 of this act shall expire April 1, 1992." [1992 c 118 § 9.]

Effective date—1992 c 118 § 8: "Section 8 of this act shall take effect April 1, 1992." [1992 c 118 § 10.]

Effective date—1991 c 358: See note following RCW 43.88.030.

Severability—1982 c 10: See note following RCW 6.13.080.

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Severability—1971 ex.s. c 170: See note following RCW 43.09.050.

Director of financial management: Chapter 43.41 RCW.

Joint legislative audit and review committee: Chapter 44.28 RCW.

Post-audit: RCW 43.09.290 through 43.09.330.

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

State auditor, duties: Chapter 43.09 RCW.

State treasurer, duties: Chapter 43.08 RCW.

43.88.170 Refunds of erroneous or excessive payments. Whenever any law which provides for the collection of fees or other payment by an agency does not authorize the refund of erroneous or excessive payments thereof, refunds may be made or authorized by the agency which collected the fees or payments of all such amounts received by the agency in consequence of error, either of fact or of law. The regulations issued by the governor pursuant to this chapter shall prescribe the procedure to be employed in making refunds. [1965 c 8 § 43.88.170. Prior: 1959 c 328 § 17.]

Refunds: RCW 43.01.072 through 43.01.075.

43.88.175 Credit reporting agencies—State agency use. State agencies may report receivables to credit reporting agencies whenever the agency determines that such reporting would be cost-effective and does not violate confidentiality or other legal requirements. Within thirty-five days after satisfaction of a debt reported to a credit reporting agency, the state agency reporting the debt shall notify the credit reporting agency that the debt has been satisfied. [1991 c 85 § 1; 1989 c 100 § 1.]

43.88.180 When appropriations required or not required. Appropriations shall not be required for refunds, as provided in RCW 43.88.170, nor in the case of payments other than for administrative expenses or capital improvements to be made from trust funds specifically created by law to discharge awards, claims, annuities and other liabilities of the state. Said trust funds shall include, but shall not be limited to, the accident fund, medical aid fund, retirement system fund, Washington state patrol retirement fund and unemployment trust fund. Appropriations may be required in the case of public service enterprises defined for the purposes of this section as proprietary functions conducted

by an agency of the state. An appropriation may be required to permit payment of obligations by revolving funds, as provided in RCW 43.88.190. [1973 1st ex.s. c 100 § 8; 1965 c 8 § 43.88.180. Prior: 1959 c 328 § 18.]

43.88.190 Revolving funds. Revolving funds shall not be created by law except to finance the operations of service units, or units set up to supply goods and services to other units or agencies. Such service units where created shall be self-supporting operations featuring continuous turnover of working capital. The regulations issued by the governor pursuant to this chapter shall prescribe the procedures to be employed by agencies in accounting and reporting for revolving funds and may provide for the keeping of such funds in the custody of the treasurer. [1965 c 8 § 43.88.190. Prior: 1959 c 328 § 19.]

43.88.195 Establishment of accounts or funds outside treasury without permission of director of financial management prohibited. After August 11, 1969, no state agency, state institution, state institution of higher education, which shall include all state universities, regional universities, The Evergreen State College, and community colleges, shall establish any new accounts or funds which are to be located outside of the state treasury: PROVIDED, That the office of financial management shall be authorized to grant permission for the establishment of such an account or fund outside of the state treasury only when the requesting agency presents compelling reasons of economy and efficiency which could not be achieved by placing such funds in the state treasury. When the director of financial management authorizes the creation of such fund or account, the director shall forthwith give written notice of the fact to the standing committees on ways and means of the house and senate: PROVIDED FURTHER, That agencies authorized to create local accounts will utilize the services of the state treasurer's office to ensure that new or ongoing relationships with financial institutions are in concert with state-wide policies and procedures pursuant to RCW 43.88.160(1). [1996 c 186 § 509; 1993 c 500 § 8; 1991 c 201 § 19; 1979 c 151 § 140; 1977 ex.s. c 169 § 109; 1975 1st ex.s. c 293 § 9; 1969 ex.s. c 248 § 1.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Captions not law—Severability—1991 c 201: See RCW 39.35C.900 and 39.35C.901.

43.88.200 Public records. All agency records reflecting financial transactions, such records being defined for purposes of this chapter to mean books of account, financial statements, and supporting records including expense vouchers and other evidences of obligation, shall be deemed to be public records and shall be available for public inspection in the agency concerned during official working hours. [1965 c 8 § 43.88.200. Prior: 1959 c 328 § 20.]

43.88.205 Federal funds and programs—Participating agencies to give notice—Progress reports. (1) Whenever an agency makes application, enters into a

contract or agreement, or submits state plans for participation in, and for grants of federal funds under any federal law, the agency making such application shall at the time of such action, give notice in such form and manner as the director of financial management may prescribe, or the chair of the joint legislative audit and review committee, standing committees on ways and means of the house and senate, the chief clerk of the house, or the secretary of the senate may request.

(2) Whenever any such application, contract, agreement, or state plan is amended, such agency shall notify each such officer of such action in the same manner as prescribed or requested pursuant to subsection (1) of this section.

(3) Such agency shall promptly furnish such progress reports in relation to each such application, contract, agreement, or state plan as may be requested following the date of the filing of the application, contract, agreement, or state plan; and shall also file with each such officer a final report as to the final disposition of each such application, contract, agreement, or state plan if such is requested. [1996 c 288 § 39; 1979 c 151 § 141; 1975 1st ex.s. c 293 § 10; 1973 2nd ex.s. c 17 § 3; 1967 ex.s. c 41 § 4.]

Acceptance of funds by governor, administration: RCW 43.06.120, 43.06.130.

43.88.210 Transfer of certain powers and duties. It is the intent of this chapter to assign to the governor's office authority for developing and maintaining a state budgeting, accounting, and reporting system necessary for effective expenditure and revenue control among agencies.

To this end:

(1) All powers and duties and functions of the state auditor relating to the disbursement of public funds by warrant or check are hereby transferred to the state treasurer as the governor may direct but no later than ninety days after the start of the next fiscal biennium, and the state auditor shall deliver to the state treasurer all books, records, accounts, equipment, or other property relating to such function. In all cases where any question shall arise as to the proper custody of any such books, records, accounts, equipment or property, or pending business, the governor shall determine the question;

(2) In all cases where reports, notices, certifications, vouchers, disbursements and similar statements are now required to be given to any agency the duties and responsibilities of which are being assigned or reassigned by this chapter, the same shall be given to the agency or agencies in the manner provided for in this chapter. [1986 c 215 § 6; 1965 c 8 § 43.88.210. Prior: 1959 c 328 § 21.]

43.88.220 Federal law controls in case of conflict—Rules. If any part of this chapter shall be found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The rules and regulations under this chapter shall meet federal requirements which are a necessary condition to the

receipt of federal funds by the state. [1965 c 8 § 43.88.220. Prior: 1959 c 328 § 22.]

43.88.230 Legislative agencies and committees deemed part of legislative branch. For the purposes of this chapter, the statute law committee, the joint legislative audit and review committee, the legislative transportation committee, the legislative evaluation and accountability program committee, the office of state actuary, and all legislative standing committees of both houses shall be deemed a part of the legislative branch of state government. [1996 c 288 § 40; 1981 c 270 § 12; 1975 1st ex.s. c 293 § 11; 1965 c 8 § 43.88.230. Prior: 1959 c 328 § 23.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.240 Exemption of Washington state commodity commissions. Unless otherwise directed in the commodity commission enabling statute, this chapter shall not apply to the Washington state commodity commissions created either under separate statute or under the provisions of chapters 15.65 and 15.66 RCW: PROVIDED, That all such commissions shall submit estimates and such other necessary information as may be required for the development of the budget and shall also be subject to audit by the appropriate state auditing agency or officer. [1995 c 374 § 60; 1981 c 225 § 3; 1965 c 8 § 43.88.240. Prior: 1959 c 328 § 24.]

Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

43.88.250 Emergency expenditures. Whenever an emergency shall arise necessitating an expenditure for the preservation of peace, health or safety, or for the carrying on of the necessary work required by law of any state agency for which insufficient or no appropriations have been made, the head of such agency shall submit to the governor, duplicate copies of a sworn statement, setting forth the facts constituting the emergency and the estimated amount of money required therefor. If the governor approves such estimate in whole or in part, the governor shall indorse on each copy of the statement the governor's approval, together with a statement of the amount approved as an allocation from any appropriation available for allocation for emergency purposes and transmit one copy to the head of the agency thereby authorizing the emergency expenditures. [1975-'76 2nd ex.s. c 83 § 1.]

43.88.260 Deficiencies prohibited—Exceptions. (1) It shall be unlawful for any agency head or disbursing officer to incur any cash deficiency and any appointive officer or employee violating the provisions of this section shall be subject to summary removal.

(2) This section does not apply to:

(a) Temporary cash deficiencies resulting from disbursements under a expenditure plan approved under RCW 43.88.110.

(b) Temporary cash deficiencies authorized by the director of financial management for funds and accounts in the state treasury or in the custody of the state treasurer. Each authorization under this subsection (b) shall distinctly specify the fund or account for which a deficiency is

authorized, the maximum amount of cash deficiency which may be incurred, and the maximum time period during which the cash deficiency may continue. Each authorization shall expire at the end of each fiscal biennium unless renewed by the director of financial management. The director of financial management shall report each authorization and renewal to the legislative fiscal committees.

(c) Temporary cash deficiencies in funds or accounts which are neither in the state treasury, nor in the custody of the treasurer, if the cash deficiency does not continue past the end of the fiscal biennium.

(3) Nothing in this section permits the expenditure of moneys in excess of an applicable appropriation. [1987 c 502 § 7; 1975-'76 2nd ex.s. c 83 § 2.]

43.88.265 Construction accounts—Exception to certain accounting requirements. In order to comply with the provisions of the federal tax reform act of 1986, construction accounts that receive bond proceeds are exempt from RCW 43.88.050, 43.88.110, and 43.88.260 and may incur seasonal cash deficits pending the sale of bonds or bond anticipation notes subject to the following conditions:

(1) The respective account has unexpended appropriation authority.

(2) There are authorized unissued bonds available for sale by the state finance committee under direction to deposit the proceeds of the sale in the respective account.

(3) The bonds are of an amount that would remedy the cash deficit if the bonds were sold. [1989 1st ex.s. c 14 § 18.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.88.270 Penalty for violations. Any officer or employee violating, or wilfully refusing or failing to comply with, any provision of this chapter shall be guilty of a misdemeanor. [1975-'76 2nd ex.s. c 83 § 3.]

43.88.280 Fiscal responsibilities of state officers and employees—"State officer or employee" defined. As used in RCW 43.88.290 and 43.88.300 the term "state officer or employee" includes the members of the governing body of any state agency, as state agency is defined in RCW 43.88.020(4) and those generally known as executive management but excludes nonsupervisory state employees covered by civil service under chapters 41.06 and *28B.16 RCW. [1977 ex.s. c 320 § 1.]

***Reviser's note:** Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.015 and 28B.16.240, which was recodified as RCW 41.06.382. The powers, duties, and functions of the state higher education personnel board were transferred to the Washington personnel resources board.

Effective date—1977 ex.s. c 320: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1977." [1977 ex.s. c 320 § 6.]

43.88.290 Fiscal responsibilities of state officers and employees—Prohibitions relative to appropriations and expenditures. No state officer or employee shall intentionally or negligently: Over-expend or over-encumber any appropriation made by law; fail to properly account for any

expenditures by fund, program, or fiscal period; or expend funds contrary to the terms, limits, or conditions of any appropriation made by law. [1981 c 270 § 13; 1977 ex.s. c 320 § 2.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Effective date—1977 ex.s. c 320: See note following RCW 43.88.280.

43.88.300 Fiscal responsibilities of state officers and employees—Violations—Civil penalties—Forfeiture. (1) Where there is reason to believe that a present or former state officer or employee has violated or threatens to violate RCW 43.88.290, the attorney general may initiate an appropriate civil action for the enforcement of RCW 43.88.280 through 43.88.320 or to prevent any such violation. The action may be brought in the county where the alleged violator resides, or the county where the violation is alleged to have occurred or is threatened.

(2) For each violation of RCW 43.88.290 the attorney general shall seek to recover and the court may award the following damages on behalf of the state of Washington:

(a) From each person found in violation of RCW 43.88.290 a civil penalty in the amount of five hundred dollars, or all costs, including reasonable attorney's fees incurred by the state in said action, whichever is greater;

(b) Any damages sustained by the state as a result of the conduct constituting said violation.

In addition to the other penalties contained in this section, judgment against any person, other than an elected official, for violating RCW 43.88.290 may include a declaration of forfeiture of such person's office or employment, to take effect immediately. [1977 ex.s. c 320 § 3.]

Effective date—1977 ex.s. c 320: See note following RCW 43.88.280.

43.88.310 Fiscal responsibilities of state officers and employees—Duties of legislative auditor, attorney general.

(1) The legislative auditor of the office of the joint legislative audit and review committee, with the concurrence of the joint legislative audit and review committee, may file with the attorney general any audit exceptions or other findings of any performance audit, management study, or special report prepared for the joint legislative audit and review committee, any standing or special committees of the house or senate, or the entire legislature which indicate a violation of RCW 43.88.290, or any other act of malfeasance, misfeasance, or nonfeasance on the part of any state officer or employee.

(2) The attorney general shall promptly review each filing received from the legislative auditor and may act thereon as provided in RCW 43.88.300, or any other applicable statute authorizing enforcement proceedings by the attorney general. The attorney general shall advise the joint legislative audit and review committee of the status of exceptions or findings referred under this section. [1996 c 288 § 41; 1993 c 157 § 1; 1977 ex.s. c 320 § 4.]

Effective date—1977 ex.s. c 320: See note following RCW 43.88.280.

43.88.320 Fiscal responsibilities of state officers and employees—Civil penalties additional to other penalties. The civil penalties provided by RCW 43.88.280 through [Title 43 RCW—page 394]

43.88.320 are in addition to any other penalties which may be provided by law. [1977 ex.s. c 320 § 5.]

Effective date—1977 ex.s. c 320: See note following RCW 43.88.280.

43.88.350 Legal services revolving fund—General administration facilities and services revolving fund—Approval of certain changes required. Any rate increases proposed for the legal services revolving fund or the general administration facilities and services revolving fund, or any change in the method of calculating charges from those funds, is subject to approval by the director of financial management prior to implementation. [1981 c 270 § 14.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Department of general administration facilities and services revolving fund: RCW 43.19.500.

Legal services revolving fund: RCW 43.10.150.

43.88.500 State boards, commissions, councils, and committees—Legislative finding and declaration. The legislature finds that members of boards, commissions, councils, and committees in state government make a valuable contribution to the public welfare.

Nevertheless, the legislature also finds that the continued proliferation of both statutory and nonstatutory groups of this nature without effective, periodic review of existing groups can result in wasteful duplication of effort, fragmentation of administrative authority, lack of accountability, plus an excessive and frequently hidden financial burden on the state.

The legislature further finds that effective legislative oversight and review of boards, commissions, councils, and committees is frustrated by a lack of current and reliable information on the status and activities of such groups.

The legislature declares that legislative oversight and overall accountability in state government can be significantly improved by creating in the office of financial management a central clearinghouse for information on boards, commissions, councils, and committees. [1979 c 151 § 142; 1977 c 23 § 1.]

Termination review: RCW 43.41.220.

43.88.505 State boards, commissions, councils, and committees—Compilation of list, information. (1) The director of financial management shall compile, and revise within ninety days after the beginning of each biennium, a current list of all permanent and temporary, statutory and nonstatutory boards, commissions, councils, committees, and other groups of similar nomenclature that are established by the executive, legislative, or judicial branches of state government and whose members are eligible to receive travel expenses for their meetings in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) Such list shall include but not be limited to any such group which:

(a) Functions primarily in an advisory, planning, or coordinating capacity;

(b) Performs advertising, research, promotional, or marketing services for a specific business, industry, or occupation; or

(c) Performs licensing, regulatory, or quasi-judicial functions, adopts rules, or has responsibility for the administration or policy direction of a state agency or program.

(3) Such list shall contain the following information for each board, commission, council, committee, or other group of similar nomenclature:

(a) The legal authorization for the creation of the group;

(b) The number of members on the group, the appointing authority, and the agency to which the group reports;

(c) The number of meetings held during the preceding biennium;

(d) A brief summary of the primary responsibilities of the group;

(e) The total estimated cost of operating the group during the preceding biennium and the estimated cost of the group during the ensuing biennium. Such cost data shall include the estimated administrative expenses of the group as well as the estimated cost to an agency of providing full time equivalent or part time supporting staff to the group; and

(f) The source of funding for the group. [1979 c 151 § 143; 1977 c 23 § 2.]

43.88.510 State boards, commissions, councils, and committees—Submission of list and data to legislature. Not later than ninety days after the beginning of each biennium, the director of financial management shall submit the compiled list of boards, commissions, councils, and committees, together with the information on each such group, that is required by RCW 43.88.505 to:

(1) The speaker of the house and the president of the senate for distribution to the appropriate standing committees, including one copy to the staff of each of the committees;

(2) The chair of the joint legislative audit and review committee, including a copy to the staff of the committee;

(3) The chairs of the committees on ways and means of the senate and house of representatives; and

(4) Members of the state government committee of the house of representatives and of the governmental operations committee of the senate, including one copy to the staff of each of the committees. [1996 c 288 § 42; 1987 c 505 § 37; 1979 c 151 § 144; 1977 c 23 § 3.]

43.88.515 State boards, commissions, councils, and committees—Agencies to submit lists, information. (1) In order to facilitate the compilation of data required by RCW 43.88.505, each agency of the executive, legislative, and judicial branches of state government shall submit to the director of financial management a current list of the permanent and temporary, statutory and nonstatutory boards, commissions, councils, committees, and other groups of similar nomenclature that report to, or are involved in the operation of, the agency and whose members are eligible to receive travel expenses for their meetings in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) Such list shall contain the administrative and cost information for each group that is prescribed in RCW 43.88.505(3).

(3) The director of financial management shall establish guidelines and a format for agencies to follow in submitting information on boards, commissions, councils, and committees. [1979 c 151 § 145; 1977 c 23 § 4.]

43.88.550 Forest fire fighting expenses—Transfers to Clarke-McNary fund. Based on schedules submitted by the director of financial management, the state treasurer shall transfer from the general fund—state, or such other funds as the state treasurer deems appropriate, to the Clarke-McNary fund such amounts as are necessary to meet unbudgeted forest fire fighting expenses. All amounts borrowed under the authority of this section shall be repaid to the appropriate fund, together with interest at a rate determined by the state treasurer to be equivalent to the return on investments of the state treasury during the period the amounts are borrowed. [1989 c 362 § 3.]

43.88.560 Information technology projects—Funding policies and standards. The director of financial management shall establish policies and standards governing the funding of major information technology projects as required under RCW 43.105.190(2). [1992 c 20 § 7.]

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.88.899 Intent—Periodic review. The amendments to chapter 43.88 RCW by chapter 215, Laws of 1986 are intended to improve the reporting of state budgeting, accounting, and other fiscal data. The legislative evaluation and accountability program committee shall periodically review chapter 43.88 RCW and shall recommend further revisions if needed. [1986 c 215 § 8.]

43.88.901 Severability—1973 1st ex.s. c 100. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 100 § 10.]

43.88.902 Severability—1975 1st ex.s. c 293. If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 293 § 22.]

43.88.903 Severability—1977 c 23. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 c 23 § 5.]

43.88.910 Effective date—1975 1st ex.s. c 293. This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of

the state government and its existing public institutions, and shall take effect on July 1, 1975. [1975 1st ex.s. c 293 § 23.]

Chapter 43.88A

LEGISLATIVE FISCAL NOTES

Sections

- 43.88A.010 Legislative declaration.
- 43.88A.020 Fiscal notes—Preparation—Contents—Duties of office of financial management.
- 43.88A.030 Fiscal notes—Distribution.
- 43.88A.040 Fiscal notes—Preparation upon request of any legislator.
- 43.88A.900 Construction of chapter.

Fiscal impact of proposed legislation on political subdivisions: Chapter 43.132 RCW.

43.88A.010 Legislative declaration. The legislature hereby recognizes the necessity of developing a uniform and coordinated procedure for determining the expected fiscal impact of bills and resolutions on state government. The legislature also recognizes that developing such statements of fiscal impact, which shall be known as fiscal notes, requires the designation of a state agency to be principally responsible therefor. [1977 ex.s. c 25 § 1.]

43.88A.020 Fiscal notes—Preparation—Contents—Duties of office of financial management. The office of financial management shall, in cooperation with appropriate legislative committees and legislative staff, establish a procedure for the provision of fiscal notes on the expected impact of bills and resolutions which increase or decrease or tend to increase or decrease state government revenues or expenditures. Such fiscal notes shall indicate by fiscal year the impact for the remainder of the biennium in which the bill or resolution will first take effect as well as a cumulative forecast of the fiscal impact for the succeeding four fiscal years. Fiscal notes shall separately identify the fiscal impacts on the operating and capital budgets. Estimates of fiscal impacts shall be calculated using the procedures contained in the fiscal note instructions issued by the office of financial management.

In establishing the fiscal impact called for pursuant to this chapter, the office of financial management shall coordinate the development of fiscal notes with all state agencies affected. [1994 c 219 § 3; 1979 c 151 § 146; 1977 ex.s. c 25 § 2.]

Finding—1994 c 219: See note following RCW 43.88.030.

43.88A.030 Fiscal notes—Distribution. When a fiscal note is prepared and approved as to form, accuracy, and completeness by the office of financial management, which depicts the expected fiscal impact of a bill or resolution, copies shall be filed immediately with:

- (1) The chairperson of the committee to which the bill or resolution was referred upon introduction in the house of origin;
- (2) The senate committee on ways and means, or its successor; and
- (3) The house committees on revenue and appropriations, or their successors.

Whenever possible, such fiscal note shall be provided prior to or at the time the bill or resolution is first heard by the committee of reference in the house of origin.

When a fiscal note has been prepared for a bill or resolution, a copy of the fiscal note shall be placed in the bill books or otherwise attached to the bill or resolution and shall remain with the bill or resolution throughout the legislative process insofar as possible. [1986 c 158 § 16; 1979 ex.s. c 112 § 1; 1979 c 151 § 147; 1977 ex.s. c 25 § 3.]

43.88A.040 Fiscal notes—Preparation upon request of any legislator. The office of financial management shall also provide a fiscal note on any legislative proposal at the request of any legislator. Such fiscal note shall be returned to the requesting legislator, and copies shall be filed with the appropriate legislative committees pursuant to RCW 43.88A.030 at the time such proposed legislation is introduced in either house. [1979 c 151 § 148; 1977 ex.s. c 25 § 4.]

43.88A.900 Construction of chapter. Nothing in this chapter shall prevent either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules and joint rules of the senate and house of representatives, nor shall the lack of any fiscal note as provided in this chapter or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature. [1977 ex.s. c 25 § 5.]

Chapter 43.89

TELETYPEWRITER COMMUNICATIONS NETWORK

Sections

- 43.89.010 Teletypewriter communications network—Establishment—Use—Charges—Duties of chief of state patrol.
- 43.89.030 Connection with and participation in network by political subdivisions.
- 43.89.040 Transfer of powers, duties, functions, contracts, rules, property, appropriation, etc., to chief of state patrol.
- 43.89.050 Transfer of powers, duties and functions not to terminate or affect state liability.

43.89.010 Teletypewriter communications network—Establishment—Use—Charges—Duties of chief of state patrol. The chief of the Washington state patrol is hereby authorized to establish a teletypewriter communications network which will inter-connect the law enforcement agencies of the state and its political subdivisions into a unified written communications system. The chief of the Washington state patrol is authorized to lease or purchase such facilities and equipment as may be necessary to establish and maintain such teletypewriter communications network.

(1) The communications network shall be used exclusively for the official business of the state, and the official business of any city, county, city and county, or other public agency.

(2) This section does not prohibit the occasional use of the state's communications network by any other state or

public agency thereof when the messages transmitted relate to the enforcement of the criminal laws of the state.

(3) The chief of the Washington state patrol shall fix the monthly operational charge to be paid by any department or agency of state government, or any city, county, city and county, or other public agency participating in the communications network: PROVIDED, That in computing charges to be made against a city, county, or city and county the state shall bear at least fifty percent of the costs of such service as its share in providing a modern unified communications network to the law enforcement agencies of the state. Of the fees collected pursuant to this section, one-half shall be deposited in the motor vehicle fund and one-half shall be deposited in the transportation fund.

(4) The chief of the Washington state patrol is authorized to arrange for the connection of the communications network with the law enforcement communications system of any adjacent state, or the Province of British Columbia, Canada. [1993 sp.s. c 23 § 63; 1965 ex.s. c 60 § 2; 1965 c 8 § 43.89.010. Prior: 1963 c 160 § 1.]

Effective dates—1993 sp.s. c 23: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 28, 1993], except for sections 60 and 61, which shall take effect January 1, 1994." [1993 sp.s. c 23 § 65.]

Effective date—1965 ex.s. c 60: "This 1965 amendatory act shall take effect on July 1, 1965." [1965 ex.s. c 60 § 6.]

43.89.030 Connection with and participation in network by political subdivisions. Any city, county, city and county, or other public agency may connect with and participate in the teletypewriter communications network subject to the rules, regulations, procedures and methods of operation adopted by the state communications advisory committee: PROVIDED, That such city, county, city and county, or other public agency shall first agree to pay such installation charges as may be necessary for such connection and such monthly operational charges as may be established by the chief of the Washington state patrol. [1965 ex.s. c 60 § 4; 1965 c 8 § 43.89.030. Prior: 1963 c 160 § 3.]

43.89.040 Transfer of powers, duties, functions, contracts, rules, property, appropriation, etc., to chief of state patrol. The powers, duties, and functions of the director of budget relating to the state teletypewriter communication network are transferred to the chief of the Washington state patrol. All existing contracts, orders, rules, regulations, records, and obligations together with communications equipment, motor vehicles, and any other property, device, or thing and any remaining appropriation pertaining to such communication network shall be transferred by the director of budget or his agent to the chief of the Washington state patrol as of July 1, 1965. [1965 ex.s. c 60 § 1.]

43.89.050 Transfer of powers, duties and functions not to terminate or affect state liability. The transfer of the powers, duties, and functions relating to the state teletypewriter communication network from the director of budget to the chief of the Washington state patrol shall not terminate or affect the liability of the state accruing with respect to such communications network to any person, company, or corporation. [1965 ex.s. c 60 § 5.]

Chapter 43.92 GEOLOGICAL SURVEY

Sections

43.92.010	Supervisor of geology.
43.92.020	Objects of survey.
43.92.040	Printing and distribution of reports.
43.92.060	Cooperation with federal geological survey.
43.92.070	Topographic map—Stream measurements.
43.92.080	Entry on lands authorized.

Reviser's note: The powers, duties and functions of the department of conservation with respect to geology as set forth in chapter 43.92 RCW were transferred to the department of natural resources by 1967 c 242 § 15 [RCW 43.27A.130].

43.92.010 Supervisor of geology. There shall be a geological survey of the state which shall be under the direction of the commissioner of public lands who shall have general charge of the survey, and shall appoint as supervisor of the survey a geologist of established reputation, to be known as the supervisor of geology. [1988 c 127 § 28; 1965 c 8 § 43.92.010. Prior: 1901 c 165 § 1; 1890 p 647 § 1; 1890 p 249 § 1; RRS § 5993.]

43.92.020 Objects of survey. The survey shall have for its objects:

An examination of the economic products of the state, viz: The gold, silver, copper, lead, and iron ores, as well as building stones, clays, coal, and all mineral substances of value; an examination and classification of the soils, and the study of their adaptability to particular crops; investigation and report upon the water supplies, artesian wells, the water power of the state, gauging the streams, etc., with reference to their application for irrigation and other purposes; an examination and report upon the occurrence of different road building material; an examination of the physical features of the state with reference to their practical bearing upon the occupations of the people; the preparation of special geological and economic maps to illustrate the resources of the state; the preparation of special reports with necessary illustrations and maps, which shall embrace both the general and detailed description of the geology and natural resources of the state, and the consideration of such other kindred scientific and economic questions as in the judgment of the director shall be deemed of value to the people of the state. [1965 c 8 § 43.92.020. Prior: 1901 c 165 § 2; 1890 p 249 § 3; 1890 p 648 §§ 3, 4, 5, 6, 7; RRS § 5994.]

43.92.040 Printing and distribution of reports. The regular and special reports of the survey with proper illustrations and maps, shall be printed as the director may direct, and the reports shall be distributed or sold by him as the interests of the state and of science demand; and all money obtained by the sale of reports shall be paid into the state treasury. [1965 c 8 § 43.92.040. Prior: 1901 c 165 § 4; RRS § 5996.]

43.92.060 Cooperation with federal geological survey. The director may make provisions for topographic, geologic, and hydrographic surveys of the state in cooperation with the United States geological survey in such manner as in his opinion will be of the greatest benefit to the

agricultural, industrial, and geological requirements of the state: PROVIDED, That the director of the United States geological survey agrees to expend on the part of the United States upon such surveys a sum equal to that expended by the state. [1965 c 8 § 43.92.060. Prior: 1903 c 157 § 1; 1901 c 165 § 6; RRS § 5998.]

43.92.070 Topographic map—Stream measurements. In order to complete the topographic map of the state and for the purpose of making more extensive stream measurements, and otherwise investigating and determining the water supply of the state, the director may enter into such agreements with the director of the United States geological survey as will insure that the surveys and investigations be carried on in the most economical manner, and that the maps and data be available for the use of the public as quickly as possible. [1965 c 8 § 43.92.070. Prior: 1909 c 245 § 1; RRS § 5999.]

43.92.080 Entry on lands authorized. In order to carry out the purposes of this chapter all persons employed hereunder are authorized to enter and cross all land within the state doing thereby no damage to private property. [1965 c 8 § 43.92.080. Prior: 1909 c 245 § 3; RRS § 6000.]

Chapter 43.96B

EXPO '74—BOND ISSUE

Sections

STATE PAVILION—BOND ISSUE

- 43.96B.200 Legislative finding.
- 43.96B.205 Bond issue—Authorized.
- 43.96B.210 Bond issue—Issuance and sale of bonds—Form, terms, conditions, etc.—Authority of state finance committee.
- 43.96B.215 Bond issue—Anticipation notes—Disposition of proceeds—Acquisition of property by Expo '74 commission authorized.
- 43.96B.220 Bond issue—Administration of proceeds.
- 43.96B.225 Bond issue—Redemption fund—Payment of bonds.
- 43.96B.230 Bond issue—Additional means of payment.
- 43.96B.235 Bond issue—Legal investment for public funds.
- 43.96B.240 Appropriation.
- 43.96B.245 Severability—1973 1st ex.s. c 116.
- 43.96B.900 Severability—1971 ex.s. c 3.

STATE PAVILION—BOND ISSUE

43.96B.200 Legislative finding. The legislature finds that an expansion of the state pavilion at Expo '74 initially authorized for construction by the 1971 legislature is consistent with the purposes of the exposition and the needs of the state of Washington in order that the facility produced will both more adequately serve the state during the exposition and as a permanent structure for the benefit of the state afterwards. [1973 1st ex.s. c 116 § 1.]

43.96B.205 Bond issue—Authorized. For the purpose of providing additional space for the Washington State Pavilion at Expo '74 as determined to be necessary by the Expo '74 commission, including the planning, acquisition, construction, remodeling and equipping, together with all improvements and enhancements of said project, the state

finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two million nine hundred thousand dollars, or so much thereof as may be required, to finance the projects defined in RCW 43.96B.200 through 43.96B.245 and all costs incidental thereto. Such bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1973 1st ex.s. c 116 § 2.]

43.96B.210 Bond issue—Issuance and sale of bonds—Form, terms, conditions, etc.—Authority of state finance committee. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds authorized in RCW 43.96B.200 through 43.96B.245 shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and notes, if any. Such bonds shall be payable at such places as the committee may provide. [1973 1st ex.s. c 116 § 3.]

43.96B.215 Bond issue—Anticipation notes—Disposition of proceeds—Acquisition of property by Expo '74 commission authorized. At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds that may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The proceeds from the sale of bonds authorized by RCW 43.96B.200 through 43.96B.245 and any interest earned on the interim investment of such proceeds, shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.96B.200 through 43.96B.245 and for the payment of expenses incurred in the issuance and sale of the bonds. The Expo '74 commission is hereby authorized to acquire property, real and personal, by lease, purchase[,] condemnation or gift to achieve the objectives of chapters 1, 2, and 3, Laws of 1971 ex. sess., and RCW 43.96B.200 through 43.96B.245. The commission is further directed pursuant to RCW 43.19.450 to utilize the department of general administration services to accomplish the purposes set forth herein. [1973 1st ex.s. c 116 § 4.]

43.96B.220 Bond issue—Administration of proceeds. The principal proceeds from the sale of the bonds or notes deposited in the state building construction account of the general fund shall be administered by the Expo '74 commission. [1973 1st ex.s. c 116 § 5.]

43.96B.225 Bond issue—Redemption fund—

Payment of bonds. The state building bond redemption fund, 1973-A, is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds authorized by RCW 43.96B.200 through 43.96B.245. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in the state building bond redemption fund, 1973-A, from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. Bonds issued under the provisions of RCW 43.96B.200 through 43.96B.245 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1973 1st ex.s. c 116 § 6.]

43.96B.230 Bond issue—Additional means of payment. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized herein, and RCW 43.96B.200 through 43.96B.245 shall not be deemed to provide an exclusive method for such payment. [1973 1st ex.s. c 116 § 7.]

43.96B.235 Bond issue—Legal investment for public funds. The bonds authorized in RCW 43.96B.200 through 43.96B.245 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1973 1st ex.s. c 116 § 8.]

43.96B.240 Appropriation. There is hereby appropriated to the Expo '74 commission from the state building construction account of the general fund the sum of two million nine hundred thousand dollars or so much thereof as may be necessary to accomplish the purposes of RCW 43.96B.200 through 43.96B.245. [1973 1st ex.s. c 116 § 9.]

43.96B.245 Severability—1973 1st ex.s. c 116. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 116 § 10.]

43.96B.900 Severability—1971 ex.s. c 3. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 3 § 9.]

Chapter 43.97**COLUMBIA RIVER GORGE COMPACT**

(Formerly: Columbia River Gorge commission)

Sections

- 43.97.015 Columbia River Gorge Compact—Columbia River Gorge commission.
- 43.97.025 Grant of authority—Appointment of members to commission—Vacancies.
- 43.97.035 Commission members—Compensation—Travel expenses.

43.97.015 Columbia River Gorge Compact—Columbia River Gorge commission. The legislature of the State of Washington hereby ratifies the Columbia River Gorge Compact set forth below, and the provisions of such compact hereby are declared to be the law of this state upon such compact becoming effective as provided in Article III.

A compact is entered into by and between the states of Washington and Oregon, signatories hereto, with the consent of the Congress of the United States of America, granted by an Act entitled, "The Columbia River Gorge National Scenic Area Act," P.L. 99-663.

ARTICLE I

COLUMBIA GORGE COMMISSION ESTABLISHED

a. The States of Oregon and Washington establish by way of this interstate compact a regional agency known as the Columbia River Gorge Commission. The commission established in accordance with this compact shall have the power and authority to perform all functions and responsibilities in accordance with the provisions of this compact and of the Columbia River Gorge National Scenic Area Act (the federal Act), which is incorporated by this specific reference in this agreement. The commission's powers shall include, but not be limited to:

1. The power to sue and be sued.
2. The power to disapprove a land use ordinance enacted by a county if the ordinance is inconsistent with the management plan, as provided in P.L. 96-663, Sec. 7(b)(3)(B).
3. The power to enact a land use ordinance setting standards for the use of nonfederal land in a county within the scenic area if the county fails to enact land use ordinances consistent with the management plan, as provided in P.L. 99-663, Sec. 7(c).
4. According to the provisions of P.L. 99-663, Sec. 10(c), the power to review all proposals for major development action and new residential development in each county in the scenic area, except urban areas, and the power to disapprove such development if the commission finds the development is inconsistent with the purposes of P.L. 99-663.

b. The commission shall appoint and remove or discharge such personnel as may be necessary for the performance of the commission's functions, irrespective of the civil service, personnel or other merit system laws of any of the party states.

c. The commission may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivors

insurance provided that the commission takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

d. The commission shall obtain the services of such professional, technical, clerical and other personnel as may be deemed necessary to enable it to carry out its functions under this compact. The commission may borrow, accept, or contract for the services of personnel from any state of the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

e. Funds necessary to fulfill the powers and duties imposed upon and entrusted to the commission shall be provided as appropriated by the legislatures of the states in accordance with Article IV. The commission may also receive gifts, grants, endowments and other funds from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the commission and expend the same or any income therefrom according to the terms of the gifts, grants, endowments or other funds.

f. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold and convey real and personal property and any interest therein.

g. The commission shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules and regulations. The commission shall publish its bylaws, rules and regulations in convenient form and shall file a copy thereof and of any amendment thereto, with the appropriate agency or officer in each of the party states.

ARTICLE II THE COMMISSION MEMBERSHIP

a. The commission shall be made up of twelve voting members appointed by the states, as set forth herein, and one non-voting member appointed by the U.S. Secretary of Agriculture.

b. Each state governor shall appoint the members of the commission as provided in the federal Act (three members who reside in the State of Oregon, including one resident of the scenic area, to be appointed by the Governor of Oregon, and three members who reside in the State of Washington, including one resident of the scenic area, appointed by the Governor of Washington).

c. One additional member shall be appointed by the governing body of each of the respective counties of Clark, Klickitat, and Skamania in Washington, and Hood River, Multnomah, and Wasco in Oregon, provided that in the event the governing body of a county fails to make such an appointment, the Governor of the state in which the county is located shall appoint such a member.

d. The terms of the members and procedure for filling vacancies shall all be as set forth in the federal Act.

ARTICLE III EFFECTIVE DATE OF COMPACT AND COMMISSION

This compact shall take effect, and the commission may exercise its authorities pursuant to the compact and pursuant to the Columbia River Gorge National Scenic Area Act when it has been ratified by both states and upon the appointment of four initial members from each state. The date of this compact shall be the date of the establishment of the commission.

ARTICLE IV FUNDING

a. The States of Washington and Oregon hereby agree to provide by separate agreement or statute of each state for funding necessary to effectuate the commission, including the establishment of compensation or expenses of commission members from each state which shall be paid by the state of origin.

b. The commission shall submit to the Governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

c. Subject to appropriation by their respective legislatures, the commission shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the commission.

d. The commission's proposed budget and expenditures shall be apportioned equally between the states.

e. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by the appropriate state auditing official and the report of the audit shall be included in and become a part of the annual report of the commission.

f. The accounts of the commission shall be open at any reasonable time for inspection by the public.

ARTICLE V SEVERABILITY

If any provision of this compact, or its application to any person or circumstance, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid, and to this end the provisions of this compact are severable. [1987 c 499 § 1.]

43.97.025 Grant of authority—Appointment of members to commission—Vacancies. (1) The governor, the Columbia River Gorge commission, and all state agencies and counties are hereby directed and provided authority to carry out their respective functions and responsibilities in accordance with the compact executed pursuant to RCW 43.97.015, the Columbia River Gorge National Scenic Area Act, and the provisions of this chapter.

(2) The governor shall appoint three members of the Columbia River Gorge commission who reside in the state of Washington, at least one of whom shall be a resident of the scenic area as defined in the act.

(3)(a) The governing bodies of Clark, Klickitat, and Skamania counties shall each appoint one member of the Columbia River Gorge commission.

(b) In the event the governing body of a county fails to make the appointments prescribed in section 5(a)(c)(1) of that act and (a) of this subsection, the governor shall appoint any such member.

(4) Each member appointed by the governor shall be subject to confirmation by the Washington state senate and shall serve at the pleasure of the governor until their term shall expire or until a disqualifying change in residence.

(5) Of those members appointed to the Columbia River Gorge commission by the governing body of the counties of Clark, Klickitat, and Skamania, the governor shall designate one member to serve for a term of five years and one to serve for six years. Of those members appointed directly by the governor pursuant to RCW 43.97.015, the governor shall designate one to serve a term of five years and one to serve a term of six years. All other members shall serve a period of four years.

Neither the governor nor governing body of any of the counties may appoint federal, state, or local elected or appointed officials as members to the Columbia River Gorge commission.

Vacancies shall be filled in accordance with the appointing procedure for the commission member occupying the seat before its vacancy. [1987 c 499 § 2.]

43.97.035 Commission members—Compensation—Travel expenses. Members of the Columbia River Gorge commission appointed for Washington shall receive compensation for their services pursuant to RCW 43.03.240, and shall be eligible to receive a subsistence allowance and travel expenses pursuant to RCW 43.03.050 and 43.03.060, and regulations adopted pursuant thereto. [1987 c 499 § 3.]

Chapter 43.98

OUTDOOR RECREATIONAL FACILITIES

Sections

43.98.010	General obligation bonds authorized.
43.98.020	Disposition of proceeds of sale.
43.98.030	Bonds payable from proceeds of corporation fees.
43.98.040	Outdoor recreational bond redemption fund.
43.98.050	Remedies of bondholders.
43.98.060	Legislature may provide additional means of support.
43.98.070	Bonds legal investment for funds of state and municipal corporations.
43.98.080	Undertaking to impose corporation fees—Use, proration of one-half of proceeds.
43.98.090	Consent of world fair bondholders prerequisite to issuance of bonds authorized by this chapter.

Marine recreation land act: Chapter 43.99 RCW.

43.98.010 General obligation bonds authorized. For the purpose of providing funds for the development of outdoor recreational facilities in the state, the state finance committee is hereby authorized to issue, at any time prior to January 1, 1970, general obligation bonds of the state of

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Washington in the sum of ten million dollars, or so much thereof as shall be required to finance the program for which these bonds are being authorized: PROVIDED, That funds realized from the sale of such bonds shall be used solely for the acquisition of land and attached appurtenances and such property shall be for outdoor recreational use.

The state finance committee is authorized to prescribe the form of such bonds and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. [1965 c 8 § 43.98.010. Prior: 1963 ex.s. c 12 § 1.]

43.98.020 Disposition of proceeds of sale. The proceeds from the sale of the bonds authorized herein shall be deposited in the parks and parkways account of the general fund or such other account or fund as shall be established for this purpose. Any agency or commission charged with the administration of the account or fund is authorized to use or permit the use of any funds derived from the sale of bonds authorized under this chapter as matching funds in any case where federal or other funds are made available on a matching basis for projects within the purposes of this chapter. [1965 c 8 § 43.98.020. Prior: 1963 ex.s. c 12 § 2.]

Outdoor recreation account, deposit of proceeds in: RCW 43.99.060.

Parks and parkways account abolished: RCW 43.79.405.

43.98.030 Bonds payable from proceeds of corporation fees. The bonds issued under the provisions of this chapter shall be payable from the proceeds of one-half of the corporation fees collected under all the provisions of chapter 70, Laws of 1937, as now or hereafter amended. The bonds and interest shall, so long as any portion thereof remains unpaid, constitute a prior and exclusive claim, subject only to amounts previously pledged for the payment of interest on and retirement of bonds heretofore issued, upon that portion of the corporation fees so collected. [1965 c 8 § 43.98.030. Prior: 1963 ex.s. c 12 § 3.]

Reviser's note: Chapter 70, Laws of 1937 referred to above is affected by chapter 53, Laws of 1965 which enacts a new corporations code effective July 1, 1967 (Title 23A RCW). Section 166 thereof repeals it subject to the savings and continuation provision contained in section 165 which reads as follows: "Nothing contained in this act shall be construed as an impairment of any obligation of the state as evidenced by bonds held for any purpose, and subsections 2 and 13 of section 135, subsections 1 and 2 of section 136, and sections 137, 138, 139, 140, 141, 142, 146, and 147 shall be deemed to be a continuation of chapter 70, Laws of 1937, as amended, for the purpose of payment of:

(1) world's fair bonds authorized by chapter 174, Laws of 1957 as amended by chapter 152, Laws of 1961, and

(2) outdoor recreation bonds authorized by referendum bill number 11 (chapter 12, Laws of 1963 extraordinary session), approved by the people on November 3, 1964."

43.98.040 Outdoor recreational bond redemption fund. The outdoor recreational bond redemption fund is hereby created in the state treasury, which fund shall be

exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. [1965 c 8 § 43.98.040. Prior: 1963 ex.s. c 12 § 4.]

43.98.050 Remedies of bondholders. The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1965 c 8 § 43.98.050. Prior: 1963 ex.s. c 12 § 5.]

43.98.060 Legislature may provide additional means of support. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and this chapter shall not be deemed to provide an exclusive method for such payment. [1965 c 8 § 43.98.060. Prior: 1963 ex.s. c 12 § 6.]

43.98.070 Bonds legal investment for funds of state and municipal corporations. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1965 c 8 § 43.98.070. Prior: 1963 ex.s. c 12 § 7.]

43.98.080 Undertaking to impose corporation fees—Use, proration of one-half of proceeds. See RCW 43.31.620 and 43.31.740.

43.98.090 Consent of world fair bondholders prerequisite to issuance of bonds authorized by this chapter. No bonds authorized by this chapter shall be issued until there shall first be obtained and filed in the office of the state finance committee the written consent of the holders of all outstanding bonds issued under authority of chapter 174, Laws of 1957, as amended by chapter 152, Laws of 1961, to the changes effected by this chapter and the 1963 amendments of RCW 43.31.620 and 43.31.740 in the order of priority of payment of said world fair bonds out of the proceeds of the corporation fees collected under chapter 70, Laws of 1937 as amended. [1965 c 8 § 43.98.090. Prior: 1963 ex.s. c 12 § 10.]

Reviser's note: See note following RCW 43.98.030.

Chapter 43.98A

ACQUISITION OF HABITAT CONSERVATION AND OUTDOOR RECREATION LANDS

Sections

- 43.98A.005 Findings.
- 43.98A.010 Definitions.
- 43.98A.020 Habitat conservation account.
- 43.98A.030 Allocation and use of moneys—Grants.
- 43.98A.040 Habitat conservation account—Distribution and use of moneys.
- 43.98A.050 Outdoor recreation account—Distribution and use of moneys.
- 43.98A.060 Habitat conservation account—Acquisition policies and priorities.
- 43.98A.070 Acquisition and development priorities—Generally.
- 43.98A.080 Recommended project list—Committee authority to obligate funds—Legislature's authority.

43.98A.090 Condemnation.

43.98A.100 Report to governor and standing committees.

43.98A.900 Severability—1990 1st ex.s. c 14.

43.98A.005 Findings. The legislature finds:

(1) That Washington possesses an abundance of natural wealth in the form of forests, mountains, wildlife, waters, and other natural resources, all of which help to provide an unparalleled diversity of outdoor recreation opportunities and a quality of life unmatched in this nation;

(2) That as the state's population grows, the demand on these resources is growing too, placing greater stress on today's already overcrowded public recreational lands and facilities, and resulting in a significant loss of wildlife habitat and lands of unique natural value;

(3) That public acquisition and development programs have not kept pace with the state's expanding population;

(4) That private investment and employment opportunities in general and the tourist industry in particular are dependent upon the continued availability of recreational opportunities and our state's unique natural environment;

(5) That if current trends continue, some wildlife species and rare ecosystems will be lost in the state forever and public recreational lands will not be adequate to meet public demands;

(6) That there is accordingly a need for the people of the state to reserve certain areas of the state, in rural as well as urban settings, for the benefit of present and future generations.

It is therefore the policy of the state to acquire as soon as possible the most significant lands for wildlife conservation and outdoor recreation purposes before they are converted to other uses, and to develop existing public recreational land and facilities to meet the needs of present and future generations. [1990 1st ex.s. c 14 § 1.]

43.98A.010 Definitions. The definitions set forth in this section apply throughout this chapter.

(1) "Acquisition" means the purchase on a willing seller basis of fee or less than fee interests in real property. These interests include, but are not limited to, options, rights of first refusal, conservation easements, leases, and mineral rights.

(2) "Committee" means the interagency committee for outdoor recreation.

(3) "Critical habitat" means lands important for the protection, management, or public enjoyment of certain wildlife species or groups of species, including, but not limited to, wintering range for deer, elk, and other species, waterfowl and upland bird habitat, fish habitat, and habitat for endangered, threatened, or sensitive species.

(4) "Local agencies" means a city, county, town, tribe, special purpose district, port district, or other political subdivision of the state providing services to less than the entire state.

(5) "Natural areas" means areas that have, to a significant degree, retained their natural character and are important in preserving rare or vanishing flora, fauna, geological, natural historical, or similar features of scientific or educational value.

(6) "Special needs populations" means physically restricted people or people of limited means.

(7) "Trails" means public ways constructed for and open to pedestrians, equestrians, or bicyclists, or any combination thereof, other than a sidewalk constructed as a part of a city street or county road for exclusive use of pedestrians.

(8) "Urban wildlife habitat" means lands that provide habitat important to wildlife in proximity to a metropolitan area.

(9) "Water access" means boat or foot access to marine waters, lakes, rivers, or streams. [1990 1st ex.s. c 14 § 2.]

43.98A.020 Habitat conservation account. The habitat conservation account is established in the state treasury. The committee shall administer the account in accordance with chapter 43.99 RCW and this chapter, and shall hold it separate and apart from all other money, funds, and accounts of the committee. [1990 1st ex.s. c 14 § 3.]

43.98A.030 Allocation and use of moneys—Grants. (1) Moneys appropriated for this chapter shall be divided equally between the habitat conservation and outdoor recreation accounts and shall be used exclusively for the purposes specified in this chapter.

(2) Moneys deposited in these accounts shall be invested as authorized for other state funds, and any earnings on them shall be credited to the respective account.

(3) All moneys deposited in the habitat conservation and outdoor recreation accounts shall be allocated under RCW 43.98A.040 and 43.98A.050 as grants to state or local agencies for acquisition, development, and renovation within the jurisdiction of those agencies, subject to legislative appropriation. The committee may use or permit the use of any funds appropriated for this chapter as matching funds where federal, local, or other funds are made available for projects within the purposes of this chapter.

(4) Projects receiving grants under this chapter that are developed or otherwise accessible for public recreational uses shall be available to the public on a nondiscriminatory basis.

(5) The committee may make grants to an eligible project from both the habitat conservation and outdoor recreation accounts and any one or more of the applicable categories under such accounts described in RCW 43.98A.040 and 43.98A.050. [1990 1st ex.s. c 14 § 4.]

Outdoor recreation account: Chapter 43.99 RCW.

43.98A.040 Habitat conservation account—Distribution and use of moneys. (1) Moneys appropriated for this chapter to the habitat conservation account shall be distributed in the following way:

(a) Not less than thirty-five percent for the acquisition and development of critical habitat;

(b) Not less than twenty percent for the acquisition and development of natural areas;

(c) Not less than fifteen percent for the acquisition and development of urban wildlife habitat; and

(d) The remaining amount shall be considered unallocated and shall be used by the committee to fund high priority acquisition and development needs for critical habitat, natural areas, and urban wildlife habitat.

(2) In distributing these funds, the committee retains discretion to meet the most pressing needs for critical habitat,

natural areas, and urban wildlife habitat, and is not required to meet the percentages described in subsection (1) of this section in any one biennium.

(3) Only state agencies may apply for acquisition and development funds for critical habitat and natural areas projects under subsection (1) (a), (b), and (d) of this section.

(4) State and local agencies may apply for acquisition and development funds for urban wildlife habitat projects under subsection (1) (c) and (d) of this section. [1990 1st ex.s. c 14 § 5.]

43.98A.050 Outdoor recreation account—Distribution and use of moneys. (1) Moneys appropriated for this chapter to the outdoor recreation account shall be distributed in the following way:

(a) Not less than twenty-five percent to the state parks and recreation commission for the acquisition and development of state parks, with at least seventy-five percent of this money for acquisition costs;

(b) Not less than twenty-five percent for the acquisition, development, and renovation of local parks, with at least fifty percent of this money for acquisition costs;

(c) Not less than fifteen percent for the acquisition and development of trails;

(d) Not less than ten percent for the acquisition and development of water access sites, with at least seventy-five percent of this money for acquisition costs; and

(e) The remaining amount shall be considered unallocated and shall be distributed by the committee to state and local agencies to fund high priority acquisition and development needs for parks, trails, and water access sites.

(2) In distributing these funds, the committee retains discretion to meet the most pressing needs for state and local parks, trails, and water access sites, and is not required to meet the percentages described in subsection (1) of this section in any one biennium.

(3) Only local agencies may apply for acquisition, development, or renovation funds for local parks under subsection (1)(b) of this section.

(4) State and local agencies may apply for funds for trails under subsection (1)(c) of this section.

(5) State and local agencies may apply for funds for water access sites under subsection (1)(d) of this section. [1990 1st ex.s. c 14 § 6.]

43.98A.060 Habitat conservation account—Acquisition policies and priorities. (1) The committee may adopt rules establishing acquisition policies and priorities for distributions from the habitat conservation account.

(2) Moneys appropriated for this chapter may not be used by the committee to fund additional staff positions or other overhead expenses, or by a state, regional, or local agency to fund operation and maintenance of areas acquired under this chapter.

(3) Moneys appropriated for this chapter may be used for costs incidental to acquisition, including, but not limited to, surveying expenses, fencing, and signing.

(4) The committee may not approve a local project where the local agency share is less than the amount to be awarded from the habitat conservation account.

(5) In determining acquisition priorities with respect to the habitat conservation account, the committee shall consider, at a minimum, the following criteria:

- (a) For critical habitat and natural areas proposals:
 - (i) Community support;
 - (ii) Immediacy of threat to the site;
 - (iii) Uniqueness of the site;
 - (iv) Diversity of species using the site;
 - (v) Quality of the habitat;
 - (vi) Long-term viability of the site;
 - (vii) Presence of endangered, threatened, or sensitive species;
 - (viii) Enhancement of existing public property;
 - (ix) Consistency with a local land use plan, or a regional or state-wide recreational or resource plan; and
 - (x) Educational and scientific value of the site.
- (b) For urban wildlife habitat proposals, in addition to the criteria of (a) of this subsection:
 - (i) Population of, and distance from, the nearest urban area;
 - (ii) Proximity to other wildlife habitat;
 - (iii) Potential for public use; and
 - (iv) Potential for use by special needs populations.

(6) Before October 1st of each even-numbered year, the committee shall recommend to the governor a prioritized list of state agency projects to be funded under RCW 43.98A.040(1) (a), (b), and (c). The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project; and shall describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.

(7) Before October 1st of each year, the committee shall recommend to the governor a prioritized list of all local projects to be funded under RCW 43.98A.040(1)(c). The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project and any particular match requirement, and describe for each project any anticipated restrictions upon recreational activities allowed prior to the project. [1990 1st ex.s. c 14 § 7.]

43.98A.070 Acquisition and development priorities—Generally. (1) In determining which state parks proposals and local parks proposals to fund, the committee shall use existing policies and priorities.

(2) Moneys appropriated for this chapter may not be used by the committee to fund additional staff or other overhead expenses, or by a state, regional, or local agency to fund operation and maintenance of areas acquired under this chapter.

(3) Moneys appropriated for this chapter may be used for costs incidental to acquisition, including, but not limited to, surveying expenses, fencing, and signing.

(4) The committee may not approve a project of a local agency where the share contributed by the local agency is less than the amount to be awarded from the outdoor recreation account.

(5) The committee may adopt rules establishing acquisition policies and priorities for the acquisition and development of trails and water access sites to be financed from moneys in the outdoor recreation account.

(6) In determining the acquisition and development priorities, the committee shall consider, at a minimum, the following criteria:

- (a) For trails proposals:
 - (i) Community support;
 - (ii) Immediacy of threat to the site;
 - (iii) Linkage between communities;
 - (iv) Linkage between trails;
 - (v) Existing or potential usage;
 - (vi) Consistency with an existing local land use plan or a regional or state-wide recreational or resource plan;
 - (vii) Availability of water access or views;
 - (viii) Enhancement of wildlife habitat; and
 - (ix) Scenic values of the site.
- (b) For water access proposals:
 - (i) Community support;
 - (ii) Distance from similar water access opportunities;
 - (iii) Immediacy of threat to the site;
 - (iv) Diversity of possible recreational uses; and
 - (v) Public demand in the area.

(7) Before October 1st of each even-numbered year, the committee shall recommend to the governor a prioritized list of state agency projects to be funded under RCW 43.98A.050(1) (a), (c), and (d). The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project; and shall describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.

(8) Before October 1st of each year, the committee shall recommend to the governor a prioritized list of all local projects to be funded under RCW 43.98A.050(1) (b), (c), and (d) of this act. The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project and any particular match requirement, and describe for each project any anticipated restrictions upon recreational activities allowed prior to the project. [1990 1st ex.s. c 14 § 8.]

43.98A.080 Recommended project list—Committee authority to obligate funds—Legislature's authority. The committee shall not sign contracts or otherwise financially obligate funds from the habitat conservation account or the outdoor recreation account as provided in this chapter before the legislature has appropriated funds for a specific list of projects. The legislature may remove projects from the list recommended by the governor. [1990 1st ex.s. c 14 § 9.]

43.98A.090 Condemnation. Moneys made available under this chapter for land acquisition shall not be used to acquire land through condemnation. [1990 1st ex.s. c 14 § 10.]

43.98A.100 Report to governor and standing committees. On or before November 1st of each odd-numbered year, the committee shall submit to the governor and the standing committees of the legislature dealing with fiscal affairs, fish and wildlife, and natural resources a report detailing the acquisitions and development projects funded under this chapter during the immediately preceding biennium. [1990 1st ex.s. c 14 § 11.]

43.98A.900 Severability—1990 1st ex.s. c 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1990 1st ex.s. c 14 § 12.]

Chapter 43.98B

WILDLIFE AND RECREATION LANDS—FUNDING OF MAINTENANCE AND OPERATION

Sections

- 43.98B.005 Findings.
- 43.98B.010 Definitions.
- 43.98B.020 State wildlife and recreation lands management account.
- 43.98B.030 Allocation and distribution of moneys.
- 43.98B.900 Short title.
- 43.98B.910 Severability—1992 c 153.
- 43.98B.920 Captions not law—1992 c 153.

43.98B.005 Findings. (1) The legislature finds that:

(a) The state of Washington owns and maintains a wide variety of fish and wildlife habitat, natural areas, parks, and other recreation lands;

(b) The state of Washington is responsible for managing these lands for the benefit of the citizens, wildlife, and other natural resources of the state;

(c) The state of Washington has recently significantly enhanced its efforts to acquire critical habitat, natural areas, parks, and other recreation lands and to transfer suitable lands from school trust to conservation and park purposes;

(d) Recent unprecedented population growth has greatly increased the threat to the state's fish and wildlife habitat and the demands placed on the lands under (a) of this subsection;

(e) The importance of this habitat and these lands to the state is continuing to increase as more people depend on them to satisfy their needs and more plant and animal species require state-owned lands for their survival;

(f) By itself, public ownership cannot guarantee that resources will be protected, or that appropriate recreational opportunities will be provided;

(g) Only through ongoing, responsible management can fish and wildlife habitat, sensitive ecosystems, and recreational values be protected;

(h) The operation and maintenance funding for state-owned fish and wildlife habitat, natural areas, parks, and other recreation lands has not kept pace with increasing demands placed upon such lands;

(i) Many needed operation and maintenance projects have been deferred due to insufficient funding, resulting in increased costs when the projects are finally undertaken; and

(j) An increase in operation and maintenance funding is necessary to bring state-owned lands and facilities up to

acceptable standards and to protect the state's investment in its fish and wildlife habitat, natural areas, parks, and other recreation lands.

(2) Therefore, it is the policy of the state to provide adequate and continuing funding for operation and maintenance needs of state-owned fish and wildlife habitat, natural areas, parks, and other recreation lands to protect the state's investment in such lands, and it is the purpose of this chapter to create a mechanism for doing so. [1992 c 153 § 2.]

43.98B.010 Definitions. The definitions set forth in this section apply throughout this chapter.

(1) "Basic stewardship" means the costs associated with holding and protecting property to maintain the functions for which the property was acquired. It includes, but is not limited to, costs associated with statutorily required in-lieu property taxes, weed and pest control, fire protection, fence maintenance, cultural and archaeological site protection, basic research related to maintenance of natural area preserves and natural resource conservation areas, basic resource and environmental protection, and meeting applicable legal requirements.

(2) "Improved or developed resources" means the costs associated with the built or manipulated environment. It includes, but is not limited to, costs associated with maintaining buildings, grounds, roads, trails, water access sites, and utility systems. Also included are improvements to habitat such as bank stabilization, range rehabilitation, and food and water sources.

(3) "Human use management" means the costs associated with visitor management, education, and protection.

(4) "Administration" means state agency costs necessary to support subsections (1) through (3) of this section. It includes, but is not limited to, budget and accounting, personnel support services, volunteer programs, and training. [1992 c 153 § 3.]

43.98B.020 State wildlife and recreation lands management account. There is created the state wildlife and recreation lands management account in the state treasury.

(1) Moneys accumulated under this chapter shall be used exclusively for the purposes specified in this chapter. Those purposes are to support operation and maintenance activities and costs associated with owning and managing state fish and wildlife habitat, natural areas such as natural area preserves and natural resource conservation areas, parks, and other recreation lands and include:

- (a) Basic stewardship;
- (b) Improved or developed resources;
- (c) Human use management; and
- (d) Administration.

Land acquisition, facility development or replacement, major renovation projects, improvement or rehabilitation projects normally funded through the capital budget, and operation and maintenance of state fish hatcheries are excluded.

(2) No expenditures may be made from this account without legislative appropriation. [1992 c 153 § 4.]

43.98B.030 Allocation and distribution of moneys.

(1) Moneys appropriated for this chapter from the state wildlife and recreation lands management account shall be expended in the following manner:

- (a) Not less than thirty percent for basic stewardship;
 - (b) Not less than twenty percent for improved or developed resources;
 - (c) Not less than fifteen percent for human use management; and
 - (d) Not more than fifteen percent for administration.
- (e) The remaining twenty to thirty-five percent shall be considered unallocated.

(2) In the event that moneys appropriated for this chapter to the state wildlife and recreation lands management account under the initial allocation prove insufficient to meet basic stewardship needs, the unallocated amount shall be used to fund basic stewardship needs.

(3) Each eligible agency is not required to meet this specific percentage distribution. However, funding across agencies should meet these percentages during each biennium.

(4) It is intended that moneys disbursed from this account not replace existing operation and maintenance funding levels from other state sources.

(5) Agencies eligible to receive funds from this account are the departments of fish and wildlife and natural resources, and the state parks and recreation commission.

(6) Moneys appropriated for this chapter from the state wildlife and recreation lands management account shall be distributed in the following manner:

- (a) Not less than twenty-five percent to the state parks and recreation commission.
- (b) Not less than twenty-five percent to the department of natural resources.
- (c) Not less than twenty-five percent to the department of fish and wildlife.

(d) The remaining funds shall be allocated to eligible agencies based upon an evaluation of remaining unfunded needs.

(7) The office of financial management shall review eligible state agency requests and make recommendations on the allocation of funds provided under this chapter as part of the governor's operating budget request to the legislature. [1994 c 264 § 30; 1992 c 153 § 5.]

43.98B.900 Short title. This chapter shall be known as the state wildlife and recreation lands management act. [1992 c 153 § 1.]

43.98B.910 Severability—1992 c 153. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1992 c 153 § 7.]

43.98B.920 Captions not law—1992 c 153. Section headings as used in this chapter do not constitute any part of the law. [1992 c 153 § 8.]

Chapter 43.99**MARINE RECREATION LAND—INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Sections	
43.99.010	Policy—Mission of committee.
43.99.020	Definition of terms.
43.99.025	Director's powers and duties.
43.99.030	Determination of proportion of motor vehicle fuel tax moneys derived from tax on marine fuel—Studies—Costs.
43.99.040	Marine fuel tax refund account—Moneys derived from tax on marine fuel—Refunding and placement in account—Exception.
43.99.050	Marine fuel tax refund account—Claims for refunds paid from.
43.99.060	Outdoor recreation account—Deposits.
43.99.070	Recreation resource account, motor vehicle fund—Transfers of moneys from marine fuel tax account.
43.99.080	Recreation resource account—Distribution of moneys transferred.
43.99.095	Interest on funds granted by committee to be returned to source account.
43.99.100	Conversion of marine recreation land to other uses—Approval—Substitution.
43.99.110	Interagency committee for outdoor recreation—Created—Membership—Terms—Compensation and travel expenses.
43.99.120	Plans for public outdoor recreation land acquisition or improvement—Contents—Submission—Recommendations.
43.99.124	Participation in federal programs—Authority.
43.99.126	Commitments or agreements forbidden unless sufficient funds available—Agreements with federal agencies on behalf of state or local agencies—Conditions.
43.99.130	Assistance furnished by state departments—Appointment of director and personnel—Civil service exemption.
43.99.135	Washington state recreation trails system, duties of interagency committee for outdoor recreation.
43.99.142	Public parks and recreation sites guide.
43.99.146	Public parks and recreation sites guide—Review and update.
43.99.150	Appropriations by subsequent legislatures.
43.99.170	Recreation resource account.
43.99.900	Severability—1965 c 5.
43.99.910	Short title.

Boat trailer fee: RCW 46.16.670.

Disposition of off-road vehicle moneys: RCW 46.09.110.

Outdoor recreation account moneys appropriated, 1971 act: See note following RCW 46.09.010.

Outdoor recreational facilities: Chapter 43.98 RCW.

43.99.010 Policy—Mission of committee. (1) As Washington begins its second century of statehood, the legislature recognizes that renewed efforts are needed to preserve, conserve, and enhance the state's recreational resources. Rapid population growth and increased urbanization have caused a decline in suitable land for recreation and resulted in overcrowding and deterioration of existing facilities. Lack of adequate recreational resources directly affects the health and well-being of all citizens of the state, reduces the state's economic viability, and prevents Washington from maintaining and achieving the quality of life that it deserves.

It is therefore the policy of the state and its agencies to preserve, conserve, and enhance recreational resources and open space. In carrying out this policy, the mission of the interagency committee for outdoor recreation and its staff is to (a) create and work actively for the implementation of a unified state-wide strategy for meeting the recreational needs of Washington's citizens, (b) represent and promote the

interests of the state on recreational issues in concert with other state and local agencies and the governor, (c) encourage and provide interagency and regional coordination, and interaction between public and private organizations, (d) administer recreational grant-in-aid programs and provide technical assistance, and (e) serve as a repository for information, studies, research, and other data relating to recreation.

(2) Washington is uniquely endowed with fresh and salt waters rich in scenic and recreational value. This outdoor heritage enriches the lives of citizens, attracts new residents and businesses to the state, and is a major support of its expanding tourist industry. Rising population, increased income and leisure time, and the rapid growth of boating and other water sports have greatly increased the demand for water related recreation, while waterfront land is rapidly rising in value and disappearing from public use. There is consequently an urgent need for the acquisition or improvement of waterfront land on fresh and salt water suitable for marine recreational use by Washington residents and visitors. To meet this need, it is necessary and proper that the portion of motor vehicle fuel taxes paid by boat owners and operators on fuel consumed in their watercraft and not reclaimed as presently provided by law should be expended for the acquisition or improvement of marine recreation land on the Pacific Ocean, Puget Sound, bays, lakes, rivers, reservoirs and other fresh and salt waters of the state. [1989 c 237 § 1; 1965 c 5 § 1 (Initiative Measure No. 215, approved November 3, 1964).]

Effective date—1989 c 237: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect on June 30, 1989." [1989 c 237 § 9.]

43.99.020 Definition of terms. Definitions: As used in this chapter:

(1) "Marine recreation land" means any land with or without improvements which (a) provides access to, or in whole or in part borders on, fresh or salt water suitable for recreational use by watercraft, or (b) may be used to create, add to, or make more usable, bodies of water, waterways, or land, for recreational use by watercraft.

(2) "Public body" means any county, city, town, port district, park and recreation district, metropolitan park district, or other municipal corporation which is authorized to acquire or improve public outdoor recreation land, and shall also mean Indian tribes now or hereafter recognized as such by the federal government for participation in the land and water conservation program.

(3) "Tax on marine fuel" means motor vehicle fuel tax which is (a) tax on fuel used in, or sold or distributed for use in, any watercraft, (b) refundable pursuant to chapter 82.36 RCW, and (c) paid to the director of licensing with respect to taxable sales, distributions, or uses occurring on or after December 3, 1964.

(4) "Watercraft" means any boat, vessel, or other craft used for navigation on or through water.

(5) "Committee" means the interagency committee for outdoor recreation.

(6) "Director" means the director of the interagency committee for outdoor recreation. [1989 c 237 § 2; 1979 c

158 § 108; 1972 ex.s. c 56 § 1; 1965 c 5 § 2 (Initiative Measure No. 215, approved November 3, 1964).]

Effective date—1989 c 237: See note following RCW 43.99.010.

Construction—1972 ex.s. c 56: "The provisions of this 1972 amendatory act are intended to be remedial and procedural and shall be construed to apply retroactively." [1972 ex.s. c 56 § 2.]

43.99.025 Director's powers and duties. The director shall have the following powers and duties:

(1) To supervise the administrative operations of the committee and its staff;

(2) To administer recreation grant-in-aid programs and provide technical assistance to state and local agencies;

(3) To prepare and update a strategic plan for the acquisition, renovation, and development of recreational resources and the preservation and conservation of open space. The plan shall be prepared in coordination with the office of the governor and the office of financial management, with participation of federal, state, and local agencies having recreational responsibilities, user groups, private sector interests, and the general public. The plan shall be submitted to the committee for review, and the committee shall submit its recommendations on the plan to the governor. The plan shall include, but is not limited to: (a) an inventory of current resources; (b) a forecast of recreational resource demand; (c) identification and analysis of actual and potential funding sources; (d) a process for broad scale information gathering; (e) an assessment of the capabilities and constraints, both internal and external to state government, that affect the ability of the state to achieve the goals of the plan; (f) an analysis of strategic options and decisions available to the state; (g) an implementation strategy that is coordinated with executive policy and budget priorities; and (h) elements necessary to qualify for participation in or the receipt of aid from any federal program for outdoor recreation;

(4) To represent and promote the interests of the state on recreational issues and further the mission of the committee;

(5) Upon approval of the committee, to enter into contracts and agreements with private nonprofit corporations to further state goals of preserving, conserving, and enhancing recreational resources and open space for the public benefit and use;

(6) To appoint such technical and other committees as may be necessary to carry out the purposes of this chapter;

(7) To create and maintain a repository for data, studies, research, and other information relating to recreation in the state, and to encourage the interchange of such information;

(8) To encourage and provide opportunities for interagency and regional coordination and cooperative efforts between public agencies and between public and private entities involved in the development and preservation of recreational resources; and

(9) To prepare the state trails plan, as required by RCW 67.32.050. [1989 c 237 § 4.]

Effective date—1989 c 237: See note following RCW 43.99.010.

43.99.030 Determination of proportion of motor vehicle fuel tax moneys derived from tax on marine fuel—Studies—Costs. From time to time, but at least once

each four years, the director of licensing shall determine the amount or proportion of moneys paid to him as motor vehicle fuel tax which is tax on marine fuel. The director shall make or authorize the making of studies, surveys, or investigations to assist him in making such determination, and shall hold one or more public hearings on the findings of such studies, surveys, or investigations prior to making his determination. The studies, surveys, or investigations conducted pursuant to this section shall encompass a period of twelve consecutive months each time. The final determination by the director shall be implemented as of the next biennium after the period from which the study data were collected. The director may delegate his duties and authority under this section to one or more persons of the department of licensing if he finds such delegation necessary and proper to the efficient performance of these duties. Costs of carrying out the provisions of this section shall be paid from the marine fuel tax refund account created in RCW 43.99.040, upon legislative appropriation. [1995 c 166 § 1; 1979 c 158 § 109; 1975-'76 2nd ex.s. c 50 § 1; 1969 ex.s. c 74 § 1; 1965 c 5 § 3 (Initiative Measure No. 215, approved November 3, 1964).]

43.99.040 Marine fuel tax refund account—Moneys derived from tax on marine fuel—Refunding and placement in account—Exception. There is created the marine fuel tax refund account in the state treasury. The director of licensing shall request the state treasurer to refund monthly from the motor vehicle fund amounts which have been determined to be tax on marine fuel. The state treasurer shall refund such amounts and place them in the marine fuel tax refund account to be held for those entitled thereto pursuant to chapter 82.36 RCW and RCW 43.99.050, except that he shall not refund and place in the marine fuel tax refund account for any period for which a determination has been made pursuant to RCW 43.99.030 more than the greater of the following amounts: (1) An amount equal to two percent of all moneys paid to him as motor vehicle fuel tax for such period, (2) an amount necessary to meet all approved claims for refund of tax on marine fuel for such period. [1995 c 166 § 2; 1991 sp.s. c 13 § 42; 1985 c 57 § 53; 1979 c 158 § 110; 1965 c 5 § 4 (Initiative Measure No. 215, approved November 3, 1964).]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.99.050 Marine fuel tax refund account—Claims for refunds paid from. Claims submitted pursuant to chapter 82.36 RCW for refund of tax on marine fuel which has been placed in the marine fuel tax refund account shall, if approved, be paid from that account. [1965 c 5 § 5 (Initiative Measure No. 215, approved November 3, 1964).]

43.99.060 Outdoor recreation account—Deposits. The outdoor recreation account is created in the state treasury. Moneys in the account are subject to legislative appropriation. The committee shall administer the account in accordance with chapter 43.98A RCW and this chapter, and shall hold it separate and apart from all other money, funds, and accounts of the committee.

Grants, gifts, or other financial assistance, proceeds received from public bodies as administrative cost contributions, and moneys made available to the state of Washington by the federal government for outdoor recreation, may be deposited into the account. [1995 c 166 § 3; 1991 sp.s. c 13 § 52; 1985 c 57 § 54; 1967 ex.s. c 62 § 1; 1965 c 5 § 6 (Initiative Measure No. 215, approved November 3, 1964).]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.99.070 Recreation resource account, motor vehicle fund—Transfers of moneys from marine fuel tax account. Upon expiration of the time limited by RCW 82.36.330 for claiming of refunds of tax on marine fuel, the state of Washington shall succeed to the right to such refunds. The director of licensing, after taking into account past and anticipated claims for refunds from and deposits to the marine fuel tax refund account and the costs of carrying out the provisions of RCW 43.99.030, shall request the state treasurer to transfer monthly from the marine fuel tax refund account an amount equal to the proportion of the moneys in the account representing the motor vehicle fuel tax rate under RCW 82.36.025 in effect on January 1, 1990, to the recreation resource account and the remainder to the motor vehicle fund. [1995 c 166 § 4; 1990 c 42 § 116; 1979 c 158 § 111; 1965 c 5 § 7 (Initiative Measure No. 215, approved November 3, 1964).]

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

43.99.080 Recreation resource account—Distribution of moneys transferred. Moneys transferred to the recreation resource account from the marine fuel tax refund account may be used when appropriated by the legislature, as well as any federal or other funds now or hereafter available, to pay the necessary administrative and coordinative costs of the interagency committee for outdoor recreation established by RCW 43.99.110. All moneys so transferred, except those appropriated as aforesaid, shall be divided into two equal shares and shall be used to benefit watercraft recreation in this state as follows:

(1) One share as grants to state agencies for (a) acquisition of title to, or any interests or rights in, marine recreation land, (b) capital improvement of marine recreation land, or (c) matching funds in any case where federal or other funds are made available on a matching basis for purposes described in (a) or (b) of this subsection;

(2) One share as grants to public bodies to help finance (a) acquisition of title to, or any interests or rights in, marine recreation land, or (b) capital improvement of marine recreation land. A public body is authorized to use a grant, together with its own contribution, as matching funds in any case where federal or other funds are made available for purposes described in (a) or (b) of this subsection. The committee may prescribe further terms and conditions for the making of grants in order to carry out the purposes of this chapter. [1995 c 166 § 5; 1971 ex.s. c 140 § 1; 1965 ex.s. c 136 § 1; 1965 c 5 § 8 (Initiative Measure No. 215, approved November 3, 1964).]

43.99.095 Interest on funds granted by committee to be returned to source account. Interest earned on funds granted or made available by the committee shall not be expended by the recipient but shall be returned to the source account for disbursement by the committee in accordance with general budget and accounting procedure. [1995 c 166 § 6; 1967 ex.s. c 62 § 7.]

43.99.100 Conversion of marine recreation land to other uses—Approval—Substitution. Marine recreation land with respect to which money has been expended under RCW 43.99.080 shall not, without the approval of the committee, be converted to uses other than those for which such expenditure was originally approved. The committee shall only approve any such conversion upon conditions which will assure the substitution of other marine recreation land of at least equal fair market value at the time of conversion and of as nearly as feasible equivalent usefulness and location. [1965 c 5 § 10 (Initiative Measure No. 215, approved November 3, 1964).]

43.99.110 Interagency committee for outdoor recreation—Created—Membership—Terms—Compensation and travel expenses. There is created the interagency committee for outdoor recreation consisting of the commissioner of public lands, the director of parks and recreation, and the director of fish and wildlife, or their designees, and, by appointment of the governor with the advice and consent of the senate, five members from the public at large who have a demonstrated interest in and a general knowledge of outdoor recreation in the state. The terms of members appointed from the public at large shall commence on January 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies which shall be for the remainder of the unexpired term; provided the first such members shall be appointed for terms as follows: One member for one year, two members for two years, and two members for three years. The governor shall appoint one of the members from the public at large to serve as chairman of the committee for the duration of the member's term. Members employed by the state shall serve without additional pay and participation in the work of the committee shall be deemed performance of their employment. Members from the public at large shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement individually for travel expenses incurred in performance of their duties as members of the committee in accordance with RCW 43.03.050 and 43.03.060. [1994 c 264 § 31; 1988 c 36 § 21; 1985 c 77 § 1; 1984 c 287 § 84. Prior: 1981 c 338 § 7; 1981 c 206 § 1; 1975-'76 2nd ex.s. c 34 § 125; 1971 c 60 § 1; 1967 ex.s. c 62 § 2; 1965 c 5 § 11 (Initiative Measure No. 215, approved November 3, 1964).]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective date—1981 c 206: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1981." [1981 c 206 § 4.]

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

Construction and maintenance of outdoor recreation facilities by department of natural resources, review by interagency committee for outdoor recreation: RCW 43.30.300.

43.99.120 Plans for public outdoor recreation land acquisition or improvement—Contents—Submission—Recommendations. Any public body or any agency of state government authorized to acquire or improve public outdoor recreation land which desires funds from the outdoor recreation account, the recreation resource account, or the nonhighway and off-road vehicle activities program account shall submit to the committee a long-range plan for developing outdoor recreation facilities within its authority and detailed plans for the projects sought to be financed from these accounts, including estimated cost and such other information as the committee may require. The committee shall analyze all proposed plans and projects, and shall recommend to the governor for inclusion in the budget such projects as it may approve and find to be consistent with an orderly plan for the acquisition and improvement of outdoor recreation lands in the state. [1995 c 166 § 7; 1983 c 3 § 114; 1965 c 5 § 12 (Initiative Measure No. 215, approved November 3, 1964).]

43.99.124 Participation in federal programs—Authority. The committee may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program respecting outdoor recreation not specifically designated for another fund or agency. It may enter into contracts and agreements with the United States or any appropriate agency thereof, keep financial and other records relating thereto, and furnish to appropriate officials and agencies of the United States such reports and information as may be reasonably necessary to enable such officials and agencies to perform their duties under such programs. [1967 ex.s. c 62 § 5.]

43.99.126 Commitments or agreements forbidden unless sufficient funds available—Agreements with federal agencies on behalf of state or local agencies—Conditions. The committee for outdoor recreation shall make no commitment nor enter into any agreement until it has determined that sufficient funds are available to meet project costs. It is the legislative intent that, to such extent as may be necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by this state under authority of this chapter, such areas and facilities shall be publicly maintained for outdoor recreation purposes. When requested by a state agency or public body, the committee may enter into and administer agreements with the United States or any appropriate agency thereof for planning, acquisition, and development projects involving participating federal-aid funds on behalf of any state agency, public body, or subdivision of this state: PROVIDED, That recipients of funds give necessary assurances to the committee that they have available sufficient matching funds to meet their shares, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the expense of such state agency, public body, or subdivision for public outdoor recreation use. [1967 ex.s. c 62 § 6.]

43.99.130 Assistance furnished by state departments—Appointment of director and personnel—Civil service exemption. When requested by the committee, members employed by the state shall furnish assistance to the committee from their departments for the analysis and review of proposed plans and projects, and such assistance shall be a proper charge against the appropriations to the several agencies represented on the committee. Assistance may be in the form of money, personnel, or equipment and supplies, whichever is most suitable to the needs of the committee.

The director shall be appointed by, and serve at the pleasure of, the governor. The governor shall select the director from a list of three candidates submitted by the committee. However, the governor may request and the committee shall provide an additional list or lists from which the governor may select the director. The lists compiled by the committee shall not be subject to public disclosure. The director shall have background and experience in the areas of recreation management and policy. The director shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The director shall appoint such personnel as may be necessary to carry out the duties of the committee. Not more than three employees appointed by the director shall be exempt from the provisions of chapter 41.06 RCW. [1989 c 237 § 3; 1981 c 206 § 2; 1967 ex.s. c 62 § 3; 1965 c 5 § 13 (Initiative Measure No. 215, approved November 3, 1964).]

Effective date—1989 c 237: See note following RCW 43.99.010.

Effective date—1981 c 206: See note following RCW 43.99.110.

43.99.135 Washington state recreation trails system, duties of interagency committee for outdoor recreation. See chapter 67.32 RCW.

43.99.142 Public parks and recreation sites guide. In addition to its other powers and duties the director is authorized to coordinate the preparation of a comprehensive guide of public parks and recreation sites in the state of Washington. Such guide may include one or more maps showing the locations of such public parks and recreation areas, and may also include information as to the facilities and recreation opportunities available. All state agencies providing public recreational facilities shall participate. Cooperation of federal agencies providing public recreational facilities within the state shall be solicited.

The director shall determine the costs of providing and distributing such a guide and pursue the most feasible means of paying the costs of initial production. The guide shall be sold for an amount to cover the reasonable production and distribution costs involved, and the director may contract with any state agency, local government agency, or private firm as otherwise allowed by law for any part of such production or distribution. [1989 c 237 § 5; 1979 ex.s. c 24 § 1.]

Effective date—1989 c 237: See note following RCW 43.99.010.

Plan submittal: "The committee shall submit a plan for production and distribution of the guide to the State Legislature on or before January 1, 1981." [1979 ex.s. c 24 § 3.]

43.99.146 Public parks and recreation sites guide—Review and update. The director shall periodically review and have updated the guide authorized by RCW 43.99.142. [1989 c 237 § 6; 1979 ex.s. c 24 § 4.]

Effective date—1989 c 237: See note following RCW 43.99.010.

43.99.150 Appropriations by subsequent legislatures. The 1967 and subsequent legislatures may appropriate funds requested in the budget for grants to public bodies and state agencies from the recreation resource account to the committee for allocation and disbursement. The committee shall include a list of prioritized state agency projects to be funded from the recreation resource account with its biennial budget request. [1995 c 166 § 8; 1965 c 5 § 15 (Initiative Measure No. 215, approved November 3, 1964).]

43.99.170 Recreation resource account. The recreation resource account is created in the state treasury. Moneys in this account are subject to legislative appropriation. The committee shall administer the account in accordance with this chapter and chapter 67.32 RCW and shall hold it separate and apart from all other money, funds, and accounts of the committee. Moneys received from the marine fuel tax refund account under RCW 43.99.070 shall be deposited into the account. Grants, gifts, or other financial assistance, proceeds received from public bodies as administrative cost contributions, and moneys made available to the state of Washington by the federal government for outdoor recreation may be deposited into the account. [1995 c 166 § 10.]

43.99.900 Severability—1965 c 5. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1965 c 5 § 17 (Initiative Measure No. 215, approved November 3, 1964).]

43.99.910 Short title. This chapter shall be known and may be cited as the Marine Recreation Land Act of 1964. [1965 c 5 § 18 (Initiative Measure No. 215, approved November 3, 1964).]

Chapter 43.99A

OUTDOOR RECREATIONAL AREAS AND FACILITIES—1967 BOND ACT

Sections

- 43.99A.010 Declaration of purpose.
- 43.99A.020 General obligation bonds authorized.
- 43.99A.030 Form of bonds—Rate of interest—Sale and issuance.
- 43.99A.040 Full faith and credit of state pledged—Call prior to due date—Facsimile signatures.
- 43.99A.050 Disposition of proceeds of sale.
- 43.99A.060 Outdoor recreational bond redemption fund of 1967—Created—Use—Sales tax revenues deposited in.
- 43.99A.070 Proceeds from sale of bonds—Administration—Disposition and use.
- 43.99A.080 Construction of phrase "acquisition and development of outdoor recreational areas and facilities."
- 43.99A.090 Legislature may provide additional means for payment of bonds.

43.99A.100 Bonds legal investment for funds of state and municipal corporations.

43.99A.110 Referral to electorate.

Outdoor recreational facilities—1963 bond act: Chapter 43.98 RCW.

43.99A.010 Declaration of purpose. The state of Washington possesses unsurpassed natural wealth in the form of mountains, forests, and waters, ideal not only for recreation, but for supplying the special kind of spiritual regeneration that only close association with the outdoors can provide. As the state grows in population, this wilderness is increasingly threatened; prompt action is necessary to preserve it before much of it permanently disappears. Further, the physical expansion of our cities and towns has made it imperative that outdoor breathing space be set aside and permanently reserved for the people who live in them. Such breathing space may take the form of "green belts" especially planned to relieve the monotony of miles of uninterrupted urban or suburban development, or it may take the form of traditional parks. In any case, it must be acquired as soon as possible, while land is still available; and where appropriate, this land must be developed in order to meet the recreational needs of growing numbers of potential users. [1967 ex.s. c 126 § 1.]

43.99A.020 General obligation bonds authorized. For the purpose of providing funds for the acquisition and development of outdoor recreational areas and facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty million dollars or so much thereof as may be required to finance the projects described in RCW 43.99A.070 and 43.99A.080. These bonds shall be paid and discharged within twenty years of the date of issuance. [1970 ex.s. c 40 § 1; 1967 ex.s. c 126 § 2.]

Effective, when—1970 ex.s. c 40: "Sections 1 and 2 of this 1970 amendatory act shall not become effective unless this act is adopted and ratified at the referendum election provided for in section 3 of this 1970 amendatory act." [1970 ex.s. c 40 § 4.] "Sections 1 and 2 of this act" consist of the 1970 ex.s. c 40 amendments to RCW 43.99A.020 and 43.99A.030.

Referral to electorate—1970 ex.s. c 40: "In the event all of the bonds authorized by RCW 43.99A.010 through 43.99A.110 have not been issued on or before September 2, 1970, then this act shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1970, in accordance with the provisions of section 3, Article VIII of the state Constitution; and in accordance with the provisions of section 1, Article II of the state Constitution as amended, and the laws adopted to facilitate the operation thereof." [1970 ex.s. c 40 § 3.] "This act" [1970 ex.s. c 40] was adopted and ratified by the people at the November 3, 1970, general election (Referendum Bill No. 21).

43.99A.030 Form of bonds—Rate of interest—Sale and issuance. The state finance committee is authorized to prescribe the form of the bonds, the maximum rate of interest the same shall bear, the time of sale of all or any portion of them, and the conditions of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value. [1970 ex.s. c 40 § 2; 1967 ex.s. c 126 § 3.]

Effective, when—Referral to electorate—1970 ex.s. c 40: See notes following RCW 43.99A.020.

43.99A.040 Full faith and credit of state pledged—Call prior to due date—Facsimile signatures. The bonds shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to their due date under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1967 ex.s. c 126 § 4.]

43.99A.050 Disposition of proceeds of sale. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the outdoor recreation account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of the chapter and for payment of the expense incurred in the issuance and sale of the bonds. [1967 ex.s. c 126 § 5.]

43.99A.060 Outdoor recreational bond redemption fund of 1967—Created—Use—Sales tax revenues deposited in. The outdoor recreational bond redemption fund of 1967 is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the outdoor recreational bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1971 c 37 § 1; 1967 ex.s. c 126 § 6.]

43.99A.070 Proceeds from sale of bonds—Administration—Disposition and use. The proceeds from the sale of bonds deposited in the outdoor recreation account of the general fund under the terms of RCW 43.99A.050 shall be administered by the interagency committee for outdoor recreation. All such proceeds shall be divided into two equal shares. One share shall be allocated for the acquisition and development of outdoor recreation areas and facilities on behalf of the state as the legislature may direct by appropriation. The other share shall be allocated to public bodies as defined in RCW 43.99.020 for the acquisition and development of outdoor recreational areas and facilities within the jurisdiction of such public bodies. The interagency committee for outdoor recreation is authorized to use or permit the use of any funds derived from the sale of bonds authorized under this chapter as matching funds in any case where federal or other funds are made available on

a matching basis for projects within the purposes of this chapter. [1967 ex.s. c 126 § 7.]

43.99A.080 Construction of phrase "acquisition and development of outdoor recreational areas and facilities."

As used in this chapter, the phrase "acquisition and development of outdoor recreational areas and facilities" shall be liberally construed in accordance with the broad interpretation suggested by RCW 43.99A.010. It shall include, but shall not be limited to, acquisition of fee simple or any lesser interests in land, and the development of outdoor areas and facilities for either a single recreational use or multiple recreational uses. The preservation of land or water areas in an unspoiled or undeveloped state shall be among the alternatives permissible under this chapter. [1967 ex.s. c 126 § 8.]

43.99A.090 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1967 ex.s. c 126 § 9.]

43.99A.100 Bonds legal investment for funds of state and municipal corporations. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and for all funds of municipal corporations. [1967 ex.s. c 126 § 10.]

43.99A.110 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November 1968, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1967 ex.s. c 126 § 11.]

Reviser's note: Chapter 43.99A RCW was adopted and ratified by the people at the November 5, 1968, general election (Referendum Bill No. 18). Governor's proclamation declaring approval of measure is dated December 5, 1968. State Constitution Art. 2 § 1(d) provides: ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved . . ."

Chapter 43.99B

OUTDOOR RECREATIONAL AREAS AND FACILITIES—BOND ISSUES

Sections

1979 BOND ISSUE

- 43.99B.010 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.99B.012 Form, terms, conditions, etc., of bonds.
- 43.99B.014 Proceeds to be deposited in outdoor recreation account.
- 43.99B.016 Administration of proceeds.
- 43.99B.018 Retirement of bonds from outdoor recreational bond redemption fund of 1979—Retirement of bonds from general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.

- 43.99B.020 Definitions.
- 43.99B.022 Legislature may provide additional means for payment of bonds.
- 43.99B.024 Legal investment for public funds.
- 43.99B.026 Severability—1979 ex.s. c 229.

1981 BOND ISSUE

- 43.99B.028 General obligation bonds—Authorized—Issuance, sale terms—Appropriation required.
- 43.99B.030 Proceeds to be deposited in outdoor recreation account—Use.
- 43.99B.032 Administration of proceeds.
- 43.99B.034 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
- 43.99B.036 Definitions.
- 43.99B.038 Legislature may provide additional means for payment of bonds.
- 43.99B.040 Legal investment for public funds.
- 43.99B.042 Severability—1981 c 236.

1979 BOND ISSUE

43.99B.010 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the acquisition and development of outdoor recreational areas and facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight million nine hundred forty-five thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized by RCW 43.99B.010 through 43.99B.026 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance. [1987 1st ex.s. c 3 § 11; 1979 ex.s. c 229 § 1.]

Severability—1987 1st ex.s. c 3: See RCW 43.99G.901.

43.99B.012 Form, terms, conditions, etc., of bonds. The issuance, sale, and retirement of the bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds; the time or times of sale of all or any portion of them; and the conditions and manner of their sale, issuance, and redemption. None of the bonds authorized in RCW 43.99B.010 through 43.99B.026 may be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of the bonds and notes, if any. The bonds shall be payable at such places as the committee may provide. [1979 ex.s. c 229 § 2.]

43.99B.014 Proceeds to be deposited in outdoor recreation account. The proceeds from the sale of the bonds authorized by RCW 43.99B.010 through 43.99B.026 shall be deposited in the outdoor recreation account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.99B.010 through 43.99B.026 and for the payment of expenses

incurred in the issuance and sale of the bonds. [1979 ex.s. c 229 § 3.]

43.99B.016 Administration of proceeds. The proceeds from the sale of the bonds deposited in the outdoor recreation account of the general fund shall be administered by the interagency committee for outdoor recreation, subject to legislative appropriation, and allocated to any agency or department of the state of Washington and, as grants, to public bodies for the acquisition and development of outdoor recreational areas and facilities within the jurisdiction of the agencies, departments, or public bodies. The interagency committee for outdoor recreation may use or permit the use of any funds derived from the sale of the bonds authorized under RCW 43.99B.010 through 43.99B.026 as matching funds in any case where federal, local, or other funds are made available on a matching basis for projects within the purposes of RCW 43.99B.010 through 43.99B.026. [1979 ex.s. c 229 § 4.]

43.99B.018 Retirement of bonds from outdoor recreational bond redemption fund of 1979—Retirement of bonds from general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The outdoor recreational bond redemption fund of 1979 is hereby created in the state treasury, which fund shall be used for the payment of the principal of and interest on the bonds authorized by RCW 43.99B.010 through 43.99B.026. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the outdoor recreational bond redemption fund of 1979 an amount equal to the amount certified by the state finance committee to be due on the payment date.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess. and becomes effective by statute prior to the issuance of any of the bonds authorized by RCW 43.99B.010 through 43.99B.026, the state general obligation bond retirement fund shall be used for purposes of RCW 43.99B.010 through 43.99B.026 in lieu of the outdoor recreational bond redemption fund of 1979, and the outdoor recreational bond redemption fund of 1979 shall cease to exist.

Bonds issued under RCW 43.99B.010 through 43.99B.026 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1979 ex.s. c 229 § 5.]

State general obligation bond retirement fund: RCW 43.83.160.

43.99B.020 Definitions. As used in RCW 43.99B.010 through 43.99B.026, the phrase "acquisition and development of outdoor recreational areas and facilities" shall be liberally construed and shall include, but shall not be limited to, acquisition of fee simple or any lesser interests in land, and the development of outdoor areas and facilities. Swimming pools constructed with proceeds from these bonds may be enclosed at the sponsor's expense. The preservation of land or water areas in an unspoiled or undeveloped state shall be among the alternatives permissible under RCW 43.99B.010 through 43.99B.026.

As used in RCW 43.99B.010 through 43.99B.026, the term "public body" means any political subdivision, taxing district, or municipal corporation of the state of Washington and those Indian tribes now or hereafter recognized as Indian tribes by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants from the state of Washington. [1979 ex.s. c 229 § 6.]

43.99B.022 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99B.010 through 43.99B.026, and RCW 43.99B.010 through 43.99B.026 shall not be deemed to provide an exclusive method for the payment. [1979 ex.s. c 229 § 7.]

43.99B.024 Legal investment for public funds. The bonds authorized in RCW 43.99B.010 through 43.99B.026 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1979 ex.s. c 229 § 8.]

43.99B.026 Severability—1979 ex.s. c 229. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 229 § 9.]

1981 BOND ISSUE

43.99B.028 General obligation bonds—Authorized—Issuance, sale terms—Appropriation required. For the purpose of providing funds for the acquisition and development of outdoor recreational areas and facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of thirteen million four hundred thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized by RCW 43.99B.028 through 43.99B.040 may be offered for sale without prior legislative appropriation. [1981 c 236 § 1.]

43.99B.030 Proceeds to be deposited in outdoor recreation account—Use. The proceeds from the sale of the bonds authorized by RCW 43.99B.028 through 43.99B.040 shall be deposited in the outdoor recreation account of the general fund in the state treasury and shall be

used exclusively for the purposes specified in RCW 43.99B.028 through 43.99B.040 and for the payment of expenses incurred in the issuance and sale of the bonds. [1981 c 236 § 2.]

43.99B.032 Administration of proceeds. The proceeds from the sale of the bonds deposited in the outdoor recreation account of the general fund shall be allocated to the interagency committee for outdoor recreation as grants to public bodies for the acquisition and development of outdoor recreational areas and facilities within the jurisdiction of the agencies, departments, or public bodies or to any agency or department of the state of Washington, subject to legislative appropriation. The interagency committee for outdoor recreation may use or permit the use of any funds derived from the sale of the bonds authorized under RCW 43.99B.028 through 43.99B.040 as matching funds in any case where federal, local, or other funds are made available on a matching basis for projects within the purposes of RCW 43.99B.028 through 43.99B.040. [1981 c 236 § 3.]

43.99B.034 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized by RCW 43.99B.028 through 43.99B.040.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.99B.028 through 43.99B.040 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1981 c 236 § 4.]

State general obligation bond retirement fund: RCW 43.83.160.

43.99B.036 Definitions. As used in RCW 43.99B.028 through 43.99B.040, the phrase "acquisition and development of outdoor recreational areas and facilities" shall be liberally construed and shall include, but shall not be limited to, acquisition of fee simple or any lesser interests in land and the development of outdoor areas and facilities. Swimming pools constructed with proceeds from these bonds may be enclosed at the sponsor's expense. The preservation of land or water areas in an unspoiled or undeveloped state shall be

among the alternatives permissible under RCW 43.99B.028 through 43.99B.040.

As used in RCW 43.99B.028 through 43.99B.040, the term "public body" means any political subdivision, taxing district, or municipal corporation of the state of Washington and those Indian tribes now or hereafter recognized as Indian tribes by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants from the state of Washington. [1981 c 236 § 5.]

43.99B.038 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99B.028 through 43.99B.040, and RCW 43.99B.028 through 43.99B.040 shall not be deemed to provide an exclusive method for the payment. [1981 c 236 § 6.]

43.99B.040 Legal investment for public funds. The bonds authorized in RCW 43.99B.028 through 43.99B.038 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1981 c 236 § 7.]

43.99B.042 Severability—1981 c 236. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 c 236 § 8.]

Chapter 43.99C

HANDICAPPED FACILITIES BOND ISSUE

Sections

- 43.99C.010 Declaration.
- 43.99C.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.99C.020 Definitions.
- 43.99C.025 Bond anticipation notes—Payment.
- 43.99C.030 Form, terms, conditions, etc., of bonds and notes.
- 43.99C.035 Pledge and promise.
- 43.99C.045 Administration of proceeds—Distribution—Transfer of fixed assets.
- 43.99C.047 Prohibition of expenditures not submitted in budget document or schedule—Capital appropriation—Exception—Contents.
- 43.99C.050 Retirement of bonds and notes from 1979 handicapped facilities bond redemption fund—Retirement of bonds and notes from state general obligation bond retirement fund.
- 43.99C.055 Legislature may provide additional means for payment of bonds.
- 43.99C.060 Bonds legal investment for public funds.

43.99C.010 Declaration. The physical and mental health of the people of the state directly affects the achievement of economic progress and full employment. The establishment of a system of regional and community facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps will provide the improved and convenient services needed for an efficient work force and a healthy and secure people. [1979 ex.s. c 221 § 1.]

Severability—1979 ex.s. c 221: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 221 § 13.]

Referral to electorate—1979 ex.s. c 221: "This act shall be submitted to the people for their adoption and ratification, or rejection, at a special election hereby ordered by the legislature, which election shall be held in conjunction with the next succeeding general election to be held in this state, all in accordance with the provisions of Article II, section 1 of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof." [1979 ex.s. c 221 § 14.]

Reviser's note: "This act," chapter 43.99C RCW (1979 ex.s. c 221), was adopted and ratified by the people at the November 6, 1979, general election (Referendum Bill No. 37). State Constitution Art. 2 § 1(d) provides: ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved"

43.99C.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of financing the planning, acquisition, construction, renovation, improvement, and equipping of regional and community facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps, the state finance committee is authorized to issue and sell general obligation bonds of the state of Washington in the sum of twenty-five million dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds or bond anticipation notes authorized by this chapter shall be offered for sale without prior legislative appropriation and the bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1979 ex.s. c 221 § 2.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.020 Definitions. As used in this chapter, the term "facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps" means real property and any interest therein, equipment, buildings, structures, mobile units, parking facilities, utilities, landscaping, and all incidental improvements and appurtenances thereto, developed and owned by any public body within the state for purposes of the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps when used in the following limited programs as designated by the department of social and health services: nonprofit group training homes, community centers, close to home living units, sheltered workshops, vocational rehabilitation centers, developmental disability training centers, and community homes for the mentally ill.

As used in this chapter, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof. [1979 ex.s. c 221 § 3.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.025 Bond anticipation notes—Payment. When the state finance committee has determined to issue the general obligation bonds, or a portion thereof, it may, pending the issuance of the bonds, issue in the name of the state temporary notes in anticipation of the bonds, which

notes shall be designated as "bond anticipation notes." Such portion of the proceeds of the sale of the bonds as may be required for the payment of principal of and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued. [1979 ex.s. c 221 § 4.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.030 Form, terms, conditions, etc., of bonds and notes. The state finance committee is authorized to determine the amounts, dates, form, terms, conditions, denominations, interest rates, maturities, rights and manner of redemption prior to maturity, registration privileges, place(s) of payment, and covenants of the bonds and the bond anticipation notes; the time or times of sale of all or any portion of them; and the conditions and manner of their sale, issuance, and redemption. [1979 ex.s. c 221 § 5.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.035 Pledge and promise. Each bond and bond anticipation note shall state that it is a general obligation of the state of Washington, shall contain a pledge of the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain the state's unconditional promise to pay the principal and interest as the same shall become due. [1979 ex.s. c 221 § 6.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.045 Administration of proceeds—Distribution—Transfer of fixed assets. Subject to legislative appropriation, all principal proceeds of the bonds and bond anticipation notes authorized in this chapter shall be administered by the state department of social and health services exclusively for the purposes specified in this chapter and for the payment of expenses incurred in connection with the sale and issuance of the bonds and bond anticipation notes.

In carrying out the purposes of this chapter all counties of the state shall be eligible to participate in the distribution of the bond proceeds. The share coming to each county shall be determined by a division among all counties according to the relation which the population of each county, as shown by the last federal or official state census, whichever is the later, bears to the total combined population of all counties, as shown by such census; except that, each county with a population of less than twelve thousand shall receive an aggregate amount of up to seventy-five thousand dollars if, through a procedure established in rule, the department has determined there is a demonstrated need and the share determined for such county is less than seventy-five thousand dollars. No single project in a county with a population of one million or more shall be eligible for more than fifteen percent of such county's total distribution of bond proceeds.

In carrying out the purposes specified in this chapter, the department may use or permit the use of the proceeds by direct expenditures, grants, or loans to any public body, including but not limited to grants to a public body as matching funds in any case where federal, local, or other

funds are made available on a matching basis for purposes specified in this chapter.

In carrying out the purpose of this chapter, fixed assets acquired under this chapter, and no longer utilized by the program having custody of the assets, may be transferred to other public bodies either in the same county or another county. Prior to such transfer the department shall first determine if the assets can be used by another program as designated by the department of social and health services in RCW 43.99C.020. Such programs shall have priority in obtaining the assets to ensure the purpose of this chapter is carried out. [1991 c 363 § 121; 1989 c 265 § 1; 1980 c 136 § 1; 1979 ex.s. c 221 § 8.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Appropriation—1980 c 136: "There is hereby appropriated to the department of social and health services from the 1979 handicapped facilities construction account in the general fund the sum of twenty-five million dollars for the purposes of chapter 43.99C RCW. This appropriation shall be limited by the conditions contained in section 2 of this act." [1980 c 136 § 3.] Section 2 of this act consists of the enactment of RCW 43.99C.047.

Severability—1980 c 136: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 136 § 4.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.047 Prohibition of expenditures not submitted in budget document or schedule—Capital appropriation—Exception—Contents. (1) No expenditure of funds shall be allowed for facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps which have not been submitted to the legislature in a budget document or schedule as specified in RCW 43.88.030(3), and have been approved through a capital appropriation; except that, the fiscal committees of the legislature may approve such facilities which have been, not later than December 1, 1980, verified by the department of social and health services as meeting the assessed need of a county and being ready to proceed.

(2) In order to assure compliance with RCW 43.99C.045, such document or schedule shall indicate the population of each county, all requests submitted from each county for participation in the distribution of the bond proceeds, the requests which are proposed to be accepted, and the basis for acceptance. [1980 c 136 § 2.]

Appropriation—Severability—1980 c 136: See notes following RCW 43.99C.045.

43.99C.050 Retirement of bonds and notes from 1979 handicapped facilities bond redemption fund—Retirement of bonds and notes from state general obligation bond retirement fund. The 1979 handicapped facilities bond redemption fund, hereby created in the state treasury, shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds and the bond anticipation notes authorized to be issued under this chapter.

The state finance committee, on or before June 30 of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the

payment of the principal of and interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenue received in the state treasury and deposit in the 1979 handicapped facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 ex. sess., and becomes effective by statute prior to the issuance of any of the bonds authorized by this chapter, the state general obligation bond retirement fund shall be used for purposes of this chapter in lieu of the 1979 handicapped facilities bond redemption fund, and the 1979 handicapped facilities bond redemption fund shall cease to exist. [1979 ex.s. c 221 § 9.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

State general obligation bond retirement fund: RCW 43.83.160.

43.99C.055 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and the interest on the bonds authorized in this chapter, and this chapter shall not be deemed to provide an exclusive method for the payment. [1979 ex.s. c 221 § 10.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.060 Bonds legal investment for public funds. The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1979 ex.s. c 221 § 11.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

Chapter 43.99D

WATER SUPPLY FACILITIES—1979 BOND ISSUE

Sections

- 43.99D.005 Transfer of duties to the department of health.
- 43.99D.010 Declaration.
- 43.99D.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.99D.020 Proceeds to be deposited in state and local improvements revolving account—Water supply facilities.
- 43.99D.025 Administration of proceeds—Use of funds.
- 43.99D.030 Definitions.
- 43.99D.035 Form, terms, conditions, etc., of bonds.
- 43.99D.040 Anticipation notes—Payment—Pledge and promise—Seal.
- 43.99D.045 Retirement of bonds from 1979 water supply facilities bond redemption fund—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders.
- 43.99D.050 Legislature may provide additional means for payment of bonds.
- 43.99D.055 Bonds legal investment for public funds.
- 43.99D.900 Severability—1979 ex.s. c 258.

43.99D.005 Transfer of duties to the department of health. The powers and duties of the department of social

and health services under this chapter shall be performed by the department of health. [1989 1st ex.s. c 9 § 241.]

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

43.99D.010 Declaration. The development goals for the state of Washington must include the provision of those supportive public services necessary for the development and expansion of industry, commerce, and employment, including the furnishing of an adequate supply of water for domestic and industrial purposes. [1979 ex.s. c 258 § 1.]

43.99D.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of water supply facilities within the state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of ten million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within thirty years of the date of issuance. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1979 ex.s. c 258 § 2.]

43.99D.020 Proceeds to be deposited in state and local improvements revolving account—Water supply facilities. The proceeds from the sale of bonds authorized by this chapter, and any interest earned on the interim investment of the proceeds, shall be deposited in the state and local improvements revolving account—water supply facilities in the general fund and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1979 ex.s. c 258 § 3.]

43.99D.025 Administration of proceeds—Use of funds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account—water supply facilities of the general fund under the terms of this chapter shall be administered by the state department of health subject to legislative appropriation. The department may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for which the bonds are issued by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter. [1991 c 3 § 301; 1979 ex.s. c 258 § 4.]

43.99D.030 Definitions. As used in this chapter, the term "water supply facilities" means municipal and industrial water supply and distribution systems including, but not limited to, all equipment, utilities, structures, real property, and interests in and improvements on real property, necessary for or incidental to the acquisition, construction, installation, or use of any municipal and industrial water supply or distribution system.

As used in this chapter, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1979 ex.s. c 258 § 5.]

43.99D.035 Form, terms, conditions, etc., of bonds. The state finance committee shall prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds authorized by this chapter shall be sold for less than their par value. [1979 ex.s. c 258 § 6.]

43.99D.040 Anticipation notes—Payment—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of the bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes." Such portion of the proceeds of the sale of the bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on the anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1979 ex.s. c 258 § 7.]

43.99D.045 Retirement of bonds from 1979 water supply facilities bond redemption fund—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders. The 1979 water supply facilities bond redemption fund is created in the state treasury. This fund shall be used for the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1979 water supply facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess., and becomes effective by statute prior to the issuance of any of the bonds authorized by this chapter, the state general obligation bond retirement fund shall be used for purposes of this chapter in lieu of the 1979 water supply facilities bond redemption fund, and the water supply facilities bond redemption fund shall cease to exist.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by

mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1979 ex.s. c 258 § 8.]

State general obligation bond retirement fund: RCW 43.83.160.

43.99D.050 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized in this chapter, and this chapter shall not be deemed to provide an exclusive method for such payment. [1979 ex.s. c 258 § 9.]

43.99D.055 Bonds legal investment for public funds. The bonds authorized by this chapter shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1979 ex.s. c 258 § 10.]

43.99D.900 Severability—1979 ex.s. c 258. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 258 § 13.]

Chapter 43.99E

WATER SUPPLY FACILITIES—1980 BOND ISSUE

Sections

- 43.99E.005 Transfer of duties to the department of health.
- 43.99E.010 Declaration.
- 43.99E.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.99E.020 Deposit of proceeds in state and local improvements revolving account—Water supply facilities—Use.
- 43.99E.025 Administration of proceeds.
- 43.99E.030 Definitions.
- 43.99E.035 Form, terms, conditions, etc., of bonds.
- 43.99E.040 Anticipation notes—Payment—Pledge and promise—Seal.
- 43.99E.045 Retirement of bonds from public water supply facilities bond redemption fund—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders.
- 43.99E.050 Legislature may provide additional means for payment of bonds.
- 43.99E.055 Bonds legal investment for public funds.
- 43.99E.900 Severability—1979 ex.s. c 234.

43.99E.005 Transfer of duties to the department of health. The powers and duties of the department of social and health services under this chapter shall be performed by the department of health. [1989 1st ex.s. c 9 § 242.]

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

43.99E.010 Declaration. The long-range development goals for the state of Washington must include the provision of those supportive public services necessary for the development and expansion of industry, commerce, and employment including the furnishing of an adequate supply of water for domestic, industrial, agricultural, municipal, fishery, recreational, and other beneficial uses. [1979 ex.s. c 234 § 1.]

Referral to electorate—1979 ex.s. c 234: "This act shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1980, in accordance with Article VIII, section 3 of the state Constitution, in accordance with Article II, section 1 of the state Constitution, and the laws adopted to facilitate the operation thereof." [1979 ex.s. c 234 § 12.]

Reviser's note: "This act," chapter 43.99E RCW (1979 ex.s. c 234), was adopted and ratified by the people at the November 4, 1980, general election (Referendum Bill No. 38). State Constitution Art. 2 § 1(d) provides: ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved"

43.99E.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of water supply facilities within the state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of sixty-five million dollars, or so much thereof as may be required, to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. No bonds authorized by this chapter may be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold. [1990 1st ex.s. c 15 § 8. Prior: 1989 1st ex.s. c 14 § 11; 1989 c 136 § 4; 1979 ex.s. c 234 § 2.]

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

Intent—1989 c 136: See note following RCW 43.83A.020.

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.020 Deposit of proceeds in state and local improvements revolving account—Water supply facilities—Use. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account—water supply facilities hereby created in the general fund and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1979 ex.s. c 234 § 3.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.025 Administration of proceeds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account—water supply facilities of the general fund under the terms of this chapter shall be divided into two shares as follows:

(1) Seventy-five million dollars, or so much thereof as may be required, shall be used for domestic, municipal, and industrial water supply facilities; and

(2) Fifty million dollars, or so much thereof as may be required, shall be used for water supply facilities for agricultural use alone or in combination with fishery, recreational, or other beneficial uses of water.

The share of seventy-five million dollars shall be administered by the department of health and the share of

fifty million dollars shall be administered by the department of ecology, subject to legislative appropriation. The administering departments may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for the issuance of the bonds by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter. [1991 c 3 § 302; 1979 ex.s. c 234 § 4.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.030 Definitions. As used in this chapter, the term "water supply facilities" means domestic, municipal, industrial, and agricultural (and any associated fishery, recreational, or other beneficial use) water supply or distribution systems including but not limited to all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to the acquisition, construction, installation, or use of any such water supply or distribution system.

As used in this chapter, the term "public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal or public corporation thereof; a board of joint control; an agency of the federal government; and those Indian tribes which may constitutionally receive grants or loans from the state of Washington. [1996 c 320 § 21; 1979 ex.s. c 234 § 5.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.035 Form, terms, conditions, etc., of bonds. The state finance committee is authorized to prescribe the forms, terms, conditions, and covenants of the bonds; the time or times of sale of all or any portion of them; and the conditions and manner of their sale and issuance. [1989 c 136 § 5; 1979 ex.s. c 234 § 6.]

Intent—1989 c 136: See note following RCW 43.83A.020.

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.040 Anticipation notes—Payment—Pledge and promise—Seal. When the state finance committee has decided to issue the bonds, or a portion of the bonds, it may, pending the issuance of the bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The portion of the proceeds of the sale of the bonds as may be required for this purpose shall be applied to the payment of the principal of and interest on the anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1979 ex.s. c 234 § 7.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.045 Retirement of bonds from public water supply facilities bond redemption fund—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders. The public water supply facilities bond redemption fund is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the public water supply facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date. If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess. and becomes effective by statute prior to the issuance of any of the bonds authorized by this chapter, the state general obligation bond retirement fund shall be used for purposes of this chapter in lieu of the public water supply facilities bond redemption fund, and the public water supply facilities bond redemption fund shall cease to exist. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1979 ex.s. c 234 § 8.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

State general obligation bond retirement fund: RCW 43.83.160.

43.99E.050 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized in this chapter, and this chapter shall not be considered to provide an exclusive method for the payment. [1979 ex.s. c 234 § 9.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.055 Bonds legal investment for public funds. The bonds authorized in this chapter shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1979 ex.s. c 234 § 10.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.900 Severability—1979 ex.s. c 234. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 234 § 11.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

Chapter 43.99F

WASTE DISPOSAL FACILITIES—1980 BOND
ISSUE

Sections

- 43.99F.010 Declaration.
- 43.99F.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.99F.030 Deposit of proceeds in state and local improvements revolving account, Waste Disposal Facilities, 1980—Use.
- 43.99F.040 Administration of proceeds.
- 43.99F.050 Definitions.
- 43.99F.060 Form, terms, conditions, etc., of bonds.
- 43.99F.070 Anticipation notes—Payment—Pledge and promise—Seal.
- 43.99F.080 Retirement of bonds from waste disposal facilities bond redemption fund—Remedies of bondholders.
- 43.99F.090 Legislature may provide additional means for payment of bonds.
- 43.99F.100 Bonds legal investment for public funds.
- 43.99F.110 Referral to electorate.

43.99F.010 Declaration. The long-range development goals for the state of Washington must include the protection of the resources and environment of the state, the health and safety of its people, and the beneficial uses of water by providing facilities and systems, among others, for the general control, collection, treatment, or disposal of nonradioactive solid and nonradioactive liquid waste materials. The purpose of this chapter is to assist the state and local governments in providing that protection but it is not the purpose of this chapter to provide funding for facilities which encourage development. A high priority in the expenditure of these funds shall be the protection of sole-source aquifers designated pursuant to the federal Safe Drinking Water Act (88 Stat. 1660) which aquifers have been designated as of July 24, 1983. [1983 c 269 § 1; 1980 c 159 § 1.]

43.99F.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. (*Effective until July 1, 1997.*) For the purpose of providing funds to public bodies for the planning, design, acquisition, construction, and improvement of public waste disposal and management facilities, or for purposes of assisting a public body to obtain an ownership interest in waste disposal and management facilities and/or to defray a part of the payments made by a public body to a service provider under a service agreement entered into pursuant to RCW 70.150.060, in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of three hundred thirty million dollars, or so much thereof as may be required, to finance the improvements defined in this chapter and all costs incidental thereto. The department may not use or permit the use of any funds derived from the sale of bonds authorized by this chapter for: (1) the support of a solid waste recycling activity or service in a locale if the department determines that the activity or service is reasonably available to persons within that locale from private enterprise; or (2) the construction of municipal wastewater facilities unless said facilities have been approved by a general purpose unit of local government in accordance with chapter 36.94 RCW, chapter 35.67 RCW, or RCW 56.08.020. These bonds shall be paid and discharged within thirty years of the date of issuance. No

bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold. [1990 1st ex.s. c 15 § 9. Prior: 1989 1st ex.s. c 14 § 12; 1989 c 136 § 6; 1987 c 436 § 2; 1980 c 159 § 2.]

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

Intent—1989 c 136: See note following RCW 43.83A.020.

43.99F.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. (*Effective July 1, 1997.*) For the purpose of providing funds to public bodies for the planning, design, acquisition, construction, and improvement of public waste disposal and management facilities, or for purposes of assisting a public body to obtain an ownership interest in waste disposal and management facilities and/or to defray a part of the payments made by a public body to a service provider under a service agreement entered into pursuant to RCW 70.150.060, in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of three hundred thirty million dollars, or so much thereof as may be required, to finance the improvements defined in this chapter and all costs incidental thereto. The department may not use or permit the use of any funds derived from the sale of bonds authorized by this chapter for: (1) the support of a solid waste recycling activity or service in a locale if the department determines that the activity or service is reasonably available to persons within that locale from private enterprise; or (2) the construction of municipal wastewater facilities unless said facilities have been approved by a general purpose unit of local government in accordance with chapter 36.94 RCW, chapter 35.67 RCW, or RCW 57.16.010. These bonds shall be paid and discharged within thirty years of the date of issuance. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold. [1996 c 230 § 1611; 1990 1st ex.s. c 15 § 9. Prior: 1989 1st ex.s. c 14 § 12; 1989 c 136 § 6; 1987 c 436 § 2; 1980 c 159 § 2.]

Part headings not law—Effective date—1996 c 230: See notes following RCW 57.02.001.

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

Intent—1989 c 136: See note following RCW 43.83A.020.

43.99F.030 Deposit of proceeds in state and local improvements revolving account, Waste Disposal Facilities, 1980—Use. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account, Waste Disposal Facilities, 1980 hereby created in the state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1991 sp.s. c 13 § 44; 1985 c 57 § 56; 1980 c 159 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.99F.040 Administration of proceeds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account, Waste Disposal Facilities, 1980 of the general fund under the terms of this chapter shall be administered by the state department of ecology subject to legislative appropriation. The department may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for which the bonds are issued by direct expenditures and by grants or loans to public bodies, including grants to public bodies as cost-sharing funds in any case where federal, local, or other funds are made available on a cost-sharing basis for improvements within the purposes of this chapter. The department shall ensure that funds derived from the sale of bonds authorized under this chapter do not constitute more than seventy-five percent of the total cost of any waste disposal or management facility. Not more than two percent of the proceeds of the bond issue may be used by the department of ecology in relation to the administration of the expenditures, grants, and loans.

At least one hundred fifty million dollars of the proceeds of the bonds authorized by this chapter shall be used exclusively for waste management systems capable of producing renewable energy or energy savings as a result of the management of the wastes. "Renewable energy" means, but is not limited to, the production of steam, hot water for steam heat, electricity, cogeneration, gas, or fuel through the use of wastes by incineration, refuse-derived fuel processes, pyrolysis, hydrolysis, or bioconversion, and energy savings through material recovery from waste source separation and/or recycling.

Beginning with the biennium ending June 30, 1997, the department shall present a biennial progress report on the use of moneys from the account to the chairs of the senate committee on ways and means and the house of representatives committee on appropriations. The first report is due June 30, 1996, and the report for each succeeding biennium is due December 31 of the odd-numbered year. The report shall consist of a list of each recipient, project description, and amount of the grant, loan, or both.

Integration of the management and operation of systems for solid waste disposal with systems of liquid waste disposal holds promise of improved waste disposal efficiency and greater environmental protection and restoration. To encourage the planning for and development of such integration, the department may provide for special grant incentives to public bodies which plan for or operate integrated waste disposal management systems.

Funds provided for waste disposal and management facilities under this chapter may be used for payments to a service provider under a service agreement pursuant to RCW 70.150.060. If funds are to be used for such payments, the department may make periodic disbursements to a public body or may make a single lump sum disbursement. Disbursements of funds with respect to a facility owned or operated by a service provider shall be equivalent in value to disbursements that would otherwise be made if that facility were owned or operated by a public body. Payments under this chapter for waste disposal and management facilities made to public bodies entering into service agreements pursuant to RCW 70.150.060 shall not exceed amounts paid to public bodies not entering into service

agreements. [1996 c 37 § 1; 1987 c 436 § 3; 1980 c 159 § 4.]

43.99F.050 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Waste disposal and management facilities" means any facilities or systems for the control, collection, storage, treatment, disposal, recycling, or recovery of nonradioactive liquid wastes or nonradioactive solid wastes, or a combination thereof, including but not limited to, sanitary sewage, storm water, residential, industrial, commercial, and agricultural wastes, and concentrations of organic sediments waste, inorganic nutrients, and toxic materials which are causing environmental degradation and loss of the beneficial use of the environment, and material segregated into recyclables and nonrecyclables. Waste disposal and management facilities may include all equipment, utilities, structures, real property, and interest in and improvements on real property necessary for or incidental to such purpose. As used in this chapter, the phrase "waste disposal and management facilities" shall not include the acquisition of equipment used to collect residential or commercial garbage.

(2) "Public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal corporation thereof, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government.

(3) "Control" means those measures necessary to maintain and/or restore the beneficial uses of polluted land and water resources including, but not limited to, the diversion, sedimentation, flocculation, dredge and disposal, or containment or treatment of nutrients, organic waste, and toxic material to restore the beneficial use of the state's land and water resources and prevent the continued pollution of these resources.

(4) "Planning" means the development of comprehensive plans for the purpose of identifying state-wide or regional needs for specific waste disposal facilities as well as the development of plans specific to a particular project.

(5) "Department" means the department of ecology. [1987 c 436 § 4; 1980 c 159 § 5.]

43.99F.060 Form, terms, conditions, etc., of bonds.

The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. [1989 c 136 § 7; 1980 c 159 § 6.]

Intent—1989 c 136: See note following RCW 43.83A.020.

43.99F.070 Anticipation notes—Payment—Pledge and promise—Seal.

When the state finance committee has decided to issue the bonds, or a portion thereof, it may, pending the issuing of the bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes." Such portion of the proceeds of the sale of the bonds as may be required for this purpose shall be applied to the payment of the principal of and interest on any of these anticipation notes which have

been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1980 c 159 § 7.]

43.99F.080 Retirement of bonds from waste disposal facilities bond redemption fund—Remedies of bondholders. The waste disposal facilities bond redemption fund shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds and the bond anticipation notes authorized to be issued under this chapter.

The state finance committee, on or before June 30 of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the waste disposal facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date. The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this chapter. [1980 c 159 § 8.]

43.99F.090 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized in this chapter, and this chapter shall not be deemed to provide an exclusive method for such payment. [1980 c 159 § 9.]

43.99F.100 Bonds legal investment for public funds. The bonds authorized in this chapter shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1980 c 159 § 10.]

43.99F.110 Referral to electorate. This act shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1980, in accordance with the provisions of Article VIII, section 3, of the Constitution of the state of Washington, and in accordance with the provisions of Article II, section 1, of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1980 c 159 § 12.]

Reviser's note: "This act," chapter 43.99F RCW, was adopted and ratified by the people at the November 4, 1980, general election (Referendum Bill No. 39). State Constitution Art. 2 § 1(d) provides: ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved . . ."

Chapter 43.99G

BONDS FOR CAPITAL PROJECTS

Sections

1985 BOND ISSUE

- 43.99G.010 General obligation bonds authorized—Terms—Appropriation required—Short-term obligations.
- 43.99G.020 Conditions and limitations—Deposit of proceeds—Administration.
- 43.99G.030 Retirement of bonds from state general obligation bond retirement fund.
- 43.99G.040 Retirement of bonds from higher education bond retirement fund of 1979.
- 43.99G.050 Retirement of bonds from state higher education bond retirement fund of 1977.
- 43.99G.060 Pledge and promise—Remedies of bondholders.
- 43.99G.070 Institutions of higher education—Apportionment of principal and interest payments—Transfer of moneys to general fund.
- 43.99G.080 Legislature may provide additional means for payment of bonds.
- 43.99G.090 Bonds legal investment for public funds.

1987 BOND ISSUE

- 43.99G.100 General obligation bonds authorized—Terms—Appropriation required—Short-term obligations.
- 43.99G.102 Conditions and limitations—Deposit of proceeds—Administration.
- 43.99G.104 Retirement of bonds from state general obligation bond retirement fund.
- 43.99G.108 Pledge and promise—Remedies of bondholders.
- 43.99G.112 Legislature may provide additional means for payment of bonds.
- 43.99G.114 Bonds legal investment for public funds.

CONSTRUCTION

- 43.99G.900 Severability—1985 ex.s. c 4.
- 43.99G.901 Severability—1987 1st ex.s. c 3.

1985 BOND ISSUE

43.99G.010 General obligation bonds authorized—Terms—Appropriation required—Short-term obligations. The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two hundred eighty-five million eight hundred fifty-one thousand dollars, or so much thereof as may be required, to finance the projects authorized in RCW 43.99G.020 and all costs incidental thereto.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance or letters of credit and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for

the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued. [1985 ex.s. c 4 § 1.]

43.99G.020 Conditions and limitations—Deposit of proceeds—Administration. Bonds issued under RCW 43.99G.010 are subject to the following conditions and limitations:

(1) General obligation bonds of the state of Washington in the sum of thirty-eight million fifty-four thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for grants and loans to local governments and subdivisions of the state for capital projects through the community economic revitalization board and for the department of general administration, military department, parks and recreation commission, and department of corrections to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of general administration, subject to legislative appropriation.

(2) General obligation bonds of the state of Washington in the sum of four million six hundred thirty-five thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the planning, design, acquisition, construction, and improvement of a Washington state agricultural trade center, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered as provided in the capital budget acts, subject to legislative appropriation.

(3) General obligation bonds of the state of Washington in the sum of twenty-five million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the department of social and health services and the department of corrections to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, and grounds, and to

provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the social and health services construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of social and health services, subject to legislative appropriation.

(4) General obligation bonds of the state of Washington in the sum of one million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the department of fisheries to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the fisheries capital projects account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of fisheries, subject to legislative appropriation.

(5) General obligation bonds of the state of Washington in the sum of fifty-three million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for state agencies and the institutions of higher education, including the community colleges, to perform capital renewal projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state facilities renewal account hereby created in the state treasury, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered as provided in the capital budget acts, subject to legislative appropriation.

(6) General obligation bonds of the state of Washington in the sum of twenty-two million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the University of Washington and the state community colleges to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, improving, furnishing, and equipping of state

buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the higher education reimbursable short-term bond account hereby created in the state treasury, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the University of Washington, subject to legislative appropriation.

(7) General obligation bonds of the state of Washington in the sum of twenty-eight million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the institutions of higher education to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the higher education construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by Washington State University, subject to legislative appropriation.

(8) General obligation bonds of the state of Washington in the sum of seventy-five million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the institutions of higher education, including facilities for the community college system, to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account in the state treasury and shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection. [1989 1st ex.s. c 14 § 13; 1988 c 36 § 22; 1986 c 103 § 1; 1985 ex.s. c 4 § 2.]

***Reviser's note:** Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.030 Retirement of bonds from state general obligation bond retirement fund. Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99G.020 (1) through (6) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. [1989 1st ex.s. c 14 § 19; 1985 ex.s. c 4 § 3.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.040 Retirement of bonds from higher education bond retirement fund of 1979. Both principal of and interest on the bonds issued for the purposes of RCW 43.99G.020(7) shall be payable from the higher education bond retirement fund of 1979. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the higher education bond retirement fund of 1979, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. [1989 1st ex.s. c 14 § 20; 1985 ex.s. c 4 § 4.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.050 Retirement of bonds from state higher education bond retirement fund of 1977. Both principal of and interest on the bonds issued for the purposes of RCW 43.99G.020(8) shall be payable from the state higher education bond retirement fund of 1977. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state higher education bond retirement fund of 1977, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. [1989 1st ex.s. c 14 § 21; 1985 ex.s. c 4 § 5.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.060 Pledge and promise—Remedies of bondholders. Bonds issued under RCW 43.99G.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1985 ex.s. c 4 § 6.]

43.99G.070 Institutions of higher education—Apportionment of principal and interest payments—Transfer of moneys to general fund. On or before June 30th of each year and in accordance with the provisions of the bond proceedings the state finance committee shall determine the relative shares of the principal and interest payments determined pursuant to RCW 43.99G.040, exclusive of deposit interest credit, attributable to each of the institutions of higher education in proportion to the principal amount of bonds issued for the purposes of RCW 43.99G.020(7) for projects for each institution. On each date on which any interest or principal and interest payment is due, the board of regents or the board of trustees of each institution of higher education shall cause the amount so computed to be paid out of the appropriate building account or capital projects account to the state treasurer for deposit into the general fund of the state treasury. [1989 1st ex.s. c 14 § 22; 1985 ex.s. c 4 § 7.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.080 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.010, and RCW 43.99G.030 through 43.99G.050 shall not be deemed to provide an exclusive method for the payment. [1985 ex.s. c 4 § 8.]

43.99G.090 Bonds legal investment for public funds. The bonds authorized in RCW 43.99G.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1985 ex.s. c 4 § 9.]

1987 BOND ISSUE

43.99G.100 General obligation bonds authorized—Terms—Appropriation required—Short-term obligations. The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of four hundred twelve million three hundred thousand dollars, or so much thereof as may be required, to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1987-1989

fiscal biennium and subsequent fiscal biennia, and all costs incidental thereto.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance or letters of credit and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued. [1987 1st ex.s. c 3 § 1.]

43.99G.102 Conditions and limitations—Deposit of proceeds—Administration. Bonds issued under RCW 43.99G.100 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of four hundred four million four hundred thousand dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1987-1989 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited as follows:

One hundred forty million five hundred thousand dollars in the state building construction account created in RCW 43.83.020.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the office of financial management, subject to legislative appropriation. [1989 1st ex.s. c 14 § 14; 1987 1st ex.s. c 3 § 2.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.104 Retirement of bonds from state general obligation bond retirement fund. Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99G.102 shall be payable from the state general obligation bond retirement fund. The state finance commit-

tee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. [1989 1st ex.s. c 14 § 23; 1987 1st ex.s. c 3 § 3.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.108 Pledge and promise—Remedies of bondholders. Bonds issued under RCW 43.99G.100 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1987 1st ex.s. c 3 § 5.]

43.99G.112 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.100 and 43.99G.104 shall not be deemed to provide an exclusive method for the payment. [1989 1st ex.s. c 14 § 24; 1987 1st ex.s. c 3 § 7.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.114 Bonds legal investment for public funds. The bonds authorized in RCW 43.99G.100 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1987 1st ex.s. c 3 § 8.]

CONSTRUCTION

43.99G.900 Severability—1985 ex.s. c 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 ex.s. c 4 § 16.]

43.99G.901 Severability—1987 1st ex.s. c 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 1st ex.s. c 3 § 13.]

Chapter 43.99H

FINANCING FOR APPROPRIATIONS—1989-1991 BIENNIUM

Sections

- 43.99H.010 1989-1991 Fiscal biennium—General obligation bonds for capital and operating appropriations act.
- 43.99H.020 Conditions and limitations.
- 43.99H.030 Retirement of bonds.
- 43.99H.040 Retirement of bonds.
- 43.99H.050 Pledge and promise—Remedies.
- 43.99H.060 Reimbursement of general fund.
- 43.99H.070 East capitol campus construction account—Additional means of reimbursement.
- 43.99H.080 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Additional means for payment of principal and interest.
- 43.99H.090 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Legal investment.
- 43.99H.900 Severability—1989 1st ex.s. c 14.
- 43.99H.901 Effective dates—1989 1st ex.s. c 14.

43.99H.010 1989-1991 Fiscal biennium—General obligation bonds for capital and operating appropriations act. The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion four hundred four million dollars, or so much thereof as may be required, to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1989-1991 fiscal biennium and subsequent fiscal biennia, and all costs incidental thereto, and to provide for reimbursement of bond-funded accounts from the 1987-1989 fiscal biennium.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance, letters of credit, or other credit enhancements and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued. [1990 1st ex.s. c 15 § 1; 1989 1st ex.s. c 14 § 1.]

Severability—1990 1st ex.s. c 15: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 1st ex.s. c 15 § 14.]

43.99H.020 Conditions and limitations. Bonds issued under RCW 43.99H.010 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion four hundred four million dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1989-91 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects, and to provide for reimbursement of bond-funded accounts from the 1987-89 fiscal biennium. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

(1) Thirty million dollars to the state and local improvements revolving account—waste disposal facilities, created by RCW 43.83A.030, to be used for the purposes described in RCW 43.83A.020;

(2) Five million three hundred thousand dollars to the salmon enhancement construction account created by *RCW 75.48.030;

(3) One hundred twenty million dollars to the state and local improvements revolving account—waste disposal facilities, 1980 created by RCW 43.99F.030, to be used for the purposes described in RCW 43.99F.020;

(4) Forty million dollars to the common school construction fund as referenced in RCW 28A.515.320.

(5) Three million two hundred thousand dollars to the state higher education construction account created by RCW 28B.10.851;

(6) Eight hundred five million dollars to the state building construction account created by RCW 43.83.020;

(7) Nine hundred fifty thousand dollars to the higher education reimbursable short-term bond account created by RCW 43.99G.020(6);

(8) Twenty-nine million seven hundred thirty thousand dollars to the outdoor recreation account created by RCW 43.99.060;

(9) Sixty million dollars to the state and local improvements revolving account—water supply facilities, created by RCW 43.99E.020 to be used for the purposes described in chapter 43.99E RCW;

(10) Four million three hundred thousand dollars to the state social and health services construction account created by RCW 43.83H.030;

(11) Two hundred fifty thousand dollars to the fisheries capital projects account created by RCW 43.83I.040;

(12) Four million nine hundred thousand dollars to the state facilities renewal account created by RCW 43.99G.020(5);

(13) Two million three hundred thousand dollars to the essential rail assistance account created by **RCW 47.76.030;

(14) One million one hundred thousand dollars to the essential rail bank account hereby created in the state treasury;

(15) Seventy-three million dollars to the east capitol campus construction account hereby created in the state treasury;

(16) Eight million dollars to the higher education construction account created in RCW 28B.14D.040;

(17) Sixty-three million two hundred thousand dollars to the labor and industries construction account hereby created in the state treasury;

(18) Seventy-five million dollars to the higher education construction account created by RCW 28B.14D.040;

(19) Twenty-six million five hundred fifty thousand dollars to the habitat conservation account hereby created in the state treasury; and

(20) Eight million dollars to the public safety reimbursable bond account hereby created in the state treasury.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management, subject to legislative appropriation.

Bonds authorized for the purposes of subsection (17) of this section shall be issued only after the director of the department of labor and industries has certified, based on reasonable estimates, that sufficient revenues will be available from the accident fund created in RCW 51.44.010 and the medical aid fund created in RCW 51.44.020 to meet the requirements of RCW 43.99H.060(4) during the life of the bonds.

Bonds authorized for the purposes of subsection (18) of this section shall be issued only after the board of regents of the University of Washington has certified, based on reasonable estimates, that sufficient revenues will be available from nonappropriated local funds to meet the requirements of RCW 43.99H.060(4) during the life of the bonds. [1990 1st ex.s. c 15 § 2; 1990 c 33 § 582; 1989 1st ex.s. c 14 § 2.]

Reviser's note: (1) This section was amended by 1990 c 33 § 582 and by 1990 1st ex.s. c 15 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

*(2) RCW 75.48.030 was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

***(3) RCW 47.76.030 was recodified as RCW 47.76.250 pursuant to 1993 c 224 § 15.

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

43.99H.030 Retirement of bonds. Both principal and interest on the bonds issued for the purposes specified in RCW 43.99H.020 (1) through (3), (5) through (14), and (19) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the

bond proceedings. [1991 sp.s. c 31 § 13; 1990 1st ex.s. c 15 § 4; 1989 1st ex.s. c 14 § 3.]

Severability—1991 sp.s. c 31: See RCW 43.991.900.

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

43.99H.040 Retirement of bonds. (1) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(16) shall be payable from the higher education bond retirement fund of 1979. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the higher education bond retirement fund of 1979, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

(2) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(15) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

(3) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(17) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

(4) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(18) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

(5) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(20) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

(6) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(4) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. [1991 sp.s. c 31 § 14; 1990 1st ex.s. c 15 § 5; 1989 1st ex.s. c 14 § 4.]

Severability—1991 sp.s. c 31: See RCW 43.991.900.

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

43.99H.050 Pledge and promise—Remedies. Bonds issued under RCW 43.99H.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1989 1st ex.s. c 14 § 5.]

43.99H.060 Reimbursement of general fund. (1) For bonds issued for the purposes of RCW 43.99H.020(16), on each date on which any interest or principal and interest payment is due, the board of regents or the board of trustees of Washington State University shall cause the amount computed in RCW 43.99H.040(1) to be paid out of the appropriate building account or capital projects account to the state treasurer for deposit into the general fund of the state treasury.

(2) For bonds issued for the purposes of RCW 43.99H.020(15), on each date on which any interest or principal and interest payment is due, the state treasurer shall transfer the amount computed in RCW 43.99H.040(2) from the capitol campus reserve account, hereby created in the state treasury, to the general fund of the state treasury. At the time of sale of the bonds issued for the purposes of RCW 43.99H.020(15), and on or before June 30th of each succeeding year while such bonds remain outstanding, the state finance committee shall determine, based on current balances and estimated receipts and expenditures from the capitol campus reserve account, that portion of principal and interest on such RCW 43.99H.020(15) bonds which will, by virtue of payments from the capitol campus reserve account, be reimbursed from sources other than "general state revenues" as that term is defined in Article VIII, section 1 of the state Constitution. The amount so determined by the state finance committee, as from time to time adjusted in accordance with this subsection, shall not constitute indebtedness for purposes of the limitations set forth in RCW 39.42.060.

(3) For bonds issued for the purposes of RCW 43.99H.020(17), on each date on which any interest or principal and interest payment is due, the director of the department of labor and industries shall cause fifty percent of the amount computed in RCW 43.99H.040(3) to be transferred from the accident fund created in RCW 51.44.010 and fifty percent of the amount computed in RCW 43.99H.040(3) to be transferred from the medical aid fund created in RCW 51.44.020, to the general fund of the state treasury.

(4) For bonds issued for the purposes of RCW 43.99H.020(18), on each date on which any interest or principal and interest payment is due, the board of regents of the University of Washington shall cause the amount computed in RCW 43.99H.040(4) to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the general fund of the state treasury.

(5) For bonds issued for the purposes of RCW 43.99H.020(20), on each date on which any interest or principal and interest payment is due, the state treasurer shall transfer the amount computed in RCW 43.99H.040(5) from the public safety and education account created in RCW 43.08.250 to the general fund of the state treasury.

(6) For bonds issued for the purposes of RCW 43.99H.020(4), on each date on which any interest or principal and interest payment is due, the state treasurer shall transfer from property taxes in the state general fund levied for the support of the common schools under RCW 84.52.065 to the general fund of the state treasury for unrestricted use the amount computed in RCW 43.99H.040(6).

[1991 sp.s. c 31 § 15; 1990 1st ex.s. c 15 § 6; 1989 1st ex.s. c 14 § 6.]

Severability—1991 sp.s. c 31: See RCW 43.99I.900.

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

43.99H.070 East capitol campus construction account—Additional means of reimbursement. In addition to any other charges authorized by law and to assist in the reimbursement of principal and interest payments on bonds issued for the purposes of RCW 43.99H.020(15), the following revenues may be collected:

(1) The director of general administration may assess a charge against each state board, commission, agency, office, department, activity, or other occupant of the facility or building constructed with bonds issued for the purposes of RCW 43.99H.020(15) for payment of a proportion of costs for each square foot of floor space assigned to or occupied by the entity. Payment of the amount billed to the entity for such occupancy shall be made quarterly during each fiscal year. The director of general administration shall deposit the payment in the capitol campus reserve account.

(2) The director of general administration may pledge a portion of the parking rental income collected by the department of general administration from parking space developed as a part of the facility constructed with bonds issued for the purposes of RCW 43.99H.020(15). The pledged portion of this income shall be deposited in the capitol campus reserve account. The unpledged portion of this income shall continue to be deposited in the state vehicle parking account.

(3) The state treasurer shall transfer four million dollars from the capitol building construction account to the capitol campus reserve account each fiscal year from 1990 to 1995. Beginning in fiscal year 1996, the director of general administration, in consultation with the state finance committee, shall determine the necessary amount for the state treasurer to transfer from the capitol building construction account to the capitol campus reserve account for the purpose of repayment of the general fund of the costs of the bonds issued for the purposes of RCW 43.99H.020(15).

(4) Any remaining balance in the state building and parking bond redemption account after the final debt service payment shall be transferred to the capitol campus reserve account. [1995 c 215 § 6; 1989 1st ex.s. c 14 § 7.]

43.99H.080 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal and interest on the bonds authorized in RCW 43.99H.010. RCW 43.99H.030 and 43.99H.040 shall not be deemed to provide an exclusive method for the payment. [1990 1st ex.s. c 15 § 3; 1989 1st ex.s. c 14 § 8.]

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

43.99H.090 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Legal investment. The bonds authorized in RCW

43.99H.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1989 1st ex.s. c 14 § 9.]

43.99H.900 Severability—1989 1st ex.s. c 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 1st ex.s. c 14 § 26.]

43.99H.901 Effective dates—1989 1st ex.s. c 14. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989, except for section 18 of this act which shall take effect immediately [June 1, 1989]. [1989 1st ex.s. c 14 § 28.]

Chapter 43.99I

FINANCING FOR APPROPRIATIONS—1991-1993 BIENNIUM

Sections

43.99I.010	1991-1993 Fiscal biennium—General obligation bonds for capital and operating appropriations act.
43.99I.020	Conditions and limitations.
43.99I.030	Retirement of bonds.
43.99I.040	Reimbursement of general fund.
43.99I.050	Reimbursement of general fund.
43.99I.060	Pledge and promise—Remedies.
43.99I.070	Additional means for payment of principal and interest.
43.99I.080	Legal investment.
43.99I.090	Dairy products commission—Bond conditions and limitations.
43.99I.100	Data processing building construction account.
43.99I.110	Dairy products commission facility account.
43.99I.900	Severability—1991 sp.s. c 31.

43.99I.010 1991-1993 Fiscal biennium—General obligation bonds for capital and operating appropriations act. The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion two hundred eighty-four million dollars, or so much thereof as may be required, to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1991-1993 fiscal biennium and subsequent fiscal biennia, and all costs incidental thereto.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance, letters of credit, or other credit enhancements and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is condi-

tioned upon the failure of the state to pay the principal or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued. [1992 c 235 § 1; 1991 sp.s. c 31 § 1.]

43.99I.020 Conditions and limitations. Bonds issued under RCW 43.99I.010 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion two hundred eighty-four million dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1991-93 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

(1) Eight hundred thirty-five thousand dollars to the state higher education construction account created by RCW 28B.10.851;

(2) Eight hundred seventy-one million dollars to the state building construction account created by RCW 43.83.020;

(3) Fifteen million dollars to the energy efficiency construction account created by RCW 39.35C.100;

(4) Three million fifty thousand dollars to the energy efficiency services account created by RCW 39.35C.110;

(5) Two hundred fifty-five million five hundred thousand dollars to the common school reimbursable construction account hereby created in the state treasury;

(6) Ninety-eight million six hundred forty-eight thousand dollars to the higher education reimbursable construction account hereby created in the state treasury;

(7) Three million two hundred eighty-four thousand dollars to the data processing building construction account created in RCW 43.99I.100; and

(8) Nine hundred thousand dollars to the Washington state dairy products commission facility account created in RCW 43.99I.110.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management, subject to legislative appropriation. [1992 c 235 § 2; 1991 sp.s. c 31 § 2.]

43.99I.030 Retirement of bonds. (1) Both principal and interest on the bonds issued for the purposes specified

in *RCW 43.99I.020 (1) through (7) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. [1991 sp.s. c 31 § 3.]

*Reviser's note: 1992 c 235 § 2 added a subsection (8) to RCW 43.99I.020.

43.99I.040 Reimbursement of general fund. (1) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020 (3) and (4), the state treasurer shall transfer from the energy efficiency construction account created in RCW 39.35C.100 to the general fund of the state treasury the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020 (3) and (4).

(2) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020(5), the state treasurer shall transfer from property taxes in the state general fund levied for this support of the common schools under RCW 84.52.065 to the general fund of the state treasury for unrestricted use the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(5).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020(6), the state treasurer shall transfer from higher education operating fees deposited in the general fund to the general fund of the state treasury for unrestricted use, or if chapter 231, Laws of 1992 (Senate Bill No. 6285) becomes law and changes the disposition of higher education operating fees from the general fund to another account, the state treasurer shall transfer the proportional share from the University of Washington operating fees account, the Washington State University operating fees account, and the Central Washington University operating fees account the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(7).

(4) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020(7), the state treasurer shall transfer from the data processing revolving account [fund] created in RCW 43.105.080 to the general fund of the state treasury the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(7).

(5) On each date on which any interest or principal and interest payment is due on bonds issued for the purpose of RCW 43.99I.020(8), the Washington state dairy products commission shall cause the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(8) to be paid out of the commission's general operating fund to the state treasurer for deposit into the

general fund of the state treasury. [1992 c 235 § 3; 1991 sp.s. c 31 § 4.]

43.99I.050 Reimbursement of general fund. In addition to any other charges authorized by law and to assist in the reimbursement of principal and interest payments on bonds issued for the purposes of RCW 43.99I.020 (3) and (4), the director of the energy office shall cause to be accumulated in the energy efficiency construction account, from project revenues, loan repayments, and other moneys legally available for such purposes, amounts adequate to make payments of principal of and interest coming due on general obligation bonds issued for the purposes of RCW 43.99I.020 (3) and (4). As needed during each fiscal year, the director shall cause amounts so accumulated to be deposited into the general fund of the state treasury. If the director is unable to accumulate and transfer the full amount necessary for such payments of principal of and interest coming due on the bonds, any shortfall shall be credited to an account receivable from the energy office to the state treasury. [1991 sp.s. c 31 § 5.]

43.99I.060 Pledge and promise—Remedies. Bonds issued under RCW 43.99I.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1991 sp.s. c 31 § 6.]

43.99I.070 Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99I.010, and RCW 43.99I.030 and 43.99I.040 shall not be deemed to provide an exclusive method for the payment. [1991 sp.s. c 31 § 7.]

43.99I.080 Legal investment. The bonds authorized in RCW 43.99I.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1991 sp.s. c 31 § 8.]

43.99I.090 Dairy products commission—Bond conditions and limitations. The bonds authorized by RCW 43.99I.020(8) shall be issued only after the director of financial management has (a) certified that, based on the future income from assessments levied pursuant to chapter 15.44 RCW and other revenues collected by the Washington state dairy products commission, an adequate balance will be maintained in the commission's general operating fund to pay the interest or principal and interest payments due under RCW 43.99I.040(4) for the life of the bonds; and (b) approved the facility to be acquired using the bond proceeds. [1992 c 235 § 5.]

43.99I.100 Data processing building construction account. The data processing building construction account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for acquisition of land for and construction of a data processing building. [1992 c 235 § 7.]

43.99I.110 Dairy products commission facility account. The Washington state dairy products commission facility account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for acquisition, renovation, or construction of a permanent facility for the Washington state dairy products commission. [1992 c 235 § 8.]

43.99I.900 Severability—1991 sp.s. c 31. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 sp.s. c 31 § 18.]

Chapter 43.99J

FINANCING FOR APPROPRIATIONS—1993-1995 BIENNIUM

Sections

43.99J.010	1993-1995 Fiscal biennium—General obligation bonds for capital and operating appropriations acts.
43.99J.020	Conditions and limitations.
43.99J.030	Retirement of bonds—Pledge and promise—Remedies.
43.99J.040	Additional means for payment of principal and interest.
43.99J.050	Legal investment.
43.99J.060	Washington state fruit commission—Reimbursement of general fund.
43.99J.070	Washington state fruit commission—Bond conditions and limitations.
43.99J.080	Fruit commission facility account.
43.99J.900	Severability—1993 sp.s. c 12.

43.99J.010 1993-1995 Fiscal biennium—General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1993-95 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of nine hundred twenty-six million seven hundred thirty-seven thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1993 sp.s. c 12 § 1.]

43.99J.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99J.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Nine hundred three million dollars to remain in the state building construction account created by RCW 43.83.020; and

(2) One million five hundred thousand dollars to the fruit commission facility account.

These proceeds shall be used exclusively for the purposes specified in this section, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [1993 sp.s. c 12 § 2.]

Reviser's note: The 1994 publication of this code section inadvertently omitted two lines of text. The full text of the law is reprinted here.

43.99J.030 Retirement of bonds—Pledge and promise—Remedies. (1) The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99J.020.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

(3) Bonds issued under RCW 43.99J.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(4) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1993 sp.s. c 12 § 3.]

43.99J.040 Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99J.010, and RCW 43.99J.030 shall not be deemed to provide an exclusive method for the payment. [1993 sp.s. c 12 § 7.]

43.99J.050 Legal investment. The bonds authorized in RCW 43.99J.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1993 sp.s. c 12 § 8.]

43.99J.060 Washington state fruit commission—Reimbursement of general fund. On each date on which any interest or principal and interest payment is due for the purposes of RCW 43.99J.020(2), the Washington state fruit commission shall cause the amount computed by the state finance committee in RCW 43.99J.030 for the purposes of RCW 43.99J.020(2) to be paid out of the commission's

general operating fund to the state treasurer for deposit into the general fund of the state treasury. [1993 sp.s. c 12 § 4.]

43.99J.070 Washington state fruit commission—Bond conditions and limitations. The bonds authorized in RCW 43.99J.020(2) may be issued only after the director of financial management has: (1) Certified that, based on the future income from assessments levied under this chapter and other revenues collected by the commission, an adequate balance will be maintained in the commission's general operating fund to pay the interest or principal and interest payments due under RCW 43.99J.060 for the life of the bonds; and (2) approved the plans for facility. [1993 sp.s. c 12 § 5.]

43.99J.080 Fruit commission facility account. The fruit commission facility account is created in the state treasury. Moneys in the account may be spent only after appropriation. [1993 sp.s. c 12 § 6.]

43.99J.900 Severability—1993 sp.s. c 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 sp.s. c 12 § 10.]

Chapter 43.99K

FINANCING FOR APPROPRIATIONS—1995-1997 BIENNIUM

Sections

- 43.99K.010 1995-1997 Fiscal biennium—General obligation bonds for capital and operating appropriations acts.
- 43.99K.020 Conditions and limitations.
- 43.99K.030 Retirement of bonds—Reimbursement of general fund—Pledge and promise—Remedies.
- 43.99K.040 Additional means for payment of principal and interest.
- 43.99K.050 Legal investment.
- 43.99K.900 Severability—1995 2nd sp.s. c 17.

43.99K.010 1995-1997 Fiscal biennium—General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1995-97 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight hundred eleven million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1995 2nd sp.s. c 17 § 1.]

43.99K.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99K.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Seven hundred eighty million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty million dollars to the outdoor recreation account created by RCW 43.99.060;

(3) Eighteen million six hundred thousand dollars to the habitat conservation account created by RCW 43.98A.020;

(4) Two million nine hundred twelve thousand dollars to the public safety reimbursable bond account; and

(5) Ten million dollars to the higher education construction account created by RCW 28B.14D.040.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [1995 2nd sp.s. c 17 § 2.]

43.99K.030 Retirement of bonds—Reimbursement of general fund—Pledge and promise—Remedies. (1)

The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.020 (1), (2), (3), (4), and (5).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99K.020(4), the state treasurer shall transfer from the public safety and education account to the general fund of the state treasury the amount computed in subsection (2) of this section for the bonds issued for the purposes of RCW 43.99K.020(4).

(4) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99K.020(5), the board of regents of the University of Washington shall cause to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the general fund of the state treasury the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99K.020(5).

(5) Bonds issued under this section and RCW 43.99K.010 and 43.99K.020 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(6) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1995 2nd sp.s. c 17 § 3.]

43.99K.040 Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.010, and RCW 43.99K.030 shall not be deemed to provide an exclusive method for the payment. [1995 2nd sp.s. c 17 § 4.]

43.99K.050 Legal investment. The bonds authorized in RCW 43.99K.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1995 2nd sp.s. c 17 § 5.]

43.99K.900 Severability—1995 2nd sp.s. c 17. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1995 2nd sp.s. c 17 § 8.]

Chapter 43.101

CRIMINAL JUSTICE TRAINING COMMISSION— EDUCATION AND TRAINING STANDARDS BOARDS

Sections

- 43.101.010 Definitions.
- 43.101.020 Commission created—Purpose.
- 43.101.030 Membership.
- 43.101.040 Terms of members—Vacancies.
- 43.101.050 Cessation of membership upon termination of office or employment.
- 43.101.060 Chairman and vice chairman—Quorum—Meetings.
- 43.101.070 Compensation—Reimbursement of travel expenses.
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- 43.101.230 Training for Indian tribe officers and employees authorized—Conditions.
- 43.101.240 Community-police partnership.
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- 43.101.270 Sexual assault—Training for investigating and prosecuting.
- 43.101.280 Ethnic and cultural diversity—Development of curriculum for understanding—Training.
- 43.101.290 Training in crimes of malicious harassment.
- 43.101.300 Juvenile runaways—Policy manual.
- 43.101.900 Severability—1974 ex.s. c 94.

43.101.010 Definitions. When used in this chapter:
(1) The term "commission" means the Washington state criminal justice training commission.

(2) The term "boards" means the education and training standards boards, the establishment of which are authorized by this chapter.

(3) The term "criminal justice personnel" means any person who serves in a county, city, state, or port commission agency engaged in crime prevention, crime reduction, or enforcement of the criminal law.

(4) The term "law enforcement personnel" means any public employee or volunteer having as a primary function the enforcement of criminal laws in general or any employee or volunteer of, or any individual commissioned by, any municipal, county, state, or combination thereof, agency having as its primary function the enforcement of criminal laws in general as distinguished from an agency possessing peace officer powers, the primary function of which is the implementation of specialized subject matter areas. For the purposes of this subsection "primary function" means that function to which the greater allocation of resources is made.

(5) The term "correctional personnel" means any employee or volunteer who by state, county, municipal, or combination thereof, statute has the responsibility for the confinement, care, management, training, treatment, education, supervision, or counseling of those individuals whose civil rights have been limited in some way by legal sanction. [1981 c 132 § 2; 1977 ex.s. c 212 § 1; 1974 ex.s. c 94 § 1.]

43.101.020 Commission created—Purpose. There is hereby created and established a state commission to be known and designated as the Washington state criminal justice training commission.

The purpose of such commission shall be to provide programs and standards for the training of criminal justice personnel. [1974 ex.s. c 94 § 2.]

43.101.030 Membership. The commission shall consist of twelve members, who shall be selected as follows:
(1) The governor shall appoint two incumbent sheriffs and two incumbent chiefs of police.

(2) The governor shall appoint one person employed in a county correctional system and one person employed in the state correctional system.

(3) The governor shall appoint one incumbent county prosecuting attorney or municipal attorney.

(4) The governor shall appoint one elected official of a local government.

(5) The governor shall appoint one private citizen.

(6) The three remaining members shall be:

(a) The attorney general;

(b) The special agent in charge of the Seattle office of the federal bureau of investigation; and

(c) The chief of the state patrol. [1981 c 132 § 3; 1979 ex.s. c 55 § 1; 1974 ex.s. c 94 § 3.]

43.101.040 Terms of members—Vacancies. All members appointed to the commission by the governor shall be appointed for terms of six years, such terms to commence on July first, and expire on June thirtieth: PROVIDED, That of the members first appointed three shall be appointed for two year terms, three shall be appointed for four year terms, and three shall be appointed for six year terms: PROVIDED, FURTHER, That the terms of the two members appointed as incumbent police chiefs shall not expire in the same year nor shall the terms of the two members appointed as representing correctional systems expire in the same year nor

shall the terms of the two members appointed as incumbent sheriffs expire in the same year. Any member chosen to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is to succeed. Any member may be reappointed for additional terms. [1974 ex.s. c 94 § 4.]

43.101.050 Cessation of membership upon termination of office or employment. Any member of the commission appointed pursuant to RCW 43.101.030 as an incumbent official or as an employee in a correctional system, as the case may be, shall immediately upon the termination of his holding of said office or employment, cease to be a member of the commission. [1974 ex.s. c 94 § 5.]

43.101.060 Chairman and vice chairman—Quorum—Meetings. The commission shall elect a chairman and a vice chairman from among its members. Six members of the commission shall constitute a quorum. The governor shall summon the commission to its first meeting.

Meetings may be called by the chairman and shall be called by him upon the written request of five members. [1974 ex.s. c 94 § 6.]

43.101.070 Compensation—Reimbursement of travel expenses. Members of the commission shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. Attendance at meetings of the commission shall be deemed performance by a member of the duties of his employment. [1984 c 287 § 85; 1975-'76 2nd ex.s. c 34 § 126; 1974 ex.s. c 94 § 7.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

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

43.101.080 Commission powers and duties—Rules and regulations. The commission shall have all of the following powers:

(1) To meet at such times and places as it may deem proper;

(2) To adopt any rules and regulations as it may deem necessary;

(3) To contract for services as it deems necessary in order to carry out its duties and responsibilities;

(4) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and city government, and other commissions affected by or concerned with the business of the commission;

(5) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it;

(6) To select and employ an executive director, and to empower him to perform such duties and responsibilities as it may deem necessary;

(7) To assume legal, fiscal, and program responsibility for all training conducted by the commission;

(8) To establish, by rule and regulation, standards for the training of criminal justice personnel where such standards are not prescribed by statute;

(9) To establish and operate, or to contract with other qualified institutions or organizations for the operation of, training and education programs for criminal justice personnel and to lease, subject to the approval of the department of general administration, a training facility or facilities necessary to the conducting of such programs: PROVIDED, That the commission shall not have the power to invest any moneys received by it from any source for the purchase of a training facility without prior approval of the legislature;

(10) To establish, by rule and regulation, minimum curriculum standards for all training programs conducted for employed criminal justice personnel;

(11) To review and approve or reject standards for instructors of training programs for criminal justice personnel, and to employ personnel on a temporary basis as instructors without any loss of employee benefits to those instructors;

(12) To direct the development of alternative, innovate, and interdisciplinary training techniques;

(13) To review and approve or reject training programs conducted for criminal justice personnel and rules establishing and prescribing minimum training and education standards recommended by the training standards and education boards;

(14) To allocate financial resources among training and education programs conducted by the commission;

(15) To allocate training facility space among training and education programs conducted by the commission;

(16) To issue diplomas certifying satisfactory completion of any training or education program conducted or approved by the commission to any person so completing such a program;

(17) To provide for the employment of such personnel as may be practical to serve as temporary replacements for any person engaged in a basic training program as defined by the commission;

(18) To establish rules and regulations recommended by the training standards and education boards prescribing minimum standards relating to physical, mental and moral fitness which shall govern the recruitment of criminal justice personnel where such standards are not prescribed by statute or constitutional provision.

All rules and regulations adopted by the commission shall be adopted and administered pursuant to the administrative procedure act, chapter 34.05 RCW, and the open public meetings act, chapter 42.30 RCW. [1982 c 124 § 1; 1975-'76 2nd ex.s. c 17 § 3. Prior: 1975 1st ex.s. c 103 § 1; 1975 1st ex.s. c 82 § 1; 1974 ex.s. c 94 § 8.]

43.101.170 Training and education obtained at approved existing institutions. In establishing standards for training and education, the commission may, so far as consistent with the purposes of *RCW 43.101.160, permit required training and education of any criminal justice personnel to be obtained at existing institutions approved for such training by the commission. [1974 ex.s. c 94 § 17.]

*Reviser's note: RCW 43.101.160 was repealed by 1983 c 197 § 55, effective June 30, 1987.

43.101.180 Priorities. The first priority of the commission shall be to provide for basic law enforcement training, corrections training, and education programs. In addition, the commission shall provide training programs for other criminal justice personnel. [1981 c 136 § 27; 1974 ex.s. c 94 § 18.]

Effective date—1981 c 136: See RCW 72.09.900.

43.101.190 Receipt of grants, funds or gifts authorized—Administration—Utilization of federal funds. The commission, or the executive director acting on its behalf, is authorized to accept, receive, disburse, and administer grants or other funds or gifts from any source, including private individuals or agencies, the federal government, and other public agencies, for the purpose of carrying out the provisions of this chapter.

The services provided by the state through the establishment and maintenance of the programs of the commission are primarily intended for the benefit of the criminal justice agencies of the counties, cities, and towns of this state. To the extent that funds available to the state under the Crime Control Act of 1973 are utilized by the commission, it is the determination of the legislature that, to the maximum extent permitted by federal law, such funds as are so utilized shall be charged against that portion of United States law enforcement assistance administration funds which the state is required to make available to units of local government pursuant to section 303(a)(2) of Part C of the Crime Control Act of 1973. [1974 ex.s. c 94 § 19.]

43.101.200 Law enforcement personnel—Basic law enforcement training required—Commission to provide.

(1) All law enforcement personnel, except volunteers, and reserve officers whether paid or unpaid, initially employed on or after January 1, 1978, shall engage in basic law enforcement training which complies with standards adopted by the commission pursuant to RCW 43.101.080. For personnel initially employed before January 1, 1990, such training shall be successfully completed during the first fifteen months of employment of such personnel unless otherwise extended or waived by the commission and shall be requisite to the continuation of such employment. Personnel initially employed on or after January 1, 1990, shall commence basic training during the first six months of employment unless the basic training requirement is otherwise waived or extended by the commission. Successful completion of basic training is requisite to the continuation of employment of such personnel initially employed on or after January 1, 1990.

(2) The commission shall provide the aforementioned training together with necessary facilities, supplies, materials, and the board and room of noncommuting attendees for seven days per week. Additionally, to the extent funds are provided for this purpose, the commission shall reimburse to participating law enforcement agencies with ten or less full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training: PROVIDED, That such reimbursement shall include only the actual cost of temporary replacement not to exceed the total amount of salary and benefits received by the replaced officer during his or her training

period. [1993 sp.s. c 24 § 920; 1993 sp.s. c 21 § 5; 1989 c 299 § 2; 1977 ex.s. c 212 § 2.]

Reviser's note: This section was amended by 1993 sp.s. c 21 § 5 and by 1993 sp.s. c 24 § 920, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

Effective dates—1993 sp.s. c 21: See note following RCW 82.14.310.

43.101.210 Criminal justice training costs—Assessments on bail forfeitures and certain penalties—Criminal justice training account created.

Reviser's note: RCW 43.101.210 was amended by 1985 c 57 § 57 without reference to its repeal by 1984 c 258 § 339, effective July 1, 1985. It has been decodified for publication purposes pursuant to RCW 1.12.025.

43.101.220 Training for corrections personnel. (1) The corrections personnel of the state and all counties and municipal corporations initially employed on or after January 1, 1982, shall engage in basic corrections training which complies with standards adopted by the commission pursuant to *RCW 43.101.160. The training shall be successfully completed during the first six months of employment of the personnel, unless otherwise extended or waived by the commission, and shall be requisite to the continuation of employment.

(2) The corrections personnel of the state and all counties and municipal corporations transferred or promoted to a supervisory or management position on or after January 1, 1982, shall engage in supervisory and/or management training which complies with standards adopted by the commission pursuant to *RCW 43.101.160. The training shall be successfully completed prior to or within the first six months of employment, unless otherwise extended or waived by the commission, and shall be requisite to the continuation of employment.

(3) The commission shall provide the training required in this section, together with facilities, supplies, materials, and the room and board for noncommuting attendees.

(4) Nothing in this section shall affect or impair the employment status of any employee whose employer does not provide him with the opportunity to engage in the required training. [1981 c 136 § 26.]

***Reviser's note:** RCW 43.101.160 was repealed by 1983 c 197 § 55, effective June 30, 1987.

Effective date—1981 c 136: See RCW 72.09.900.

43.101.222 Training for students enrolled at institutions of higher education. The commission may provide basic law enforcement training to students who are enrolled in criminal justice courses of study at four-year institutions of higher education, if the training is provided during the summers following the students' junior and senior years and so long as the students bear the full cost of the training. [1996 c 203 § 3.]

Effective date—1996 c 203: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 28, 1996]." [1996 c 203 § 4.]

43.101.230 Training for Indian tribe officers and employees authorized—Conditions. Indian tribe officers and employees who are engaged in law enforcement activities and who do not qualify as "criminal justice personnel" or "law enforcement personnel" under RCW 43.101.010, as now law or hereafter amended, may be provided training under this chapter if: (a) The tribe is recognized by the federal government, and (b) the tribe pays to the commission the full cost of providing such training. The commission shall place all money received under this section into the criminal justice training account. [1981 c 134 § 1.]

43.101.240 Community-police partnership. (1) The criminal justice training commission in cooperation with the United States department of justice department of community relations (region X) shall conduct an assessment of successful community-police partnerships throughout the United States. The commission shall develop training for local law enforcement agencies targeted toward those communities where there has been a substantial increase in drug crimes. The purpose of the training is to facilitate cooperative community-police efforts and enhanced community protection to reduce drug abuse and related crimes. The training shall include but not be limited to conflict management, ethnic sensitivity, cultural awareness, and effective community policing.

(2) Local law enforcement agencies are encouraged to form community-police partnerships in all neighborhoods and particularly areas with high rates of criminal activity. These partnerships are encouraged to organize citizen-police task forces which meet on a regular basis to promote greater citizen involvement in combatting drug abuse and to reduce tension between police and citizens. Partnerships that are formed are encouraged to report to the criminal justice training commission of their formation and progress. [1994 sp.s. c 7 § 311; 1989 c 271 § 423.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Captions not law—1989 c 271: See note following RCW 69.50.520.

Severability—1989 c 271: See note following RCW 9.94A.310.

43.101.250 Firearms certificate program for *private detectives. The commission shall establish a program for issuing firearms certificates to *private detectives for the purposes of obtaining armed *private detective licenses. The commission shall adopt rules establishing the fees, training requirements, and procedures for obtaining and annually renewing firearms certificates. The fees charged by the commission shall recover the costs incurred by the commission in administering the firearms certificate program.

(1) Firearms training must be provided by an organization or trainer approved by the commission and must consist of at least eight hours of classes and proficiency training.

(2) Applications for firearms certificates shall be filed with the commission on a form provided by the commission. The commission may require any information and documentation that reasonably relates to the need to determine whether the applicant qualifies for a firearms certificate. Applicants must:

- (a) Be at least twenty-one years of age;

- (b) Possess a current *private detective license; and
- (c) Present a written request from the owner or qualifying agent of a licensed *private detective agency that the applicant be issued a firearms certificate.

(3) The commission shall consult with the private security industry and law enforcement before adopting or amending the training requirements of this section.

(4) The commission may adopt rules that are reasonable and necessary for the effective implementation and administration of this section consistent with chapter 34.05 RCW. [1991 c 328 § 28.]

***Reviser's note:** "Private detective" redesignated "private investigator" by 1995 c 277.

Severability—1991 c 328: See RCW 18.165.900.

43.101.260 Firearms certificate program for security guards. The commission shall establish a program for issuing firearms certificates to security guards for the purposes of obtaining armed security guard licenses. The commission shall adopt rules establishing the fees, training requirements, and procedures for obtaining and annually renewing firearms certificates. The fees charged by the commission shall recover the costs incurred by the commission in administering the firearms certificate program.

(1) Firearms training must be provided by an organization or trainer approved by the commission and must consist of at least eight hours of classes and proficiency training.

(2) Applications for firearms certificates shall be filed with the commission on a form provided by the commission. The commission may require any information and documentation that reasonably relates to the need to determine whether the applicant qualifies for a firearms certificate. Applicants must:

- (a) Be at least twenty-one years of age;
- (b) Possess a current private security guard license; and
- (c) Present a written request from the owner or qualifying agent of a licensed private security company that the applicant be issued a firearms certificate.

(3) The commission shall consult with the private security industry and law enforcement before adopting or amending the training requirements of this section.

(4) The commission may adopt rules that are reasonable and necessary for the effective implementation and administration of this section consistent with chapter 34.05 RCW. [1991 c 334 § 29.]

Severability—1991 c 334: See RCW 18.170.900.

43.101.270 Sexual assault—Training for investigating and prosecuting. (1) Each year the criminal justice training commission shall offer an intensive, integrated training session on investigating and prosecuting sexual assault cases. The training shall place particular emphasis on the development of professionalism and sensitivity towards the victim and the victim's family.

(2) The commission shall seek advice from the Washington association of prosecuting attorneys, the Washington defender association, the Washington association of sheriffs and police chiefs, and the Washington coalition of sexual assault programs.

(3) The training shall be an integrated approach to sexual assault cases so that prosecutors, law enforcement,

defenders, and victim advocates can all benefit from the training.

(4) The training shall be self-supporting through fees charged to the participants of the training. [1991 c 267 § 2.]

Findings—1991 c 267: "The safety of all children is enhanced when sexual assault cases are properly investigated and prosecuted. The victim of the sexual assault and the victim's family have a right to be treated with sensitivity and professionalism, which also increases the likelihood of their continued cooperation with the investigation and prosecution of the case. The legislature finds the sexual assault cases, particularly those involving victims who are children, are difficult to prosecute successfully. The cooperation of a victim and the victim's family through the investigation and prosecution of the sexual assault case is enhanced and the trauma associated with the investigation and prosecution is reduced when trained victim advocates assist the victim and the victim's family through the investigation and prosecution of the case. Trained victim advocates also assist law enforcement, prosecutors, and defense attorneys, by relieving some of the burden of explaining the investigation and prosecution process and possible delays to the victim and accompanying the victim during interviews by the police, prosecutor, and defense attorney, and accompanying the victim during hearings and the trial.

The legislature finds that counties should give priority to the successful prosecution of sexual assault cases, especially those that involve children, by ensuring that prosecutors, investigators, defense attorneys, and victim advocates are properly trained and available. Therefore, the legislature intends to establish a mechanism to provide the necessary training of prosecutors, law enforcement investigators, defense attorneys, and victim advocates and ensure the availability of victim advocates for victims of sexual assault and their families." [1991 c 267 § 1.]

Effective date—1991 c 267: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 267 § 7.]

43.101.280 Ethnic and cultural diversity—Development of curriculum for understanding—Training. The criminal justice training commission shall develop, in consultation with the administrator for the courts and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be developed by October 1, 1993. The commission shall ensure that ethnic and diversity training becomes an integral part of the training of law enforcement personnel so as to incorporate cultural sensitivity and awareness into the daily activities of law enforcement personnel. [1993 c 415 § 4.]

Intent—1993 c 415: See note following RCW 2.56.031.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030.

43.101.290 Training in crimes of malicious harassment. The criminal justice training commission shall provide training for law enforcement officers in identifying, responding to, and reporting all violations of RCW 9A.36.080 and any other crimes of bigotry or bias. [1993 c 127 § 5.]

Severability—1993 c 127: See note following RCW 9A.36.078.

43.101.300 Juvenile runaways—Policy manual. The criminal justice training commission shall ensure that every law enforcement agency in the state has an accurate and up-to-date policy manual describing the statutes relating to juvenile runaways. [1994 sp.s. c 7 § 509.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.101.900 Severability—1974 ex.s. c 94. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1974 ex.s. c 94 § 20.]

Chapter 43.103

WASHINGTON STATE FORENSIC INVESTIGATIONS COUNCIL

Sections

- 43.103.010 Purposes.
- 43.103.020 Definitions.
- 43.103.030 Council created—Powers and duties.
- 43.103.040 Membership of council—Appointment.
- 43.103.050 Terms of members—Vacancies.
- 43.103.060 Qualification for continued membership.
- 43.103.070 Chair—Quorum—Meetings.
- 43.103.080 Travel expenses.
- 43.103.090 Powers.
- 43.103.100 Sudden infant death syndrome—Training.
- 43.103.900 Severability—1983 1st ex.s. c 16.
- 43.103.901 Effective date—1983 1st ex.s. c 16.

Jury source list—Master jury list—Creation—Adoption of rules for implementation of methodology and standards by agencies: RCW 2.36.054 and 2.36.0571.

43.103.010 Purposes. The purposes of *this act are declared by the legislature to be as follows:

(1) To preserve and enhance the state crime laboratory, which is an essential part of the criminal justice system in the state of Washington;

(2) To fund the death investigation system and to make related state and local institutions more efficient;

(3) To preserve and enhance the state toxicology laboratory which is an essential part of the criminal justice and death investigation systems in the state of Washington;

(4) To provide resources necessary for the performance, by qualified pathologists, of autopsies which are also essential to the criminal justice and death investigation systems of this state and its counties;

(5) To improve the performance of death investigations and the criminal justice system through the formal training of county coroners and county medical examiners;

(6) To establish and maintain a dental identification system; and

(7) To provide flexibility so that any county may establish a county morgue when it serves the public interest. [1995 c 398 § 2; 1983 1st ex.s. c 16 § 1.]

***Reviser's note:** "This act" consists of the enactment of RCW 43.103.010, 43.103.020, 43.103.030, 43.103.040, 43.103.050, 43.103.060, 43.103.070, 43.103.080, 43.103.090, 43.103.900, 43.103.901, 43.79.445, 68.08.350, 68.08.355, and 68.08.360, an appropriation section, and a temporary section (uncodified); and the 1983 1st ex.s. c 16 amendments to RCW 68.08.107, 43.20A.630, 43.101.090, 43.101.100, 68.08.104, and 68.12.010.

43.103.020 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Council" means the Washington state forensic investigations council.

(2) "Crime laboratory" means the Washington state patrol crime laboratory system created in RCW 43.43.670.

(3) "Toxicology laboratory" means the Washington state toxicology laboratory. [1995 c 398 § 3; 1983 1st ex.s. c 16 § 2.]

43.103.030 Council created—Powers and duties. There is created the Washington state forensic investigations council. The council shall oversee the state toxicology laboratory and, together with the president of the University of Washington or the president's designee, control the laboratory's operation. The council may also study and recommend cost-efficient improvements to the death investigation system in Washington and report its findings to the legislature.

Further, the council shall, jointly with the chairperson of the pathology department of the University of Washington's School of Medicine, or the chairperson's designee, oversee the state forensic pathology fellowship program, determine the budget for the program and set the fellow's annual salary, and take those steps necessary to administer the program.

The forensic investigations council shall be actively involved in the preparation of the crime laboratory and toxicology laboratory budgets and shall approve the crime laboratory and toxicology laboratory budgets prior to their formal submission to the office of financial management pursuant to RCW 43.88.030. [1995 c 398 § 4; 1991 c 176 § 2; 1983 1st ex.s. c 16 § 3.]

Forensic pathology fellowship program: RCW 28B.20.426.

43.103.040 Membership of council—Appointment. The council shall consist of twelve members who shall be selected as follows: One county coroner; one county prosecutor; one county prosecutor who also serves as ex officio county coroner; one county medical examiner; one county sheriff; one chief of police; the chief of the state patrol; two members of a county legislative authority; one pathologist who is currently in private practice; and two members of a city legislative authority.

The governor shall appoint members to the council from among the nominees submitted for each position as follows: The Washington association of county officials shall submit two nominees each for the coroner position and the medical examiner position; the Washington state association of counties shall submit two nominees each for the two county legislative authority positions; the association of Washington cities shall submit two nominees each for the two city legislative authority positions; the Washington association of prosecuting attorneys shall submit two nominees each for the county prosecutor-ex officio county coroner and for the county prosecutor position; the Washington association of sheriffs and police chiefs shall submit two nominees each for the county sheriff position and the chief of police position; and the Washington association of pathologists shall submit two nominees for the private pathologist position. [1995 c 398 § 5; 1983 1st ex.s. c 16 § 4.]

43.103.050 Terms of members—Vacancies. All members of the council are appointed for terms of four years, commencing on July 1 and expiring on June 30. However, of the members appointed to the council, five shall be appointed for two-year terms and six shall be appointed

for four-year terms. A person chosen to fill a vacancy created other than by the natural expiration of a member's term shall be nominated and appointed as provided in RCW 43.103.040 for the unexpired term of the member he or she is to succeed. Any member may be reappointed for additional terms. [1995 c 398 § 6; 1983 1st ex.s. c 16 § 5.]

43.103.060 Qualification for continued membership. Any member of the council shall immediately cease to be a member if he or she ceases to hold the particular office or employment which was the basis of his or her appointment under RCW 43.103.040. [1983 1st ex.s. c 16 § 6.]

43.103.070 Chair—Quorum—Meetings. The council shall elect a chair and a vice chair from among its members. The chair shall not vote except in case of a tie vote. Seven members of the council shall constitute a quorum. The governor shall summon the council to its first meeting. Otherwise, meetings may be called by the chair and shall be called by him or her upon the written request of five members of the council. Conference calls by telephone are a proper form of meeting. [1995 c 398 § 7; 1983 1st ex.s. c 16 § 7.]

43.103.080 Travel expenses. (1) Members of the council shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(2) Attendance at meetings of the council shall constitute performance by a council member of the duties of his or her employment or office. [1983 1st ex.s. c 16 § 8.]

43.103.090 Powers. The council may:

(1) Meet at such times and places as may be designated by a majority vote of the council members or, if a majority cannot agree, by the chair;

(2) Adopt rules governing the council and the conduct of its meetings;

(3) Require reports from the state toxicologist on matters pertaining to the toxicology laboratory;

(4) Require reports from the chief of the Washington state patrol on matters pertaining to the crime laboratory;

(5) Be actively involved in the preparation of the crime laboratory and toxicology laboratory budgets and shall approve the crime laboratory and toxicology laboratory budgets prior to their formal submission to the office of financial management pursuant to RCW 43.88.030;

(6) Do anything, necessary or convenient, which enables the council to perform its duties and to exercise its powers;

(7) Appoint a toxicologist as state toxicologist to serve at the pleasure of the council; and

(8) Set the salary for the state toxicologist. [1995 c 398 § 8; 1983 1st ex.s. c 16 § 9.]

43.103.100 Sudden infant death syndrome—Training. The council shall research and develop an appropriate training component on the subject of sudden, unexplained child death, including but not limited to sudden infant death syndrome. The training component shall include, at a minimum:

(1) Medical information on sudden, unexplained child death for first responders, including awareness and sensitivi-

ty in dealing with families and child care providers, and the importance of forensically competent death scene investigation;

(2) Information on community resources and support groups available to assist families who have lost a child to sudden, unexplained death, including sudden infant death syndrome;

(3) Development and adoption of an up-to-date protocol of investigation in cases of sudden, unexplained child death, including the importance of a consistent policy of thorough death scene investigation, and an autopsy in unresolved cases as appropriate;

(4) The value of timely communication between the county coroner or medical examiner and the public health department, when a sudden, unexplained child death occurs, in order to achieve a better understanding of such deaths, and connecting families to various community and public health support systems to enhance recovery from grief.

The council shall work with volunteer groups with expertise in the area of sudden, unexplained child death, including but not limited to the SIDS Northwest Regional Center at Children's Hospital, the Washington chapter of the national SIDS foundation, and the Washington association of county officials.

Upon development of an appropriate curriculum, agreed upon by the council, the training module shall be offered to first responders, coroners, medical examiners, prosecuting attorneys serving as coroners, and investigators, both voluntarily through their various associations and as a course offering at the criminal justice training center. [1991 c 176 § 6.]

Finding—Declaration—1991 c 176: "The legislature finds and declares that sudden and unexplained child deaths are a leading cause of death for children under age three. The public interest is served by research and study of the potential causes and indications of such unexplained child deaths and the prevention of inaccurate and inappropriate designation of sudden infant death syndrome (SIDS) as a cause of death. The legislature further finds and declares that law enforcement officers, fire fighters, emergency medical technicians, and other first responders in emergency situations are not adequately informed regarding sudden, unexplained death in young children including but not limited to sudden infant death syndrome, its signs and typical history, and as a result may compound the family and child care provider's grief through conveyed suspicions of a criminal act. Coroners, investigators, and prosecuting attorneys are also in need of updated training on the identification of unexplained death in children under the age of three, including but not limited to sudden infant death syndrome awareness and sensitivity and the establishment of a state-wide uniform protocol in cases of sudden, unexplained child death." [1991 c 176 § 5.]

43.103.900 Severability—1983 1st ex.s. c 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 16 § 23.]

43.103.901 Effective date—1983 1st ex.s. c 16. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983. [1983 1st ex.s. c 16 § 24.]

Chapter 43.105

DEPARTMENT OF INFORMATION SERVICES

(Formerly: Data processing and communications systems)

Sections

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- 43.105.310 Accuracy, integrity, and privacy of records and information.
- 43.105.900 Severability—1973 1st ex.s. c 219.
- 43.105.901 Severability—1987 c 504.
- 43.105.902 Effective date—1987 c 504.

43.105.005 Purpose. It is a purpose of this chapter to provide for coordinated planning and management of state information services. The legislature recognizes that information systems, telecommunications, equipment, software, and services must satisfy the needs of end users and that many appropriate and cost-effective alternatives exist for meeting these needs, such as shared mainframe computing, shared voice, data, and video telecommunications services, local area networks, departmental minicomputers, and microcomputers. [1990 c 208 § 1; 1987 c 504 § 1.]

43.105.017 Legislative intent. (Expires June 30, 1997.) It is the intent of the legislature that:

(1) State government use voice, data, and video telecommunications technologies to:

(a) Transmit and increase access to live, interactive classroom instruction and training;

(b) Provide for interactive public affairs presentations, including a public forum for state and local issues;

(c) Facilitate communications and exchange of information among state and local elected officials and the general public;

(d) Enhance state-wide communications within state agencies; and

(e) Through the use of telecommunications, reduce time lost due to travel to in-state meetings;

(2) Information be shared and administered in a coordinated manner, except when prevented by agency responsibilities for security, privacy, or confidentiality;

(3) The primary responsibility for the management and use of information, information systems, telecommunications, equipment, software, and services rests with each agency head;

(4) Resources be used in the most efficient manner and services be shared when cost-effective;

(5) A state agency, office, department, or educational institution may donate obsolete telecommunications equipment and related surplus supplies to local programs provided under RCW 28A.215.120 pursuant to section 507, chapter 14, Laws of 1995 2nd sp. sess.;

(6) A structure be created to:

(a) Plan and manage telecommunications and computing networks;

(b) Increase agencies' awareness of information sharing opportunities; and

(c) Assist agencies in implementing such possibilities;

(7) An acquisition process for equipment, proprietary software, and related services be established that meets the needs of the users, considers the exchange of information, and promotes fair and open competition;

(8) To the greatest extent possible, major information technology projects be implemented on an incremental basis;

(9) The state maximize opportunities to exchange and share data and information by moving toward implementation of open system architecture based upon interface standards providing for application and data portability and interoperability;

(10) To the greatest extent possible, the state recognize any price performance advantages which may be available in midrange and personal computing architecture;

(11) The state improve recruitment, retention, and training of professional staff;

(12) Plans, proposals, and acquisitions for information services be reviewed from a financial and management perspective as part of the budget process; and

(13) State government adopt policies and procedures that maximize the use of existing video telecommunications resources, coordinate and develop video telecommunications in a manner that is cost-effective and encourages shared use, and ensure the appropriate use of video telecommunications to fulfill identified needs. [1995 2nd sp.s. c 14 § 511; 1992 c 20 § 6; 1990 c 208 § 2; 1987 c 504 § 2.]

Expiration date—1995 2nd sp.s. c 14 §§ 511-523, 528-533: "Sections 511 through 523 and 528 through 533 of this act expire June 30, 1997." [1995 2nd sp.s. c 14 § 536.]

Effective dates—1995 2nd sp.s. c 14: "(1) Except for sections 514 through 524 and 539 through 556 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995.

(2) Sections 514 through 524 of this act shall take effect January 1, 1996." [1995 2nd sp.s. c 14 § 562.]

Severability—1995 2nd sp.s. c 14: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 2nd sp.s. c 14 § 561.]

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.017 Legislative intent. (Effective June 30, 1997.) It is the intent of the legislature that:

(1) State government use voice, data, and video telecommunications technologies to:

(a) Transmit and increase access to live, interactive classroom instruction and training;

(b) Provide for interactive public affairs presentations, including a public forum for state and local issues;

(c) Facilitate communications and exchange of information among state and local elected officials and the general public;

(d) Enhance state-wide communications within state agencies; and

(e) Through the use of telecommunications, reduce time lost due to travel to in-state meetings;

(2) Information be shared and administered in a coordinated manner, except when prevented by agency responsibilities for security, privacy, or confidentiality;

(3) The primary responsibility for the management and use of information, information systems, telecommunications, equipment, software, and services rests with each agency head;

(4) Resources be used in the most efficient manner and services be shared when cost-effective;

(5) A structure be created to:

(a) Plan and manage telecommunications and computing networks;

(b) Increase agencies' awareness of information sharing opportunities; and

(c) Assist agencies in implementing such possibilities;

(6) An acquisition process for equipment, proprietary software, and related services be established that meets the needs of the users, considers the exchange of information, and promotes fair and open competition;

(7) To the greatest extent possible, major information technology projects be implemented on an incremental basis;

(8) The state maximize opportunities to exchange and share data and information by moving toward implementation of open system architecture based upon interface standards providing for application and data portability and interoperability;

(9) To the greatest extent possible, the state recognize any price performance advantages which may be available in midrange and personal computing architecture;

(10) The state improve recruitment, retention, and training of professional staff;

(11) Plans, proposals, and acquisitions for information services be reviewed from a financial and management perspective as part of the budget process; and

(12) State government adopt policies and procedures that maximize the use of existing video telecommunications resources, coordinate and develop video telecommunications in a manner that is cost-effective and encourages shared use, and ensure the appropriate use of video telecommunications to fulfill identified needs. [1992 c 20 § 6; 1990 c 208 § 2; 1987 c 504 § 2.]

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.020 Definitions. As used in this chapter, unless the context indicates otherwise, the following definitions shall apply:

(1) "Department" means the department of information services;

(2) "Board" means the information services board;

(3) "Local governments" includes all municipal and quasi municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately;

(4) "Director" means the director of the department;

(5) "Purchased services" means services provided by a vendor to accomplish routine, continuing, and necessary functions. This term includes, but is not limited to, services acquired for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software installation and maintenance, data entry, keypunch services, programming services, and computer time-sharing;

(6) "Backbone network" means the shared high-density portions of the state's telecommunications transmission facilities. It includes specially conditioned high-speed communications carrier lines, multiplexors, switches associated with such communications lines, and any equipment and software components necessary for management and control of the backbone network;

(7) "Telecommunications" means the transmission of information by wire, radio, optical cable, electromagnetic, or other means;

(8) "Information processing" means the electronic capture, collection, storage, manipulation, transmission, retrieval, and presentation of information in the form of data, text, voice, or image and includes telecommunications and office automation functions;

(9) "Information services" means data processing, telecommunications, and office automation;

(10) "Equipment" means the machines, devices, and transmission facilities used in information processing, such as computers, word processors, terminals, telephones, and cables;

(11) "Proprietary software" means that software offered for sale or license;

(12) "Video telecommunications" means the electronic interconnection of two or more sites for the purpose of transmitting and/or receiving visual and associated audio information. Video telecommunications shall not include existing public television broadcast stations as currently designated by the department of community, trade, and economic development under chapter 43.330 RCW. [1993 c 280 § 78; 1990 c 208 § 3; 1987 c 504 § 3; 1973 1st ex.s. c 219 § 3; 1967 ex.s. c 115 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—1967 ex.s. c 115: "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1967." [1967 ex.s. c 115 § 8.]

43.105.032 Information services board—Members—Chairperson—Vacancies—Quorum—Compensation and travel expenses. There is hereby created the Washington state information services board. The board shall be composed of thirteen members. Eight members shall be appointed by the governor, one of whom shall be a representative of higher education, one of whom shall be a representative of an agency under a state-wide elected official other

than the governor, and two of whom shall be representatives of the private sector. One member shall represent the judicial branch and be appointed by the chief justice of the supreme court. One member shall be the superintendent of public instruction or shall be appointed by the superintendent of public instruction. One member shall represent the house of representatives and shall be selected by the speaker of the house of representatives; one member shall represent the senate and shall be appointed by the president of the senate. The representatives of the house of representatives and senate shall not be from the same political party. One member shall be the director who shall be a voting member of the board. These members shall constitute the membership of the board with full voting rights. Members of the board shall serve at the pleasure of the appointing authority. The board shall select a chairperson from among its members.

Vacancies shall be filled in the same manner that the original appointments were made.

A majority of the members of the board shall constitute a quorum for the transaction of business.

Members of the board shall be compensated for service on the board in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. [1996 c 137 § 10; 1992 c 20 § 8; 1987 c 504 § 4; 1984 c 287 § 86; 1975-'76 2nd ex.s. c 34 § 128; 1973 1st ex.s. c 219 § 5.]

Effective date—Application—1996 c 137: See notes following RCW 28D.02.005.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

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

Development of health care data standards: RCW 43.70.054.

43.105.041 Powers and duties of board. (Expires June 30, 1997.) (1) The board shall have the following powers and duties related to information services:

(a) To develop standards governing the acquisition and disposition of equipment, proprietary software and purchased services, and confidentiality of computerized data;

(b) To purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services: PROVIDED, That, agencies and institutions of state government, except as provided in RCW 43.105.017(5) and section 507, chapter 14, Laws of 1995 2nd sp. sess., are expressly prohibited from acquiring or disposing of equipment, proprietary software, and purchased services without such delegation of authority. The acquisition and disposition of equipment, proprietary software, and purchased services is exempt from RCW 43.19.1919 and, as provided in RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200. This subsection (1)(b) does not apply to the legislative branch;

(c) To develop state-wide or interagency technical policies, standards, and procedures;

(d) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or state-wide or regional providers of K-12 information technology services, and to assure the cost-effective development and incremental implementation of a state-wide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;

(e) To provide direction concerning strategic planning goals and objectives for the state. The board shall seek input from the legislature and the judiciary;

(f) To develop and implement a process for the resolution of appeals by:

(i) Vendors concerning the conduct of an acquisition process by an agency or the department; or

(ii) A customer agency concerning the provision of services by the department or by other state agency providers;

(g) To establish policies for the periodic review by the department of agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education; and

(iii) Project management;

(h) To set its meeting schedules and convene at scheduled times, or meet at the request of a majority of its members, the chair, or the director; and

(i) To review and approve that portion of the department's budget requests that provides for support to the board.

(2) State-wide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The board shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems. Local governments are strongly encouraged to follow the standards established by the board; and

(b) Require agencies to consider electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the board is encouraged to include the state library, state archives, and appropriate representatives of state and local government. [1996 c 171 § 7; 1996 c 137 § 11; 1995 2nd sp.s. c 14 § 512; 1990 c 208 § 6; 1987 c 504 § 5; 1983 c 3 § 115; 1973 1st ex.s. c 219 § 6.]

Reviser's note: This section was amended by 1996 c 137 § 11 and by 1996 c 171 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—1996 c 171 § 7: "Section 7 of this act expires June 30, 1997." [1996 c 171 § 20.]

Captions not law—Effective dates—1996 c 171: See notes following RCW 43.105.250.

Expiration date—1996 c 137 § 11: "Section 11 of this act expires June 30, 1997." [1996 c 137 § 17.]

Effective date—Application—1996 c 137: See notes following RCW 28D.02.005.

Expiration date—1995 2nd sp.s. c 14 §§ 511-523, 528-533: See note following RCW 43.105.017.

Effective dates—1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Severability—1995 2nd sp.s. c 14: See note following RCW 43.105.017.

43.105.041 Powers and duties of board. (*Effective June 30, 1997.*) (1) The board shall have the following powers and duties related to information services:

(a) To develop standards governing the acquisition and disposition of equipment, proprietary software and purchased services, and confidentiality of computerized data;

(b) To purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services: PROVIDED, That, agencies and institutions of state government are expressly prohibited from acquiring or disposing of equipment, proprietary software, and purchased services without such delegation of authority. The acquisition and disposition of equipment, proprietary software, and purchased services is exempt from RCW 43.19.1919 and, as provided in RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200. This subsection (1)(b) does not apply to the legislative branch;

(c) To develop state-wide or interagency technical policies, standards, and procedures;

(d) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or state-wide or regional providers of K-12 information technology services, and to assure the cost-effective development and incremental implementation of a state-wide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;

(e) To provide direction concerning strategic planning goals and objectives for the state. The board shall seek input from the legislature and the judiciary;

(f) To develop and implement a process for the resolution of appeals by:

(i) Vendors concerning the conduct of an acquisition process by an agency or the department; or

(ii) A customer agency concerning the provision of services by the department or by other state agency providers;

(g) To establish policies for the periodic review by the department of agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education; and

(iii) Project management;

(h) To set its meeting schedules and convene at scheduled times, or meet at the request of a majority of its members, the chair, or the director; and

(i) To review and approve that portion of the department's budget requests that provides for support to the board.

(2) State-wide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The board shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems. Local governments are strongly encouraged to follow the standards established by the board; and

(b) Require agencies to consider electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the board is encouraged to include the state library, state archives, and appropriate representatives of state and local government. [1996 c 171 § 8; 1996 c 137 § 12; 1990 c 208 § 6; 1987 c 504 § 5; 1983 c 3 § 115; 1973 1st ex.s. c 219 § 6.]

Reviser's note: This section was amended by 1996 c 137 § 12 and by 1996 c 171 § 8, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Captions not law—Effective dates—1996 c 171: See notes following RCW 43.105.250.

Effective date—1996 c 137 § 12: "Section 12 of this act shall take effect June 30, 1997." [1996 c 137 § 18.]

Application—1996 c 137: See note following RCW 28D.02.005.

43.105.047 Department of information services created—Director—Appointment—Salary—Duties. There is created the department of information services. The department shall be headed by a director appointed by the governor with the consent of the senate. The director shall serve at the governor's pleasure and shall receive such salary as determined by the governor. The director shall:

(1) Appoint a confidential secretary and such deputy and assistant directors as needed to administer the department. However, the total number of deputy and assistant directors shall not exceed four;

(2) Maintain and fund a planning component separate from the services component of the department;

(3) Appoint, after consulting with the board, the assistant director for the planning component;

(4) Appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed by this chapter;

(5) Report to the governor and the board any matters relating to abuses and evasions of this chapter; and

(6) Recommend statutory changes to the governor and the board. [1992 c 20 § 9; 1987 c 504 § 6.]

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

Civil service exemptions: RCW 41.06.094.

43.105.052 Powers and duties of department. The department shall:

(1) Perform all duties and responsibilities the board delegates to the department, including but not limited to:

(a) The review of agency acquisition plans and requests; and

(b) Implementation of state-wide and interagency policies, standards, and guidelines;

(2) Make available information services to state agencies and local governments on a full cost-recovery basis. These services may include, but are not limited to:

(a) Telecommunications services for voice, data, and video;

(b) Mainframe computing services;

(c) Support for departmental and microcomputer evaluation, installation, and use;

(d) Equipment acquisition assistance, including leasing, brokering, and establishing master contracts;

(e) Facilities management services for information technology equipment, equipment repair, and maintenance service;

(f) Negotiation with local cable companies and local governments to provide for connection to local cable services to allow for access to these public and educational channels in the state;

(g) Office automation services;

(h) System development services; and

(i) Training.

These services are for discretionary use by customers and customers may elect other alternatives for service if those alternatives are more cost-effective or provide better service. Agencies may be required to use the backbone network portions of the telecommunications services during an initial start-up period not to exceed three years;

(3) Establish rates and fees for services provided by the department to assure that the services component of the department is self-supporting. A billing rate plan shall be developed for a two-year period to coincide with the budgeting process. The rate plan shall be subject to review at least annually by the customer oversight committees. The rate plan shall show the proposed rates by each cost center and will show the components of the rate structure as mutually determined by the department and the customer oversight committees. The same rate structure will apply to all user agencies of each cost center. The rate plan and any adjustments to rates shall be approved by the office of financial management. The services component shall not subsidize the operations of the planning component;

(4) With the advice of the information services board and agencies, develop a state strategic information technology plan and performance reports as required under RCW 43.105.160;

(5) Develop plans for the department's achievement of state-wide goals and objectives set forth in the state strategic information technology plan required under RCW 43.105.160. These plans shall address such services as telecommunications, central and distributed computing, local area networks, office automation, and end user computing. The department shall seek the advice of customer oversight committees and the board in the development of these plans;

(6) Under direction of the information services board and in collaboration with the department of personnel, and

other agencies as may be appropriate, develop training plans and coordinate training programs that are responsive to the needs of agencies;

(7) Identify opportunities for the effective use of information services and coordinate appropriate responses to those opportunities;

(8) Assess agencies' projects, acquisitions, plans, or overall information processing performance as requested by the board, agencies, the director of financial management, or the legislature. Agencies may be required to reimburse the department for agency-requested reviews;

(9) Develop planning, budgeting, and expenditure reporting requirements, in conjunction with the office of financial management, for agencies to follow;

(10) Assist the office of financial management with budgetary and policy review of agency plans for information services;

(11) Provide staff support from the planning component to the board for:

(a) Meeting preparation, notices, and minutes;

(b) Promulgation of policies, standards, and guidelines adopted by the board;

(c) Supervision of studies and reports requested by the board;

(d) Conducting reviews and assessments as directed by the board;

(12) Be the lead agency in coordinating video telecommunications services for all state agencies and develop, pursuant to board policies, standards and common specifications for leased and purchased telecommunications equipment. The department shall not evaluate the merits of school curriculum, higher education course offerings, or other education and training programs proposed for transmission and/or reception using video telecommunications resources. Nothing in this section shall abrogate or abridge the legal responsibilities of licensees of telecommunications facilities as licensed by the federal communication commission on March 27, 1990; and

(13) Perform all other matters and things necessary to carry out the purposes and provisions of this chapter. [1993 c 281 § 53; 1992 c 20 § 10; 1990 c 208 § 7; 1987 c 504 § 8.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.055 Advisory committees. (1) The director shall appoint advisory committees to assist the department. Advisory committees shall include, but are not limited to, customer oversight committees.

(2) Customer oversight committees shall provide the department with advice concerning the type, quality, and cost of the department's services. The number of customer oversight committees and their membership shall be determined by the director to assure that all services are subject to oversight by a representative selection of customers. At least annually, these committees shall meet to recommend, review, and comment on the service goals and objectives of the department and the budgets for operations of those services and the rates to be charged for those services. The committees may call upon the board to resolve disputes

between agencies and the department which may arise with regard to service offerings, budgets, or rates.

(3) Any advisory committee created by the director may be convened by a majority of its members, by its chair, or by the director. [1987 c 504 § 9.]

43.105.057 Rule-making authority. The department of information services and the information services board, respectively, shall adopt rules as necessary under chapter 34.05 RCW to implement the provisions of this chapter. [1992 c 20 § 11; 1990 c 208 § 13.]

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.060 Contracts by state and local agencies with department. State and local government agencies are authorized to enter into any contracts with the department or its successor which may be necessary or desirable to effectuate the purposes and policies of this chapter or for maximum utilization of facilities and services which are the subject of this chapter. [1987 c 504 § 10; 1973 1st ex.s. c 219 § 9; 1967 ex.s. c 115 § 6.]

Effective date—1967 ex.s. c 115: See note following RCW 43.105.020.

43.105.070 Confidential or privileged information. This chapter shall in no way affect or impair any confidence or privilege imposed by law. Confidential or privileged information shall not be subject to submittal to the common data bank: PROVIDED, That where statistical information can be derived from such classified material without violating any such confidence, the submittal of such statistical material may be required. [1969 ex.s. c 212 § 4.]

43.105.080 Data processing revolving fund—Created—Use. There is created a revolving fund to be known as the data processing revolving fund in the custody of the state treasurer. The revolving fund shall be used for the acquisition of equipment, software, supplies, and services and the payment of salaries, wages, and other costs incidental to the acquisition, development, operation, and administration of information services, telecommunications, systems, software, supplies and equipment, including the payment of principal and interest on bonds issued for capital projects, by the department, Washington State University's computer services center, the department of personnel's personnel information systems division, the office of financial management's financial systems management group, and other users as jointly determined by the department and the office of financial management. The revolving fund is subject to the allotment procedure provided under chapter 43.88 RCW. Disbursements from the revolving fund for the services component of the department are not subject to appropriation. Disbursements for the planning component of the department are subject to appropriation. All disbursements from the fund are subject to the allotment procedures provided under chapter 43.88 RCW. The department shall establish and implement a billing structure to assure all agencies pay an equitable share of the costs.

As used in this section, the word "supplies" shall not be interpreted to delegate or abrogate the division of

purchasing's responsibilities and authority to purchase supplies as described in RCW 43.19.190 and 43.19.200. [1992 c 235 § 6; 1987 c 504 § 11; 1983 c 3 § 116; 1974 ex.s. c 129 § 1.]

43.105.160 Strategic information technology plan—Biennial state performance report on information technology. (1) The department shall prepare a state strategic information technology plan which shall establish a state-wide mission, goals, and objectives for the use of information technology, including goals for electronic access to government records, information, and services. The plan shall be developed in accordance with the standards and policies established by the board and shall be submitted to the board for review, modification as necessary, and approval. The department shall seek the advice of the board in the development of this plan.

The plan approved under this section shall be updated as necessary and submitted to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives.

(2) The department shall prepare a biennial state performance report on information technology based on agency performance reports required under RCW 43.105.170 and other information deemed appropriate by the department. The report shall include, but not be limited to:

(a) An evaluation of performance relating to information technology;

(b) An assessment of progress made toward implementing the state strategic information technology plan, including progress toward electronic access to public information and enabling citizens to have two-way access to public records, information, and services;

(c) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under RCW 43.105.190;

(d) Identification of benefits, cost avoidance, and cost savings generated by major information technology projects developed under RCW 43.105.190; and

(e) An inventory of state information services, equipment, and proprietary software.

Copies of the report shall be distributed biennially to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives. [1996 c 171 § 9; 1992 c 20 § 1.]

Captions not law—Effective dates—1996 c 171: See notes following RCW 43.105.250.

Severability—1992 c 20: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 20 § 14.]

Captions not law—1992 c 20: "Captions used in this act do not constitute any part of the law." [1992 c 20 § 16.]

43.105.170 Agency strategic information technology plans and performance reports. (1) Each agency shall develop an agency strategic information technology plan which establishes agency goals and objectives regarding the development and use of information technology. The superintendent of public instruction shall develop its plan in conjunction with educational service districts and state-wide or regional providers of K-12 education information technol-

ogy services. Plans shall include, but not be limited to, the following:

(a) A statement of the agency's mission, goals, and objectives for information technology, including goals and objectives for achieving electronic access to agency records, information, and services;

(b) An explanation of how the agency's mission, goals, and objectives for information technology support and conform to the state strategic information technology plan developed under RCW 43.105.160;

(c) An implementation strategy to provide electronic access to public records and information. This implementation strategy must be assembled to include:

(i) Compliance with Title 40 RCW;

(ii) Adequate public notice and opportunity for comment;

(iii) Consideration of a variety of electronic technologies, including those that help transcend geographic locations, standard business hours, economic conditions of users, and disabilities;

(iv) Methods to educate both state employees and the public in the effective use of access technologies;

(d) Projects and resources required to meet the objectives of the plan; and

(e) Where feasible, estimated schedules and funding required to implement identified projects.

(2) Plans developed under subsection (1) of this section shall be submitted to the department for review and forwarded along with the department's recommendations to the board for review and approval. The board may reject, require modification to, or approve plans as deemed appropriate by the board. Plans submitted under this subsection shall be updated and submitted for review and approval as necessary.

(3) Each agency shall prepare and submit to the department a biennial performance report. The superintendent of public instruction shall develop its plan in conjunction with educational service districts and state-wide or regional providers of K-12 education information technology services. The report shall include:

(a) An evaluation of the agency's performance relating to information technology;

(b) An assessment of progress made toward implementing the agency strategic information technology plan;

(c) Progress toward electronic access to public information and enabling citizens to have two-way interaction for obtaining information and services from agencies; and

(d) An inventory of agency information services, equipment, and proprietary software.

(4) The department, with the approval of the board, shall establish standards, elements, form, and format for plans and reports developed under this section.

(5) Agency activities to increase electronic access to public records and information, as required by this section, must be implemented within available resources and existing agency planning processes.

(6) The board may exempt any agency from any or all of the requirements of this section. [1996 c 171 § 10; 1996 c 137 § 13; 1992 c 20 § 2.]

Reviser's note: This section was amended by 1996 c 137 § 13 and by 1996 c 17 § 10, each without reference to the other. Both amendments

are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Captions not law—Effective dates—1996 c 171: See notes following RCW 43.105.250.

Effective date—Application—1996 c 137: See notes following RCW 28D.02.005.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.180 Budget request to be evaluated for information technology projects. Upon request of the office of financial management, the department shall evaluate agency budget requests for major information technology projects identified under RCW 43.105.190, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or state-wide or regional providers of K-12 education information technology services. The department shall submit recommendations for funding all or part of such requests to the office of financial management.

The department, with the advice and approval of the office of financial management, shall establish criteria for the evaluation of agency budget requests under this section. Criteria shall include, but not be limited to: Feasibility of the proposed projects, consistency with state and agency strategic information technology plans, consistency with agency goals and objectives, appropriate provision for public electronic access to information and services, costs, and benefits. [1996 c 171 § 11; 1996 c 137 § 14; 1992 c 20 § 3.]

Reviser's note: This section was amended by 1996 c 137 § 14 and by 1996 c 171 § 11, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Captions not law—Effective dates—1996 c 171: See notes following RCW 43.105.250.

Effective date—Application—1996 c 137: See notes following RCW 28D.02.005.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.190 Major information technology projects standards and policies. (1) The department, with the approval of the board, shall establish standards and policies governing the planning, implementation, and evaluation of major information technology projects, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or state-wide or regional providers of K-12 education information technology services. The standards and policies shall:

(a) Establish criteria to identify projects which are subject to this section. Such criteria shall include, but not be limited to, significant anticipated cost, complexity, or state-wide significance of the project; and

(b) Establish a model process and procedures which agencies shall follow in developing and implementing project plans. Agencies may propose, for approval by the department, a process and procedures unique to the agency. The department may accept or require modification of such agency proposals or the department may reject such agency proposals and require use of the model process and procedures established under this subsection. Any process and procedures developed under this subsection shall require (i)

distinct and identifiable phases upon which funding may be based, (ii) user validation of products through system demonstrations and testing of prototypes and deliverables, and (iii) other elements identified by the board.

Project plans and any agreements established under such plans shall be approved and mutually agreed upon by the director, the director of financial management, and the head of the agency proposing the project.

The director may terminate a major project if the director determines that the project is not meeting or is not expected to meet anticipated performance standards.

(2) The office of financial management shall establish policies and standards governing the funding of projects developed under this section. The policies and standards shall provide for:

(a) Funding of a project under terms and conditions mutually agreed to by the director, the director of financial management, and the head of the agency proposing the project. However, the office of financial management may require incremental funding of a project on a phase-by-phase basis whereby funds for a given phase of a project may be released only when the office of financial management determines, with the advice of the department, that the previous phase is satisfactorily completed;

(b) Acceptance testing of products to assure that products perform satisfactorily before they are accepted and final payment is made; and

(c) Other elements deemed necessary by the office of financial management.

(3) The department shall evaluate projects at three stages of development as follows: (a) Initial needs assessment; (b) feasibility study including definition of scope, development of tasks and timelines, and estimated costs and benefits; and (c) final project implementation plan based upon available funding.

Copies of project evaluations conducted under this subsection shall be submitted to the office of financial management and the chairs, ranking minority members, and staff coordinators of the appropriations committees of the senate and house of representatives. [1996 c 137 § 15; 1992 c 20 § 4.]

Effective date—Application—1996 c 137: See notes following RCW 28D.02.005.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.200 Application to institutions of higher education. In the case of institutions of higher education, the provisions of chapter 20, Laws of 1992, apply to business and administrative applications but do not apply to academic and research applications. [1992 c 20 § 5.]

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.210 Data processing expenditures—Authorization—Penalties. No state agency may expend any moneys for major information technology projects subject to review by the department of information services under RCW 43.105.190 unless specifically authorized by the legislature. An intentional or negligent violation of this section constitutes a violation of RCW 43.88.290 and shall

subject the head of the agency to forfeiture of office and other civil penalties as provided under RCW 43.88.300.

If the director of information services intentionally or negligently approved an expenditure in violation of this section, then all sanctions described in this section and RCW 43.88.300 shall also apply to the director of information services. [1993 sp.s. c 1 § 903.]

Severability—1993 sp.s. c 1: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 sp.s. c 1 § 904.]

Effective date—1993 sp.s. c 1: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 18, 1993]." [1993 sp.s. c 1 § 905.]

43.105.250 Electronic access to public records—Findings—Intent. Based upon the recommendations of the public information access policy task force, the legislature finds that government records and information are a vital resource to both government operations and to the public that government serves. Broad public access to state and local government records and information has potential for expanding citizen access to that information and for improving government services. Electronic methods for locating and transferring information can improve linkages between and among citizens, organizations, businesses, and governments. Information must be managed with great care to meet the objectives of citizens and their governments.

It is the intent of the legislature to encourage state and local governments to develop, store, and manage their public records and information in electronic formats to meet their missions and objectives. Further, it is the intent of the legislature for state and local governments to set priorities for making public records widely available electronically to the public. [1996 c 171 § 1.]

Captions not law—1996 c 171: "Section captions used in this act do not constitute any part of the law." [1996 c 171 § 16.]

Effective dates—1996 c 171: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 28, 1996], except for section 8 of this act, which takes effect June 30, 1997." [1996 c 171 § 19.]

43.105.260 Electronic access to public records—Definitions. Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Local government" means every county, city, town, and every other municipal or quasi-municipal corporation.

(2) "Public record" means as defined in RCW 42.17.020 and chapter 40.14 RCW, and includes legislative records and court records that are available for public inspection.

(3) "State agency" includes every state office, department, division, bureau, board, and commission of the state, and each state elected official who is a member of the executive department. [1996 c 171 § 2.]

Captions not law—Effective dates—1996 c 171: See notes following RCW 43.105.250.

43.105.270 Electronic access to public records—Planning. Within existing resources, state agencies shall plan for and implement processes for making information available electronically. Public demand and agencies'

missions and goals shall drive the selection and priorities for government information to be made available electronically. When planning for increased public electronic access, agencies should determine what information the public wants and needs most. Widespread public electronic access does not mean that all government information is able to be made available electronically.

(1) In planning for and implementing electronic access, state agencies shall:

(a) Where appropriate, plan for electronic public access and two-way electronic interaction when acquiring, redesigning, or rebuilding information systems;

(b) Focus on providing electronic access to current information, leaving archival material to be made available digitally as resources allow or as a need arises;

(c) Coordinate technology planning across agency boundaries in order to facilitate electronic access to vital public information;

(d) Develop processes to determine which information the public most wants and needs;

(e) Develop and employ methods to readily withhold or mask nondisclosable data.

(2) In planning or implementing electronic access and two-way electronic interaction and delivery technologies, state agencies and local governments are encouraged to:

(a) Increase their capabilities to receive information electronically from the public and to transmit forms, applications, and other communications and transactions electronically;

(b) Use technologies allowing public access throughout the state that allow continuous access twenty-four hours a day, seven days per week, involve little or no cost to access, and are capable of being used by persons without extensive technological ability; and

(c) Consider and incorporate wherever possible ease of access to electronic technologies by persons with disabilities. In planning and implementing new public electronic access projects, agencies should consult with people who have disabilities, with disability access experts, and the general public.

(3) The final report of the public information access policy task force, "Encouraging Widespread Public Electronic Access to Public Records and Information Held by State and Local Governments," shall serve as a major resource for state agencies and local governments in planning and providing increased access to electronic public records and information. [1996 c 171 § 5.]

Captions not law—Effective dates—1996 c 171: See notes following RCW 43.105.250.

43.105.280 Electronic access to public records—Costs and fees. Funding to meet the costs of providing access, including the building of the necessary information systems, the digitizing of information, developing the ability to mask nondisclosable information, and maintenance and upgrade of information access systems should come primarily from state and local appropriations, federal dollars, grants, private funds, cooperative ventures among governments, nonexclusive licensing, and public/private partnerships. Agencies should not offer customized electronic access services as the primary way of responding to requests or as a primary source of revenue. Fees for staff time to respond

to requests, and other direct costs may be included in costs of providing customized access.

Agencies and local governments are encouraged to pool resources and to form cooperative ventures to provide electronic access to government records and information. State agencies are encouraged to seek federal and private grants for projects that provide increased efficiency and improve government delivery of information and services. [1996 c 171 § 12.]

Captions not law—Effective dates—1996 c 171: See notes following RCW 43.105.250.

43.105.290 Electronic access to public records—Government information locator service pilot project. The state library, with the assistance of the department of information services and the state archives, shall establish a pilot project to design and test an electronic information locator system, allowing members of the public to locate and access electronic public records. In designing the system, the following factors shall be considered: (1) Ease of operation by citizens; (2) access through multiple technologies, such as direct dial and toll-free numbers, kiosks, and the internet; (3) compatibility with private on-line services; and (4) capability of expanding the electronic public records included in the system. The pilot project may restrict the type and quality of electronic public records that are included in the system to test the feasibility of making electronic public records and information widely available to the public. [1996 c 171 § 13.]

Captions not law—Effective dates—1996 c 171: See notes following RCW 43.105.250.

43.105.300 Education in use of technology encouraged. State agencies and local governments are encouraged to provide education for their employees in the use and implementation of electronic technologies. State agencies are encouraged to make maximum use of the provisions of RCW 28B.15.558, and training offered by the state department of personnel, to maximize employee education in the creation, design, maintenance, and use of electronic information systems and improved customer service delivery. [1996 c 171 § 14.]

Captions not law—Effective dates—1996 c 171: See notes following RCW 43.105.250.

43.105.310 Accuracy, integrity, and privacy of records and information. State agencies and local governments that collect and enter information concerning individuals into electronic records and information systems that will be widely accessible by the public under RCW 42.17.020 shall ensure the accuracy of this information to the extent possible. To the extent possible, information must be collected directly from, and with the consent of, the individual who is the subject of the data. Agencies shall establish procedures for correcting inaccurate information, including establishing mechanisms for individuals to review information about themselves and recommend changes in information they believe to be inaccurate. The inclusion of personal information in electronic public records that is widely available to the public should include information on the date when the data base was created or most recently

updated. If personally identifiable information is included in electronic public records that are made widely available to the public, agencies must follow retention and archival schedules in accordance with chapter 40.14 RCW, retaining personally identifiable information only as long as needed to carry out the purpose for which it was collected. [1996 c 171 § 15.]

Captions not law—Effective dates—1996 c 171: See notes following RCW 43.105.250.

43.105.900 Severability—1973 1st ex.s. c 219. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 219 § 10.]

43.105.901 Severability—1987 c 504. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 504 § 25.]

43.105.902 Effective date—1987 c 504. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987. [1987 c 504 § 26.]

Chapter 43.110

MUNICIPAL RESEARCH COUNCIL

Sections

- 43.110.010 Council created—Membership—Terms—Travel expenses.
- 43.110.020 Transmission of funds to council from general fund for allocation—Contracts—Purposes.
- 43.110.030 Municipal research and services—Provision to cities and towns.
- 43.110.040 Local government regulation and policy handouts—Technical assistance.

43.110.010 Council created—Membership—Terms—Travel expenses. There shall be a state agency which shall be known as the municipal research council. The council shall be composed of eighteen members. Four members shall be appointed by the president of the senate, with equal representation from each of the two major political parties; four members shall be appointed by the speaker of the house of representatives, with equal representation from each of the two major political parties; one member shall be appointed by the governor; and the other nine members, who shall be city officials, shall be appointed by the board of directors of the association of Washington cities. Of the members appointed by the association, at least one shall be an official of a city having a population of twenty thousand or more; at least one shall be an official of a city having a population of one thousand five hundred to twenty thousand; and at least one shall be an official of a town having a population of less than one thousand five hundred.

The terms of members shall be for two years and shall not be dependent upon continuance in legislative or city office. The terms of all members except legislative members shall commence on the first day of August in every odd-numbered year. The speaker of the house of representatives and the president of the senate shall make their appointments on or before the third Monday in January in each odd-numbered year, and the terms of the members thus appointed shall commence on the third Monday of January in each odd-numbered year.

Council members shall receive no compensation but shall be reimbursed for travel expenses at rates in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, except that members of the council who are also members of the legislature shall be reimbursed at the rates provided by RCW 44.04.120. [1990 c 104 § 1; 1983 c 22 § 1; 1975-'76 2nd ex.s. c 34 § 129; 1975 1st ex.s. c 218 § 1; 1969 c 108 § 2.]

Effective date—1983 c 22: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1983." [1983 c 22 § 5.]

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

Severability—Effective date—1969 c 108: See notes following RCW 82.44.160.

43.110.020 Transmission of funds to council from general fund for allocation—Contracts—Purposes. See RCW 82.44.160.

43.110.030 Municipal research and services—Provision to cities and towns. The municipal research council shall contract for the provision of municipal research and services to cities and towns. Contracts for municipal research and services shall be made with state agencies, educational institutions, or private consulting firms, that in the judgment of council members are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the council members are qualified to provide such support.

Municipal research and services shall consist of: (1) Studying and researching municipal government and issues relating to municipal government; (2) acquiring, preparing, and distributing publications related to municipal government and issues relating to municipal government; (3) providing educational conferences relating to municipal government and issues relating to municipal government; and (4) furnishing legal, technical, consultative, and field services to cities and towns concerning planning, public health, utility services, fire protection, law enforcement, public works, and other issues relating to municipal government.

The activities, programs, and services of the municipal research council shall be carried on, and all expenditures shall be made, in cooperation with the cities and towns of the state acting through the board of directors of the association of Washington cities, which is recognized as their official agency or instrumentality. [1990 c 104 § 2.]

43.110.040 Local government regulation and policy handouts—Technical assistance. The municipal research

council shall provide technical assistance in the compilation of and support in the production of the handouts to be published and kept current by counties and cities under RCW 36.70B.220. [1996 c 206 § 10.]

Findings—1996 c 206: See note following RCW 43.05.030.

Chapter 43.113

COMMISSION ON AFRICAN-AMERICAN AFFAIRS

Sections

43.113.005 Legislative declaration.

43.113.010 Commission created.

43.113.020 Membership—Terms—Vacancies—Quorum—Expenses.

43.113.030 Powers and duties.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030 and 43.101.280.

43.113.005 Legislative declaration. The legislature declares that it is the public policy of this state to insure equal opportunity for all of its citizens. The legislature finds that, for economic, social, and historical reasons, a disproportionate number of African-Americans find themselves disadvantaged or isolated from the benefits of equal opportunity. The legislature believes that it is the duty of this state to improve the well-being of African-Americans by enabling them to participate fully in all fields of endeavor and by assisting them in obtaining governmental services. The legislature further finds that the development of public policy and the delivery of governmental services to meet the special needs of African-Americans can be improved by establishing a focal point in state government for the interests of African-American citizens. Therefore, the legislature deems it necessary to establish in statute the commission on African-American affairs to further these purposes. [1992 c 96 § 1.]

43.113.010 Commission created: The Washington state commission on African-American affairs is created. The commission shall be administered by an executive director, who shall be appointed by, and serve at the pleasure of, the governor. The governor shall set the salary of the executive director. The executive director shall employ the staff of the commission. [1992 c 96 § 2.]

43.113.020 Membership—Terms—Vacancies—Quorum—Expenses. The commission shall consist of nine members, appointed by the governor. The commission shall make recommendations to the governor on appointment of the chair of the commission. The governor shall appoint the chair of the commission. To the extent practicable, appointments to the commission shall be made to achieve a balanced representation based on African-American population distribution within the state, geographic considerations, sex, age, and occupation. Members shall serve three-year terms. However, of the initial appointees, one-third shall serve three-year terms, one-third shall serve two-year terms, and one-third shall serve a one-year term. In the case of a vacancy, appointment shall be for the remainder of the unexpired term. No member shall serve more than two full consecutive terms. Members shall be reimbursed for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. Five

members shall constitute a quorum for the purposes of conducting business. [1992 c 96 § 3.]

43.113.030 Powers and duties. The commission shall have the following powers and duties:

(1) Examine and define issues pertaining to the rights and needs of African-Americans, and make recommendations to the governor and state agencies for changes in programs and laws.

(2) Advise the governor and state agencies on the development and implementation of policies, plans, and programs that relate to the special needs of African-Americans.

(3) Acting in concert with the governor, advise the legislature on issues of concern to the African-American community.

(4) Establish relationships with state agencies, local governments, and private sector organizations that promote equal opportunity and benefits for African-Americans.

(5) Receive gifts, grants, and endowments from public or private sources that are made for the use or benefit of the commission and expend, without appropriation, the same or any income from the gifts, grants, or endowments according to their terms. [1992 c 96 § 4.]

Chapter 43.115

STATE COMMISSION ON HISPANIC AFFAIRS

Sections

- 43.115.010 Legislative declaration.
- 43.115.020 Commission created.
- 43.115.030 Membership—Terms—Vacancies—Travel expenses—Quorum.
- 43.115.040 Officers and employees—Rules and regulations.
- 43.115.045 Executive director.
- 43.115.060 Relationships with local government and private industry.
- 43.115.900 Severability—1971 ex.s. c 34.

Reviser's note—Sunset Act application: The Washington state commission on Hispanic affairs is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.341. RCW 43.115.010 through 43.115.060 and 43.115.900 are scheduled for future repeal under RCW 43.131.342.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030 and 43.101.280.

43.115.010 Legislative declaration. The legislature declares that the public policy of this state is to insure equal opportunity for all of its citizens. The legislature believes that it is the duty of the state to improve the well-being of Hispanics by enabling them to participate fully in all fields of endeavor and assisting them in obtaining governmental services. The legislature further finds that the development of public policy and the delivery of governmental services to meet the special needs of Hispanics can be improved by establishing a focal point in state government for the interests of Hispanics. Therefore the legislature deems it necessary to create a commission to carry out the purposes of this chapter. [1993 c 261 § 1; 1987 c 249 § 1; 1971 ex.s. c 34 § 1.]

Sunset Act application: See note following chapter digest.

43.115.020 Commission created. There is created a Washington state commission on Hispanic affairs. [1987 c 249 § 2; 1971 ex.s. c 34 § 2.]

Sunset Act application: See note following chapter digest.

43.115.030 Membership—Terms—Vacancies—Travel expenses—Quorum. (1) The commission shall consist of eleven members of Hispanic origin appointed by the governor. To the extent practicable, appointments to the commission shall be made to achieve a balanced representation based on the Hispanic population distribution within the state, geographic considerations, sex, age, and occupation. Members shall serve three-year terms. No member shall serve more than two full consecutive terms. Vacancies shall be filled in the same manner as the original appointments.

(2) Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(3) Six members of the commission shall constitute a quorum for the purpose of conducting business. [1993 c 261 § 2; 1987 c 249 § 3; 1981 c 338 § 15; 1975-'76 2nd ex.s. c 34 § 130; 1971 ex.s. c 34 § 3.]

Sunset Act application: See note following chapter digest.

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

43.115.040 Officers and employees—Rules and regulations. The commission shall have the following powers and duties:

(1) Elect one of its members to serve as chairman;

(2) Adopt rules and regulations pursuant to chapter 34.05 RCW;

(3) Examine and define issues pertaining to the rights and needs of Hispanics, and make recommendations to the governor and state agencies for changes in programs and laws;

(4) Advise the governor and state agencies on the development and implementation of policies, plans, and programs that relate to the special needs of Hispanics;

(5) Advise the legislature on issues of concern to the Hispanic community;

(6) Establish relationships with state agencies, local governments, and private sector organizations that promote equal opportunity and benefits for Hispanics; and

(7) Receive gifts, grants, and endowments from public or private sources that are made for the use or benefit of the commission and expend, without appropriation, the same or any income from the gifts, grants, or endowments according to their terms. [1993 c 261 § 3; 1987 c 249 § 4; 1971 ex.s. c 34 § 4.]

Sunset Act application: See note following chapter digest.

43.115.045 Executive director. (1) The commission shall be administered by an executive director, who shall be appointed by and serve at the pleasure of the governor. The governor shall base the appointment of the executive director on recommendations of the commission. The salary of the executive director shall be set by the governor.

(2) The executive director shall employ a staff, who shall be state employees pursuant to Title 41 RCW. The

executive director shall prescribe the duties of the staff as may be necessary to implement the purposes of this chapter. [1993 c 261 § 4.]

43.115.060 Relationships with local government and private industry. In carrying out its duties the commission may establish such relationships with local governments and private industry as may be needed to promote equal opportunity for Hispanics in government, education and employment. [1987 c 249 § 6; 1971 ex.s. c 34 § 6.]

Sunset Act application: See note following chapter digest.

43.115.900 Severability—1971 ex.s. c 34. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 34 § 7.]

Sunset Act application: See note following chapter digest.

Chapter 43.117

STATE COMMISSION ON ASIAN PACIFIC AMERICAN AFFAIRS

(Formerly: State commission on Asian-American affairs)

Sections

- 43.117.010 Legislative declaration.
- 43.117.020 Definitions.
- 43.117.030 Commission established.
- 43.117.040 Membership—Terms—Vacancies—Travel expenses—Quorum—Executive director.
- 43.117.050 Officers—Rules and regulations—Meetings.
- 43.117.060 Staff.
- 43.117.070 Duties of commission—State agencies to give assistance.
- 43.117.080 Promotion of equal opportunity and benefits.
- 43.117.090 Hearings—Information to be furnished to commission.
- 43.117.100 Gifts, grants and endowments—Receipt and expenditure.
- 43.117.900 Severability—1974 ex.s. c 140.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030 and 43.101.280.

43.117.010 Legislative declaration. The legislature declares that the public policy of this state is to insure equal opportunity for all of its citizens. The legislature finds that Asian Pacific Americans have unique and special problems. It is the purpose of this chapter to improve the well-being of Asian Pacific Americans by insuring their access to participation in the fields of government, business, education, and other areas. The legislature is particularly concerned with the plight of those Asian Pacific Americans who, for economic, linguistic, or cultural reasons, find themselves disadvantaged or isolated from American society and the benefits of equal opportunity. The legislature further finds that it is necessary to aid Asian Pacific Americans in obtaining governmental services in order to promote the health, safety, and welfare of all the residents of this state. Therefore the legislature deems it necessary to create a commission to carry out the purposes of this chapter. [1995 c 67 § 2; 1983 c 119 § 1; 1974 ex.s. c 140 § 1.]

Effective date—1983 c 119: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1983." [1983 c 119 § 5.]

43.117.020 Definitions. As used in this chapter unless the context indicates otherwise:

(1) "Asian Pacific Americans" include persons of Japanese, Chinese, Filipino, Korean, Samoan, Guamanian, Thai, Vietnamese, Cambodian, Laotian, and other South East Asian, South Asian, and Pacific Island ancestry.

(2) "Commission" means the Washington state commission on Asian Pacific American affairs in the office of the governor. [1995 c 67 § 3; 1974 ex.s. c 140 § 2.]

43.117.030 Commission established. There is established a Washington state commission on Asian Pacific American affairs in the office of the governor. The now existing Asian-American advisory council shall become the commission upon enactment of this chapter. The council may transfer all office equipment, including files and records to the commission. [1995 c 67 § 4; 1974 ex.s. c 140 § 3.]

43.117.040 Membership—Terms—Vacancies—Travel expenses—Quorum—Executive director. (1) The commission shall consist of twelve members appointed by the governor. In making such appointments, the governor shall give due consideration to recommendations submitted to him by the commission. The governor may also consider nominations of members made by the various Asian-American organizations in the state. The governor shall consider nominations for membership based upon maintaining a balanced distribution of Asian-ethnic, geographic, sex, age, and occupational representation, where practicable.

(2) Appointments shall be for three years except in case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. Vacancies shall be filled in the same manner as the original appointments.

(3) Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(4) Seven members shall constitute a quorum for the purpose of conducting business.

(5) The governor shall appoint an executive director based upon recommendations made by the council. [1982 c 68 § 1; 1981 c 338 § 16; 1975-'76 2nd ex.s. c 34 § 131; 1974 ex.s. c 140 § 4.]

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

43.117.050 Officers—Rules and regulations—Meetings. The commission shall:

(1) Elect one of its members to serve as chairman; and also such other officers as necessary to form an executive committee;

(2) Adopt rules and regulations pursuant to chapter 34.05 RCW;

(3) Meet at the call of the chairman or the call of a majority of its members, but in no case less often than once during any three month period;

(4) Be authorized to appoint such citizen task force as it deems appropriate. [1974 ex.s. c 140 § 5.]

43.117.060 Staff. The executive director shall employ a staff who shall be state employees pursuant to Title 41 RCW and prescribe their duties as may be necessary to implement the purposes of this chapter. [1974 ex.s. c 140 § 6.]

43.117.070 Duties of commission—State agencies to give assistance. (1) The commission shall examine and define issues pertaining to the rights and needs of Asian Pacific Americans, and make recommendations to the governor and state agencies with respect to desirable changes in program and law.

(2) The commission shall further advise such state government agencies on the development and implementation of comprehensive and coordinated policies, plans, and programs focusing on the special problems and needs of Asian Pacific Americans.

(3) Each state department and agency shall provide appropriate and reasonable assistance to the commission as needed in order that the commission may carry out the purposes of this chapter. [1995 c 67 § 5; 1974 ex.s. c 140 § 7.]

43.117.080 Promotion of equal opportunity and benefits. In carrying out its duties, the commission may establish such relationships with local governments and private industry as may be needed to promote equal opportunity and benefits to Asian Pacific Americans in government, education, economic development, employment, and services. [1995 c 67 § 6; 1974 ex.s. c 140 § 8.]

43.117.090 Hearings—Information to be furnished to commission. (1) The commission may for the purpose of carrying out the purposes of this chapter hold such public hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the commission may deem advisable. The commission may administer oaths or affirmations to witnesses appearing before it. At least five members of the commission must be present to conduct a hearing.

(2) The commission may secure directly from any department or agency of the state information necessary to enable it to carry out the purposes of this chapter. Upon request of the chairman of the commission, the head of such department or agency shall furnish such information to the commission. [1974 ex.s. c 140 § 9.]

43.117.100 Gifts, grants and endowments—Receipt and expenditure. The commission shall have authority to receive such gifts, grants, and endowments from public or private sources as may be made from time to time in trust or otherwise for the use and benefit of the purposes of the commission and to expend the same or any income therefrom according to the terms of said gifts, grants, or endowments. [1974 ex.s. c 140 § 10.]

43.117.900 Severability—1974 ex.s. c 140. If any provision of this 1974 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1974 ex.s. c 140 § 11.]

(1996 Ed.)

Chapter 43.121

COUNCIL FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT

Sections

- 43.121.010 Legislative declaration, intent.
- 43.121.015 Definitions.
- 43.121.020 Council established—Members, chairperson—Appointment, qualifications, terms, vacancies.
- 43.121.030 Compensation and travel expenses of members.
- 43.121.040 Executive director, salary—Staff.
- 43.121.050 Council powers and duties—Generally—Rules.
- 43.121.060 Contracts for services—Scope of programs—Funding.
- 43.121.070 Contracts for services—Factors in awarding.
- 43.121.080 Contracts for services—Partial funding by administering organization, what constitutes.
- 43.121.090 Reports to governor and legislature.
- 43.121.100 Contributions, grants, gifts—Depository for and disbursement and expenditure control of moneys received—Children's trust fund.
- 43.121.110 Parenting skills—Legislative findings.
- 43.121.120 Community-based early parenting skills programs—Funding.
- 43.121.130 Decreased state funding of parenting skills programs—Evaluation—Report.
- 43.121.140 Shaken baby syndrome—Outreach campaign.
- 43.121.910 Severability—1982 c 4.

43.121.010 Legislative declaration, intent. The legislature recognizes that child abuse and neglect is a threat to the family unit and imposes major expenses on society. The legislature further declares that there is a need to assist private and public agencies in identifying and establishing community based educational and service programs for the prevention of child abuse and neglect. It is the intent of the legislature that an increase in prevention programs will help reduce the breakdown in families and thus reduce the need for state intervention and state expense. It is further the intent of the legislature that prevention of child abuse and child neglect programs are partnerships between communities, citizens, and the state. [1982 c 4 § 1.]

43.121.015 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Child" means an unmarried person who is under eighteen years of age.

(2) "Council" means the Washington council for the prevention of child abuse and neglect.

(3) "Primary prevention" of child abuse and neglect means any effort designed to inhibit or preclude the initial occurrence of child abuse and neglect, both by the promotion of positive parenting and family interaction, and the remediation of factors linked to causes of child maltreatment.

(4) "Secondary prevention" means services and programs that identify and assist families under such stress that abuse or neglect is likely or families display symptoms associated with child abuse or neglect. [1988 c 278 § 4; 1987 c 351 § 2.]

Legislative findings—1987 c 351: See note following RCW 70.58.085.

43.121.020 Council established—Members, chairperson—Appointment, qualifications, terms, vacancies. (1) There is established in the executive office of the

governor a Washington council for the prevention of child abuse and neglect subject to the jurisdiction of the governor.

(2) The council shall be composed of the chairperson and thirteen other members as follows:

(a) The chairperson and six other members shall be appointed by the governor and shall be selected for their interest and expertise in the prevention of child abuse. A minimum of four designees by the governor shall not be affiliated with governmental agencies. The appointments shall be made on a geographic basis to assure state-wide representation. Members appointed by the governor shall serve for three-year terms. Vacancies shall be filled for any unexpired term by appointment in the same manner as the original appointments were made.

(b) The secretary of social and health services or the secretary's designee, the superintendent of public instruction or the superintendent's designee, and the secretary of the department of health or the secretary's designee shall serve as voting members of the council.

(c) In addition to the members of the council, four members of the legislature shall serve as nonvoting, ex officio members of the council, one from each political caucus of the house of representatives to be appointed by the speaker of the house of representatives and one from each political caucus of the senate to be appointed by the president of the senate. [1996 c 10 § 1; 1994 c 48 § 1; 1989 c 304 § 4; 1987 c 351 § 3; 1984 c 261 § 1; 1982 c 4 § 2.]

Legislative findings—1987 c 351: See note following RCW 70.58.085.

Severability—1984 c 261: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 261 § 8.]

43.121.030 Compensation and travel expenses of members. Council members shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Attendance at meetings of the council shall be deemed performance by a member of the duties of a member's employment. [1984 c 287 § 87; 1982 c 4 § 3.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.121.040 Executive director, salary—Staff. The governor may employ an executive director who shall be exempt from the provisions of chapter 41.06 RCW, and such other staff as are necessary to carry out the purposes of this chapter. The salary of the executive director shall be fixed by the governor pursuant to RCW 43.03.040. [1982 c 4 § 4.]

43.121.050 Council powers and duties—Generally—Rules. To carry out the purposes of this chapter, the council may:

(1) Contract with public or private nonprofit organizations, agencies, schools, or with qualified individuals for the establishment of community-based educational and service programs designed to:

(a) Reduce the occurrence of child abuse and neglect; and

(b) Provide for parenting skills which include: Consistency in parenting; providing children with positive discipline that provides firm order without hurting children physically or emotionally; and preserving and nurturing the family unit. Programs to provide these parenting skills may include the following:

(i) Programs to teach positive methods of disciplining children;

(ii) Programs to educate parents about the physical, mental, and emotional development of children;

(iii) Programs to enhance the skills of parents in providing for their children's learning and development; and

(iv) Learning experiences for children and parents to help prepare parents and children for the experiences in school. Contracts also may be awarded for research programs related to primary and secondary prevention of child abuse and neglect, and to develop and strengthen community child abuse and neglect prevention networks. Each contract entered into by the council shall contain a provision for the evaluation of services provided under the contract. Contracts for services to prevent child abuse and child neglect shall be awarded as demonstration projects with continuation based upon goal attainment. Contracts for services to prevent child abuse and child neglect shall be awarded on the basis of probability of success based in part upon sound research data.

(2) Facilitate the exchange of information between groups concerned with families and children.

(3) Consult with applicable state agencies, commissions, and boards to help determine the probable effectiveness, fiscal soundness, and need for proposed educational and service programs for the prevention of child abuse and neglect.

(4) Establish fee schedules to provide for the recipients of services to reimburse the state general fund for the cost of services received.

(5) Adopt its own bylaws.

(6) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter. [1988 c 278 § 5; 1987 c 351 § 4; 1982 c 4 § 5.]

Legislative findings—1987 c 351: See note following RCW 70.58.085.

43.121.060 Contracts for services—Scope of programs—Funding. Programs contracted for under this chapter are intended to provide primary child abuse and neglect prevention services. Such programs may include, but are not limited to:

(1) Community-based educational programs on prenatal care, perinatal bonding, child development, basic child care, care of children with special needs, and coping with family stress; and

(2) Community-based programs relating to crisis care, aid to parents, child-abuse counseling, support groups for abusive or potentially abusive parents and their children, and early identification of families where the potential for child abuse and neglect exists.

The council shall develop policies to determine whether programs will be demonstration or will receive continuous funding. Nothing in this chapter requires continued funding by the state. [1982 c 4 § 6.]

43.121.070 Contracts for services—Factors in awarding. In awarding contracts under RCW 43.121.060, consideration shall be given to factors such as need, diversity of geographic locations, coordination with or enhancement of existing services, and the extensive use of volunteers in the program. Further consideration shall be given to the extent to which contract proposals are based on prior research that indicates a probability of goal achievement. [1982 c 4 § 7.]

43.121.080 Contracts for services—Partial funding by administering organization, what constitutes. Twenty-five percent of the funding for programs under this chapter shall be provided by the organization administering the program. Contributions of materials, supplies, or physical facilities may be considered as all or part of the funding provided by the organization. [1982 c 4 § 8.]

43.121.090 Reports to governor and legislature. Subject to RCW 40.07.040, the council shall report biennially to the governor and to the legislature concerning the council's activities and the effectiveness of those activities in fostering the prevention of child abuse and neglect. [1987 c 505 § 38; 1984 c 261 § 2; 1982 c 4 § 9.]

Severability—1984 c 261: See note following RCW 43.121.020.

43.121.100 Contributions, grants, gifts—Depository for and disbursement and expenditure control of moneys received—Children's trust fund. The council may accept contributions, grants, or gifts in cash or otherwise, including funds generated by the sale of "heirloom" birth certificates under chapter 70.58 RCW from persons, associations, or corporations. All moneys received by the council or any employee thereof from contributions, grants, or gifts and not through appropriation by the legislature shall be deposited in a depository approved by the state treasurer to be known as the children's trust fund. Disbursements of such funds shall be on the authorization of the council or a duly authorized representative thereof and only for the purposes stated in RCW 43.121.050. In order to maintain an effective expenditure and revenue control, such funds shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditure of such funds. [1987 c 351 § 5; 1984 c 261 § 3; 1982 c 4 § 10.]

Legislative findings—1987 c 351: See note following RCW 70.58.085.

Severability—1984 c 261: See note following RCW 43.121.020.

43.121.110 Parenting skills—Legislative findings. The legislature believes that parents who have developed good early parenting skills provide homes where children are treated with dignity and respect and where closeness and trust among family members provide children with the basis for a productive adult life. The legislature also believes that children raised in this positive atmosphere will develop self esteem and are unlikely to become dependent upon the social service system or to be involved in the criminal justice system. The legislature further believes that teaching parents good early parenting skills can help eliminate physical and emotional abuse of children. [1988 c 278 § 1.]

43.121.120 Community-based early parenting skills programs—Funding. (1) In order to increase the knowledge of early parenting skills of parents in Washington state, voluntary community based programs on early parenting skills shall be established. The council shall fund, within available funds, and monitor community-based early parenting skills programs in at least three geographically balanced areas around the state. Successful programs which the council and the national center on child abuse and neglect have funded or currently fund, may be used as models for the projects.

(2) The early parenting education program shall be designed to serve families with children ranging from infants through three years old and also to serve expectant parents. The projects may include the following:

(a) Education for parents about the physical, mental, and emotional development of children;

(b) Programs to enhance the skills of parents in providing for learning and development of their children;

(c) Shared learning experiences for children and parents;

(d) Activities designed to screen for children's physical, mental, emotional, or behavioral problems that may cause learning problems;

(e) Resources for educational materials which may be borrowed for home use;

(f) Information on related community resources;

(g) Group support which may include counseling for parents under stress;

(h) Emphasis to encourage participation by fathers; or

(i) Other programs or activities consistent with this chapter.

(3) The programs shall be reviewed periodically to provide that the instruction and materials are not racially, culturally, or sexually biased.

(4) The services provided by the projects shall be coordinated with schools and social services provided in the community to avoid duplication of services.

(5) A sliding fee scale shall be utilized at the discretion of the council. [1988 c 278 § 2.]

43.121.130 Decreased state funding of parenting skills programs—Evaluation—Report. (1) Funding shall be provided, as funds are available, in decreasing amounts over a two-year period, with the goal of having the programs become supported by local communities at the end of a two-year period. State funding may be continued in areas where local funding would be difficult to obtain due to local economic conditions to the extent funding is made available to the council.

(2) The council shall work with the projects in the program to evaluate the results of the projects. The council shall make recommendations on these projects and the program. A project agreeing to develop an evaluation component shall be considered for a three-year funding schedule. A report on the evaluations shall be made available to the legislature at the beginning of the legislative session in 1992. [1988 c 278 § 3.]

43.121.140 Shaken baby syndrome—Outreach campaign. The council shall conduct a proactive, public information and communication outreach campaign regarding

the dangers of shaking infants and young children, and the causes and prevention of shaken baby syndrome.

The public information campaign shall include production and distribution of a readily understandable brochure regarding shaken baby syndrome, explaining its medical effects upon infants and emphasizing preventive measures.

The brochure shall be distributed free of charge to the parents or guardians of each newborn, upon discharge from a hospital or other health facility. In the event of home birth attended by a licensed midwife, the midwife shall be responsible for presenting the brochure to the parents of the newborn.

The public information campaign may, within available funds, also include communication by electronic media, telephone hotlines, and existing parenting education events funded by the council. [1993 c 107 § 2.]

Finding—1993 c 107: "The legislature finds that shaken baby syndrome is a medically serious, sometimes fatal, usually unintentional matter affecting newborns and very young children.

" Vigorous shaking of an infant can result in bleeding inside the head, causing irreversible brain damage, blindness, cerebral palsy, hearing loss, spinal cord injury, seizures, learning disabilities, or death. Many healthy, intelligent infants suffer from shaken baby syndrome because their caregivers were unaware of the dangers. The damage is preventable through education and awareness." [1993 c 107 § 1.]

43.121.910 Severability—1982 c 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1982 c 4 § 15.]

Chapter 43.126 GEOGRAPHIC NAMES

Sections

- 43.126.015 Purposes.
- 43.126.025 State board on geographic names created—Membership—Chairman.
- 43.126.035 Powers and duties.
- 43.126.045 Policies—Criteria.
- 43.126.055 Adoption of names—Procedure—Effect.
- 43.126.065 Meetings—Rules—Publication of adopted names.
- 43.126.075 Compensation and travel expenses of members.
- 43.126.085 Naming geographic features without board approval prohibited.

43.126.015 Purposes. The purposes of this chapter are: To establish a procedure for the retention and formal recognition of existing geographical names; to standardize the procedures for naming or renaming geographical features within the state of Washington; to identify one body as the responsible agency to coordinate this important activity between local, state, and federal agencies; to identify the responsible agency for the purpose of serving the public interest; to avoid the duplication of names for similar features whenever possible; and as far as possible, to retain the significance, spelling, and color of names associated with the early history of Washington. [1983 c 273 § 1.]

43.126.025 State board on geographic names created—Membership—Chairman. There is hereby

created a Washington state board on geographic names composed of:

- (1) The state librarian or a representative;
- (2) The commissioner of public lands or a representative;
- (3) The chairperson of the Washington state heritage council created by 1983 law; and
- (4) Four members from the general public to be appointed by the commissioner of public lands.

The commissioner of public lands or his or her representative shall be chairman of the board.

The members of the initial board to be appointed by the commissioner shall be appointed as follows: One member for a one-year term, one member for a two-year term, one member for a three-year term, and one member for a four-year term. Thereafter, each member shall be appointed for a three-year term. Each member of the board shall continue in office until a successor is appointed. [1983 c 273 § 2.]

43.126.035 Powers and duties. It shall be the duty of the Washington state board on geographic names and it shall have the power and authority to:

- (1) Establish the official names for the lakes, mountains, streams, places, towns, and other geographic features within the state and the spellings thereof except when a name is specified by law. For the purposes of this subsection geographic features do not include man-made features or administrative areas such as parks, game reserves, and dams, but shall include man-made lakes;
- (2) Assign names to lakes, mountains, streams, places, towns, and other geographic features in the state for which no single generally accepted name has been in use;
- (3) Cooperate with county commissioners, state departments, and agencies, and with the United States board on geographic names to establish, change and/or determine the appropriate names of the lakes, mountains, streams, places, towns, and other geographic features for the purpose of eliminating, as far as possible, duplication of place names within the state;
- (4) Serve as a state of Washington liaison with the United States board on geographic names;
- (5) Periodically issue a list of names approved by the board. [1983 c 273 § 3.]

43.126.045 Policies—Criteria. The board is authorized to establish policies to carry out the purposes of this chapter. In determining the names and spelling of geographic place names within the state of Washington, the board's decisions shall be made only after a careful consideration of all available information relating to such names, including the recommendations of the United States board on geographic names, with which the board shall cooperate. [1983 c 273 § 4.]

43.126.055 Adoption of names—Procedure—Effect. Adoption of names by the board shall take place only after consideration at a previous meeting. All board determinations shall be filed with the code reviser and shall be compiled and indexed in the same manner as agency rules under RCW 34.05.210. Determinations by the board shall not be considered a rule under RCW 34.05.010. Whenever the

state board on geographic names has given a name to any lake, stream, place, or other geographic feature within the state, that name shall be used in all maps, records, documents, and other publications issued by the state or any of its departments and political subdivisions, and that name shall be the official name of the geographic feature. [1983 c 273 § 5.]

43.126.065 Meetings—Rules—Publication of adopted names. (1) The board shall hold at least two meetings each year, and shall hold special meetings as called by the chairman or a majority of the board.

(2) All meetings shall be open to the public.

(3) Notice of all board meetings shall be as provided in RCW 42.30.080. This notice includes those names to be considered by the board and those names to be adopted by the board.

(4) Four board members shall constitute a quorum.

(5) The board shall establish rules for the conduct of its affairs and to carry out the purposes of this chapter.

(6) The department of natural resources shall furnish secretarial and administrative services and shall serve as custodian of the records.

(7) All geographic names adopted by the board shall be published in the Washington State Register. [1983 c 273 § 6.]

43.126.075 Compensation and travel expenses of members. Members of the board who are not otherwise public employees shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060, which shall be paid by the agency that each member represents and, for the four members of the general public, by the department of natural resources. [1984 c 287 § 88; 1983 c 273 § 7.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.126.085 Naming geographic features without board approval prohibited. A person shall not, in any advertisement or publication, attempt to change local usage or name unnamed geographic features without first obtaining approval of the board. [1983 c 273 § 8.]

Chapter 43.130

ECONOMIC IMPACT ACT—CLOSING OF STATE FACILITIES

Sections

- 43.130.010 Purpose.
- 43.130.020 Definitions.
- 43.130.030 Excluded employment and employees.
- 43.130.040 Benefits.
- 43.130.050 Eligibility—Conditions.
- 43.130.060 Reimbursement of public employees' retirement system.
- 43.130.900 Severability—1973 2nd ex.s. c 37.
- 43.130.910 Emergency—Operative dates—Termination of benefits.

43.130.010 Purpose. When either for fiscal reasons, obsolescence or other extraordinary reasons, it becomes necessary to close a state facility, as defined by RCW

43.130.020(2), the state has a responsibility to provide certain benefits to affected employees.

It is the purpose of this chapter to establish an economic impact act for the state of Washington to meet the emergency situation now in existence for state employees affected by the closure of state facilities, as defined in RCW 43.130.020. [1973 2nd ex.s. c 37 § 1.]

43.130.020 Definitions. For purposes of this chapter:

(1) "Employees" includes those persons performing services for the state on a salaried or hourly basis including, but not limited to, persons in "classified service" as defined in RCW 41.06.020(3) and those persons defined as exempt from the state civil service laws pursuant to RCW 41.06.070.

(2) The term "closure of a state facility" means the termination of services being provided by a facility operated by the department of social and health services or in conjunction with the department of natural resources, when such facility is terminated for fiscal reasons, obsolescence, or other extraordinary reasons.

(3) "Classified employees" means those employees performing classified service as defined in RCW 41.06.020(3). [1973 2nd ex.s. c 37 § 2.]

43.130.030 Excluded employment and employees. Excluded employment and excluded employees under this chapter include, but are not limited to, the following:

(1) State employment related to a single project under a program separately financed by a grant of nonstate funds, federal funds or state funds, or by a combination of such funding, which is designed to provide training or employment opportunities, expertise or additional manpower related to the project or which, because of the nature of the project funding requirements, is not intended as a permanent program.

(2) Activities at least seventy-five percent federally funded by a categorical grant for a specific purpose and any other activities terminated because of actions taken by the federal government or other funding sources other than the state of Washington in eliminating or substantially limiting funding sources, except to the extent that the federal government or such other funding sources may permit the use of nonstate funds to pay for any employee benefits authorized pursuant to this chapter.

(3) The following categories of employees are excluded from benefits under this chapter:

(a) employees refusing transfer to vacant positions in the same or a like job classification and at not more than one full range lower than the same salary range;

(b) classified employees having other than permanent status in the classified service;

(c) employees having less than three years' consecutive state service as an employee, except that such employees shall nonetheless be eligible for the benefits provided in subsections (1), (2), (4) and (5) of RCW 43.130.040.

(d) nothing in this chapter shall affect any other rights currently held by classified employees regarding reduction in force procedures and subsequent reemployment. [1973 2nd ex.s. c 37 § 3.]

43.130.040 Benefits. In order to carry out the purposes of this chapter, the state shall take every reasonable step at its disposal to provide alternative employment and to minimize the economic loss of state employees affected by the closure of state facilities. Affected state employees shall be paid benefits as specified in this section.

(1) Relocation expenses covering the movement of household goods, incurred by the necessity of an employee moving his domicile to be within reasonable commuting distance of a new job site, shall be paid by the state to employees transferring to other state employment by reason of the closure of a facility.

(2) Relocation leave shall be allowed up to five working days' leave with pay for the purpose of locating new residence in the area of employment.

(3) The state shall reimburse the transferring employee to the extent of any unavoidable financial loss suffered by an employee who sells his home at a price less than the true and fair market value as determined by the county assessor not exceeding three thousand dollars: PROVIDED, That this right of reimbursement must be exercised, and sale of the property must be accomplished, within a period of two years from the date other state employment is accepted.

(4) For employees in facilities which have been terminated who do not choose to participate in the transfer program set forth in the preceding subsections, the following terminal pay plan shall be available:

(a) For qualifying employees, for each one year of continuous state service, one week (five working days) of regular compensation shall be provided.

(b) Regular compensation as used in subsection (a) hereof shall include salary compensation at the rate being paid to the employees at the time operation of the facility is terminated.

(c) Terminal pay as set forth in subsections (a) and (b) hereof shall be paid to the employee at the termination of the employees last month of employment or within thirty days after *the effective date of this 1973 act, whichever is later: PROVIDED, That from the total amount of terminal pay, the average sum of unemployment compensation that the qualifying employee is eligible to receive multiplied by the total number of weeks of terminal pay minus one week shall be deducted.

(d) Those employees electing the early retirement benefits as stated in subsection (5) of this section shall not be eligible for the terminal pay provisions as set forth in this subsection.

(e) Those employees who are reemployed by the state during the period they are receiving terminal pay pursuant to subsections (a), (b) and (c) of this section shall reimburse the state for that portion of the terminal pay covered by the period of new employment.

(5) As an option to transferring to other state employment an employee may elect early retirement under the following conditions:

(a) Notwithstanding the age requirements of RCW 41.40.180, any affected employee under this chapter who has attained the age of fifty-five years, with at least five years creditable service, shall be immediately eligible to retire, with no actuarial reduction in the amount of his pension benefit.

(b) Notwithstanding the age requirements of RCW 41.40.180, any affected employee under this chapter who has attained the age of forty-five years, with at least five years creditable service, shall be immediately eligible to retire with an actuarial reduction in the amount of his pension benefit of three percent for each complete year that such employee is under fifty-five years of age.

(c) Employees who elect to retire pursuant to RCW 41.40.180 shall be eligible to retire while on authorized leave of absence not in excess of one hundred and twenty days.

(d) Employees who elect to retire under the provisions of this section shall not be eligible for any retirement benefit in a year following a year in which their employment income was in excess of six thousand dollars. This six thousand dollars base shall be adjusted annually beginning in 1974 by such cost of living adjustments as are applied by the public employees' retirement system to membership retirement benefits. The public employees retirement system board shall adopt necessary rules and regulations to implement the provisions of this subsection. [1973 2nd ex.s. c 37 § 4.]

**Reviser's note:* The effective date of 1973 2nd ex.s. c 37 was September 26, 1973.

Public employees' retirement system: Chapter 41.40 RCW.

Termination date of benefits under subsection (3) of this section: RCW 43.130.910.

43.130.050 Eligibility—Conditions. (1) Notwithstanding any other provision of this chapter employees affected by the closure of a state facility as defined in RCW 43.130.020(2) who were employed as of May 1, 1973 at such facility, and who are still in employment of the state or on an official leave of absence as of September 26, 1973, who would otherwise qualify for the enumerated benefits of this chapter are hereby declared eligible for such benefits under the following conditions:

(a) such employee must be actively employed by the state of Washington or on an official leave of absence on September 26, 1973, and unless the early retirement or terminal pay provisions of this chapter are elected, continue to be employed or to be available for employment in a same or like job classification at not less than one full range lower than the same salary range for a period of at least thirty days thereafter;

(b) such employee must give written notice of his election to avail himself of such benefits within thirty days after the *passage of this 1973 act or upon closure of the institution, whichever is later. [1973 2nd ex.s. c 37 § 5.]

**Reviser's note:* The effective date of 1973 2nd ex.s. c 37 was September 26, 1973, due to the emergency clause contained in section 9, codified as RCW 43.130.910.

1973 2nd ex.s. c 37 (Engrossed Substitute Senate Bill No. 2603) passed the Senate September 14, 1973, passed the House September 13, 1973, and was approved by the governor September 26, 1973.

Employees to whom chapter is operative: RCW 43.130.910.

43.130.060 Reimbursement of public employees' retirement system. In order to reimburse the public employees' retirement system for any increased costs occasioned by the provisions of this chapter which affect the retirement system, the *public employees' retirement board shall, within thirty days of the date upon which any affected

employee elects to take advantage of the retirement provisions of this chapter, determine the increased present and future cost to the retirement system of such employee's election. Upon the determination of the amount necessary to offset said increased cost, the *retirement board shall bill the department of personnel for the amount of the increased cost: PROVIDED, That such billing shall not exceed eight hundred sixty-one thousand dollars. Such billing shall be paid by the department as, and the same shall be, a proper charge against any moneys available or appropriated to the department for this purpose. [1973 2nd ex.s. c 37 § 6.]

*Reviser's note: Powers, duties, and functions of the Washington public employees' retirement board were transferred to the director of retirement systems by RCW 41.40.022, which has been decodified. See Table of Disposition of Former RCW Sections, Volume 0.

43.130.900 Severability—1973 2nd ex.s. c 37. If any provision of this 1973 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 2nd ex.s. c 37 § 8.]

43.130.910 Emergency—Operative dates—Termination of benefits. This 1973 act is necessary for the immediate preservation of the public peace, health and safety, the support of state government and its existing public institutions and shall take effect immediately: PROVIDED HOWEVER, That each of the provisions of this 1973 act shall be operative and in effect only for employees of those state facilities closed after May 1, 1973 and prior to September 14, 1974: PROVIDED FURTHER, That benefits under section 4(3) of this 1973 act shall be available until September 14, 1975. [1973 2nd ex.s. c 37 § 9.]

Chapter 43.131

WASHINGTON SUNSET ACT OF 1977

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Master licensing program—Joint legislative audit and review committee performance audit: RCW 19.02.885.

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43.131.010 Short title. (*Expires June 30, 2000.*)

This chapter may be known and cited as the Washington Sunset Act. [1990 c 297 § 1; 1977 ex.s. c 289 § 1.]

43.131.020 Legislative declaration. (*Expires June 30, 2000.*) The state legislature finds that state agencies may fail to deliver services as effectively and efficiently as is expected by the general public and as originally contemplated by the legislature. It further finds that state government actions have produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules and regulations, and that the entire process has evolved without sufficient legislative and executive oversight, regulatory accountability, or a system of checks and balances. The legislature further finds that by establishing a system for the termination, continuation, or modification of state agencies, coupled with a system of scheduled review of such agencies, it will be in a better position to evaluate the need for the continued existence of existing and future state agencies. The legislature recognizes that the executive branch shares in this duty and responsibility to assure that state government operates in an efficient, orderly, and responsive manner. [1977 ex.s. c 289 § 2.]

43.131.030 Definitions. (*Expires June 30, 2000.*) As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise.

(1) "Committees of reference" means the standing legislative committees designated by the senate and house of representatives to consider termination, modification, or reestablishment of state agencies pursuant to this chapter.

(2) "Person" includes every natural person, firm, partnership, corporation, association, or organization.

(3) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which licenses or regulates one or more professions, occupa-

tions, industries, businesses, or other endeavors in the state of Washington.

(4) "State agency" includes every state office, department, board, commission, regulatory entity and agency of the state, and where provided by law, programs and activities involving less than the full responsibility of a state agency. [1983 1st ex.s. c 27 § 1; 1977 ex.s. c 289 § 3.]

43.131.040 Reestablishment of state agency scheduled for termination—Review. (*Expires June 30, 2000.*) Any state agency scheduled for termination by the processes provided in this chapter may be reestablished by the legislature for a specified period of time or indefinitely. The legislature may again review the state agency in a manner consistent with the provisions of this chapter and reestablish, modify, or consolidate such state agency or allow it to be terminated. [1983 1st ex.s. c 27 § 2; 1977 ex.s. c 289 § 4.]

43.131.050 Joint legislative audit and review committee and office of financial management—Duties—Reports required. (*Expires June 30, 2000.*) The joint legislative audit and review committee shall cause to be conducted a program and fiscal review of any state agency or program scheduled for termination by the processes provided in this chapter. Such program and fiscal review shall be completed and a preliminary report prepared on or before June 30th of the year prior to the date established for termination. Upon completion of its preliminary report, the joint legislative audit and review committee shall transmit copies of the report to the office of financial management. The office of financial management may then conduct its own program and fiscal review of the agency scheduled for termination and shall prepare a report on or before September 30th of the year prior to the date established for termination. Upon completion of its report the office of financial management shall transmit copies of its report to the joint legislative audit and review committee. The joint legislative audit and review committee shall prepare a final report that includes the reports of both the office of financial management and the joint legislative audit and review committee. The joint legislative audit and review committee and the office of financial management shall, upon request, make available to each other all working papers, studies, and other documents which relate to reports required under this section. The joint legislative audit and review committee shall transmit the final report to the legislature, to the state agency concerned, to the governor, and to the state library. [1996 c 288 § 43; 1990 c 297 § 2; 1979 c 22 § 1; 1977 ex.s. c 289 § 5.]

43.131.060 Joint legislative audit and review committee review of regulatory entity—Factors for consideration. (*Expires June 30, 2000.*) In conducting the review of a regulatory entity, the joint legislative audit and review committee shall consider, but not be limited to, the following factors where applicable:

(1) The extent to which the regulatory entity has operated in the public interest and fulfilled its statutory obligations;

(2) The duties of the regulatory entity and the costs incurred in carrying out those duties;

(3) The extent to which the regulatory entity is operating in an efficient, effective, and economical manner;

(4) The extent to which the regulatory entity inhibits competition or otherwise adversely affects the state's economic climate;

(5) The extent to which the regulatory entity duplicates the activities of other regulatory entities or of the private sector, where appropriate; and

(6) The extent to which the absence or modification of regulation would adversely affect, maintain, or improve the public health, safety, or welfare. [1996 c 288 § 44; 1988 c 17 § 1; 1977 ex.s. c 289 § 6.]

43.131.070 Joint legislative audit and review committee review of a state agency other than a regulatory entity—Factors for consideration. (*Expires June 30, 2000.*) In conducting the review of a state agency other than a regulatory entity, the joint legislative audit and review committee shall consider, but not be limited to, the following factors where applicable:

(1) The extent to which the state agency has complied with legislative intent;

(2) The extent to which the state agency is operating in an efficient and economical manner which results in optimum performance;

(3) The extent to which the state agency is operating in the public interest by effectively providing a needed service that should be continued rather than modified, consolidated, or eliminated;

(4) The extent to which the state agency duplicates the activities of other state agencies or of the private sector, where appropriate; and

(5) The extent to which the termination or modification of the state agency would adversely affect the public health, safety, or welfare. [1996 c 288 § 45; 1977 ex.s. c 289 § 7.]

43.131.080 Committees of reference—Powers and duties. (*Expires June 30, 2000.*) (1) Following receipt of the final report from the joint legislative audit and review committee, the appropriate committees of reference in the senate and the house of representatives shall each hold a public hearing, unless a joint hearing is held, to consider the final report and any related data. The committees shall also receive testimony from representatives of the state agency or agencies involved, which shall have the burden of demonstrating a public need for its continued existence; and from the governor or the governor's designee, and other interested parties, including the general public.

(2) When requested by either of the presiding members of the appropriate senate and house committees of reference, a regulatory entity under review shall mail an announcement of any hearing to the persons it regulates who have requested notice of agency rule-making proceedings as provided in RCW 34.05.320, or who have requested notice of hearings held pursuant to the provisions of this section. On request of either presiding member, such mailing shall include an explanatory statement not exceeding one page in length prepared and supplied by the member's committee.

(3) The presiding members of the senate committee on ways and means and the house committee on appropriations may designate one or more liaison members to each com-

mittee of reference in their respective chambers for purposes of participating in any hearing and in subsequent committee of reference discussions and to seek a coordinated approach between the committee of reference and the committee they represent in a liaison capacity.

(4) Following any hearing under subsection (1) of this section by the committees of reference, such committees may hold additional meetings or hearings to come to a final determination as to whether a state agency has demonstrated a public need for its continued existence or whether modifications in existing procedures are needed. In the event that a committee of reference concludes that a state agency shall be reestablished or modified or its functions transferred elsewhere, it shall make such determination as a bill. No more than one state agency shall be reestablished or modified in any one bill. [1996 c 288 § 46; 1989 c 175 § 109; 1983 1st ex.s. c 27 § 3; 1977 ex.s. c 289 § 8.]

Effective date—1989 c 175: See note following RCW 34.05.010.

43.131.090 Termination of state agency—Procedures—Employee transfers—Property disposition—Funds and moneys—Rules—Contracts. (Expires June 30, 2000.) Unless the legislature specifies a shorter period of time, a terminated state agency shall continue in existence until June 30th of the next succeeding year for the purpose of concluding its affairs: PROVIDED, That the powers and authority of the state agency shall not be reduced or otherwise limited during this period. Unless otherwise provided:

(1) All employees of terminated state agencies classified under chapter 41.06 RCW, the state civil service law, shall be transferred as appropriate or as otherwise provided in the procedures adopted by the Washington personnel resources board pursuant to RCW 41.06.150;

(2) All documents and papers, equipment, or other tangible property in the possession of the terminated state agency shall be delivered to the custody of the agency assuming the responsibilities of the terminated agency or if such responsibilities have been eliminated, documents and papers shall be delivered to the state archivist and equipment or other tangible property to the department of general administration;

(3) All funds held by, or other moneys due to, the terminated state agency shall revert to the fund from which they were appropriated, or if that fund is abolished to the general fund;

(4) Notwithstanding the provisions of RCW 34.05.020, all rules made by a terminated state agency shall be repealed, without further action by the state agency, at the end of the period provided in this section, unless assumed and reaffirmed by the agency assuming the related legal responsibilities of the terminated state agency;

(5) All contractual rights and duties of a state agency shall be assigned or delegated to the agency assuming the responsibilities of the terminated state agency, or if there is none to such agency as the governor shall direct. [1993 c 281 § 54; 1983 1st ex.s. c 27 § 4; 1977 ex.s. c 289 § 9.]

Effective date—1993 c 281: See note following RCW 41.06.022.

43.131.100 Termination of state agency—Pending business—Savings. (Expires June 30, 2000.) This chapter shall not affect the right to institute or prosecute any cause

of action by or against a state agency terminated pursuant to this chapter if the cause of action arose prior to the end of the period provided in RCW 43.131.090. Such causes of action may be instituted, prosecuted, or defended in the name of the state of Washington by the office of the attorney general. Any hearing or other proceeding pending before a state agency to be terminated and not completed before the end of the period provided in RCW 43.131.090, may be completed by the agency assuming the responsibilities of the terminated state agency. [1977 ex.s. c 289 § 10.]

43.131.110 Committees—Reference to include successor. (Expires June 30, 2000.) Any reference in this chapter to a committee of the legislature including the joint legislative audit and review committee shall also refer to the successor of that committee. [1996 c 288 § 47; 1977 ex.s. c 289 § 11.]

43.131.130 Legislature—Powers unaffected by enactment of chapter. (Expires June 30, 2000.) Nothing in this chapter or RCW 43.06.010 as now or hereafter amended, shall prevent the legislature from abolishing or modifying a state agency scheduled for termination prior to the agency's established termination date or from abolishing or modifying any other state agency. [1977 ex.s. c 289 § 13.]

43.131.150 Termination of agencies and programs—Review under Sunset Act. (Expires June 30, 2000.) The state agencies and programs scheduled for termination under this chapter shall be subject to all of the processes provided in this chapter. [1983 1st ex.s. c 27 § 8; 1979 c 99 § 1.]

43.131.253 *Hospital commission—Termination. The *hospital commission and its powers and duties shall be terminated on June 30, 1989, as provided in RCW 43.131.254. [1984 c 288 § 25; 1982 c 223 § 9.]

*Reviser's note: All references to hospital commission shall be construed to mean department of health; see RCW 43.70.902.

Severability—1984 c 288: See note following RCW 70.38.105.

43.131.254 *Hospital commission—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1990:

(1) Section 2, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 288, Laws of 1984 and RCW 70.39.010;

(2) Section 3, chapter 5, Laws of 1973 1st ex. sess., section 2, chapter 288, Laws of 1984 and RCW 70.39.020;

(3) Section 4, chapter 5, Laws of 1973 1st ex. sess., section 3, chapter 288, Laws of 1984 and RCW 70.39.030;

(4) Section 5, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 36, Laws of 1977, section 4, chapter 288, Laws of 1984 and RCW 70.39.040;

(5) Section 6, chapter 5, Laws of 1973 1st ex. sess., section 104, chapter 287, Laws of 1984, section 5, chapter 288, Laws of 1984 and RCW 70.39.050;

(6) Section 7, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 35; Laws of 1977, section 6, chapter 288, Laws of 1984 and RCW 70.39.060;

(7) Section 8, chapter 5, Laws of 1973 1st ex. sess., section 17, chapter 125, Laws of 1984, section 7, chapter 288, Laws of 1984 and RCW 70.39.070;

(8) Section 9, chapter 5, Laws of 1973 1st ex. sess., section 8, chapter 288, Laws of 1984 and RCW 70.39.080;

(9) Section 10, chapter 5, Laws of 1973 1st ex. sess., section 9, chapter 288, Laws of 1984 and RCW 70.39.090;

(10) Section 11, chapter 5, Laws of 1973 1st ex. sess., section 10, chapter 288, Laws of 1984 and RCW 70.39.100;

(11) Section 12, chapter 5, Laws of 1973 1st ex. sess., section 11, chapter 288, Laws of 1984 and RCW 70.39.110;

(12) Section 13, chapter 5, Laws of 1973 1st ex. sess., section 12, chapter 288, Laws of 1984 and RCW 70.39.120;

(13) Section 14, chapter 5, Laws of 1973 1st ex. sess., section 82, chapter 75, Laws of 1977, section 13, chapter 288, Laws of 1984, section 58, chapter 505, Laws of 1987 and RCW 70.39.130;

(14) Section 15, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 163, Laws of 1974 ex. sess., section 14, chapter 288, Laws of 1984, section 1, chapter 118, Laws of 1988 and RCW 70.39.140;

(15) Section 16, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 154, Laws of 1977 ex. sess., section 18, chapter 288, Laws of 1984 and RCW 70.39.150;

(16) Section 17, chapter 5, Laws of 1973 1st ex. sess., section 19, chapter 288, Laws of 1984 and RCW 70.39.160;

(17) Section 18, chapter 5, Laws of 1973 1st ex. sess., section 67, chapter 57, Laws of 1985 and RCW 70.39.170;

(18) Section 19, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.180;

(19) Section 20, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.190;

(20) Section 21, chapter 5, Laws of 1973 1st ex. sess., section 20, chapter 288, Laws of 1984 and RCW 70.39.200;

(21) Section 22, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.900;

(22) Section 23, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.910;

(23) Section 15, chapter 288, Laws of 1984 and RCW 70.39.165;

(24) Section 23, chapter 288, Laws of 1984 and RCW 70.39.195;

(25) Section 24, chapter 288, Laws of 1984 and RCW 70.39.125; and

(26) Section 1, chapter 262, Laws of 1988 and RCW 70.39.144. [1990 c 52 § 1; 1984 c 288 § 26; 1982 c 223 § 10.]

***Reviser's note:** All references to hospital commission shall be construed to mean department of health; see RCW 43.70.902.

Severability—1984 c 288: See note following RCW 70.38.105.

43.131.333 Center for international trade in forest products—Termination. The center for international trade in forest products in the college of forest resources at the University of Washington shall be terminated on June 30, 2000, as provided in RCW 43.131.334. [1994 c 282 § 4; 1992 c 121 § 2; 1988 c 288 § 15; 1985 c 122 § 8.]

Effective date—1994 c 282: See note following RCW 76.56.020.

Severability—1985 c 122: See RCW 76.56.900.

43.131.334 Center for international trade in forest products—Repeal. The following acts or parts of acts, as now existing or as hereafter amended, are each repealed, effective June 30, 2001:

(1) RCW 76.56.010 and 1985 c 122 § 1;

(2) RCW 76.56.020 and 1994 c 282 § 1, 1992 c 121 § 1, 1987 c 195 § 16, & 1985 c 122 § 2;

(3) RCW 76.56.030 and 1985 c 122 § 3;

(4) RCW 76.56.040 and 1985 c 122 § 4;

(5) RCW 76.56.050 and 1994 c 282 § 2, 1987 c 505 § 74, & 1985 c 122 § 5;

(6) RCW 76.56.900 and 1985 c 122 § 6; and

(7) RCW 28B.50.262 and 1994 c 282 § 3. [1994 c 282 § 5; 1992 c 121 § 3; 1988 c 288 § 16; 1985 c 122 § 9.]

Effective date—1994 c 282: See note following RCW 76.56.020.

Severability—1985 c 122: See RCW 76.56.900.

43.131.341 Washington state commission on Hispanic affairs—Termination. The Washington state commission on Hispanic affairs and its powers and duties shall be terminated on June 30, 2021, as provided in RCW 43.131.342. [1993 c 261 § 5; 1987 c 249 § 8.]

43.131.342 Washington state commission on Hispanic affairs—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2022:

(1) Section 1, chapter 34, Laws of 1971 ex. sess., section 1, chapter 249, Laws of 1987, section 1, chapter 261, Laws of 1993 and RCW 43.115.010;

(2) Section 2, chapter 34, Laws of 1971 ex. sess., section 2, chapter 249, Laws of 1987 and RCW 43.115.020;

(3) Section 3, chapter 34, Laws of 1971 ex. sess., section 130, chapter 34, Laws of 1975-'76 2nd ex. sess., section 15, chapter 338, Laws of 1981, section 3, chapter 249, Laws of 1987, section 2, chapter 261, Laws of 1993, and RCW 43.115.030;

(4) Section 4, chapter 34, Laws of 1971 ex. sess., section 4, chapter 249, Laws of 1987, section 3, chapter 261, Laws of 1993 and RCW 43.115.040;

(5) Section 6, chapter 34, Laws of 1971 ex. sess., section 6, chapter 249, Laws of 1987 and RCW 43.115.060;

(6) Section 7, chapter 34, Laws of 1971 ex. sess. and RCW 43.115.900; and

(7) Section 4, chapter 261, Laws of 1993 and RCW 43.115.045. [1993 c 261 § 6; 1987 c 249 § 9.]

43.131.367 Community diversification program—Termination. The community diversification program and the *advisory council on economic diversification shall be terminated on June 30, 1996, as provided in RCW 43.131.368. [1990 c 278 § 7.]

***Reviser's note:** The section which created the advisory council on economic diversification, 1990 c 278 § 3, was vetoed.

Legislative finding—Severability—1990 c 278: See notes following RCW 43.63A.450.

43.131.368 Community diversification program—Repeal. The following acts, or parts of acts, as now existing or as hereafter amended, are each repealed, effective June 30, 1997:

(1) Section 2, chapter 278, Laws of 1990 and RCW 43.63A.450; and

(2) *Section 3, chapter 278, Laws of 1990 and RCW 43.63A.____. [1990 c 278 § 8.]

*Reviser's note: Section 3, chapter 278, Laws of 1990 was vetoed.

Legislative finding—Severability—1990 c 278: See notes following RCW 43.63A.450.

43.131.369 Puget Sound water quality authority—Termination. The Puget Sound water quality authority and its powers and duties shall be terminated on June 30, 1995, as provided in RCW 43.131.370. [1990 c 115 § 11.]

43.131.370 Puget Sound water quality authority—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1996:

(1) Section 1, chapter 451, Laws of 1985 and RCW 90.70.001;

(2) Section 2, chapter 451, Laws of 1985 and RCW 90.70.005;

(3) Section 3, chapter 451, Laws of 1985, section 2, chapter 115, Laws of 1990 and RCW 90.70.011;

(4) Section 5, chapter 451, Laws of 1985 and RCW 90.70.025;

(5) Section 6, chapter 451, Laws of 1985 and RCW 90.70.035;

(6) Section 7, chapter 451, Laws of 1985, section 72, chapter 36, Laws of 1988, section 3, chapter 115, Laws of 1990 and RCW 90.70.045;

(7) Section 4, chapter 451, Laws of 1985, section 4, chapter 115, Laws of 1990 and RCW 90.70.055;

(8) Section 8, chapter 451, Laws of 1985, section 31, chapter 11, Laws of 1989, section 5, chapter 115, Laws of 1990 and RCW 90.70.060;

(9) Section 9, chapter 451, Laws of 1985, section 6, chapter 115, Laws of 1990 and RCW 90.70.070;

(10) Section 10, chapter 451, Laws of 1985, section 7, chapter 115, Laws of 1990 and RCW 90.70.080; and

(11) Section 14, chapter 451, Laws of 1985 and RCW 90.70.901. [1990 c 115 § 12.]

Implementation and requirements of plan not affected by repeal: See RCW 90.71.902.

43.131.373 Pacific Northwest export assistance project—Termination. The Pacific Northwest export assistance project shall be terminated on June 30, 1996, as provided in RCW 43.131.374. [1991 c 314 § 17.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.131.374 Pacific Northwest export assistance project—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1997:

(1) RCW 43.210.100 and 1991 c 314 § 11;

(2) RCW 43.210.110 and 1991 c 314 § 12;

(3) RCW 43.210.120 and 1991 c 314 § 13; and

(4) RCW 43.210.070 and 1991 c 314 § 14. [1991 c 314 § 18.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.131.377 Work force employment and training program—Termination. The work force employment and training program created in chapter 226, Laws of 1993 shall expire June 30, 1998. [1993 c 226 § 18.]

Findings—Purpose, intent—Conflict with federal requirements—Severability—Application—1993 c 226: See notes following RCW 50.24.018.

43.131.378 Work force employment and training program—Repeal. The following acts or parts of acts are each repealed, effective June 30, 1999:

(1) 1993 c 226 § 1 (uncodified);

(2) 1993 c 226 § 2 (uncodified);

(3) RCW 50.24.018 and 1993 c 226 § 3;

(4) RCW 50.16.090 and 1993 c 226 § 4;

(5) RCW 50.16.092 and 1993 c 226 § 5;

(6) RCW 50.16.094 and 1993 c 226 § 6;

(7) RCW 50.16.096 and 1993 c 226 § 8;

(8) RCW 50.29.085 and 1993 c 226 § 15; and

(9) RCW 50.12.261 and 1993 c 226 § 17. [1993 c 226 § 19.]

Findings—Purpose, intent—Conflict with federal requirements—Severability—Application—1993 c 226: See notes following RCW 50.24.018.

43.131.381 Linked deposit program—Termination. The linked deposit program shall be terminated on June 30, 2000, as provided in RCW 43.131.382. [1994 c 126 § 2; 1993 c 512 § 35.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.131.382 Linked deposit program—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2001:

(1) RCW 43.86A.060 and 1993 c 512 § 30;

(2) RCW 43.63A.690 and 1993 c 512 § 31; and

(3) RCW 43.86A.070 and 1993 c 512 § 34. [1994 c 126 § 3; 1993 c 512 § 36.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.131.383 Conservation corps—Termination. The Washington conservation corps and its powers and duties shall be terminated on June 30, 1999, as provided in RCW 43.131.384. [1993 c 516 § 13.]

Short title—Sections captions and part headings—Severability—Conflict with federal requirements—Effective date—1993 c 516: See RCW 43.21J.900 through 43.21J.904.

43.131.384 Conservation corps—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2000:

(1) RCW 43.220.010 and 1983 1st ex.s. c 40 § 2;

(2) RCW 43.220.020 and 1988 c 36 § 23 & 1983 1st ex.s. c 40 § 1;

(3) RCW 43.220.030 and 1987 c 367 § 1 & 1983 1st ex.s. c 40 § 3;

(4) RCW 43.220.040 and 1987 c 367 § 2 & 1983 1st ex.s. c 40 § 4;

(5) RCW 43.220.050 and 1983 1st ex.s. c 40 § 5;

(6) RCW 43.220.060 and 1987 c 505 § 44 & 1983 1st ex.s. c 40 § 6;

(7) RCW 43.220.070 and 1990 c 71 § 2, 1988 c 78 § 1, & 1986 c 266 § 48;

(8) RCW 43.220.080 and 1983 1st ex.s. c 40 § 8;

(9) RCW 43.220.090 and 1983 1st ex.s. c 40 § 9;

(10) RCW 43.220.120 and 1988 c 36 § 24 & 1983 1st ex.s. c 40 § 12;

(11) RCW 43.220.130 and 1983 1st ex.s. c 40 § 13;

(12) RCW 43.220.140 and 1983 1st ex.s. c 40 § 14;

(13) RCW 43.220.150 and 1983 1st ex.s. c 40 § 15;

(14) RCW 43.220.160 and 1983 1st ex.s. c 40 § 16;

(15) RCW 43.220.170 and 1983 1st ex.s. c 40 § 17;

(16) RCW 43.220.180 and 1983 1st ex.s. c 40 § 18;

(17) RCW 43.220.190 and 1987 c 367 § 3 & 1983 1st ex.s. c 40 § 20;

(18) RCW 43.220.210 and 1987 c 367 § 4 & 1985 c 230 § 1;

(19) RCW 43.220.220 and 1985 c 230 § 2;

(20) RCW 43.220.230 and 1990 c 71 § 3 & 1985 c 230 § 3;

(21) RCW 43.220.240 and 1985 c 230 § 4; and

(22) RCW 43.220.250 and 1985 c 230 § 5. [1993 c 516 § 14.]

Short title—Section captions and part headings—Severability—Conflict with federal requirements—Effective date—1993 c 516: See RCW 43.21J.900 through 43.21J.904.

43.131.385 Rural natural resources impact area programs—Termination. The rural natural resources impact area programs shall be terminated on June 30, 1998, as provided in RCW 43.131.386. [1995 c 226 § 34.]

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

43.131.386 Rural natural resources impact area programs—Repeal. The following acts or parts of acts are each repealed, effective June 30, 1999:

(1) RCW 43.31.601 and 1995 c 226 § 1, 1992 c 21 § 2, & 1991 c 314 § 2;

(2) RCW 43.31.641 and 1995 c 226 § 4, 1993 c 280 § 50, & 1991 c 314 § 7;

(3) RCW 50.22.090 and 1995 c 226 § 5, 1993 c 316 § 10, 1992 c 47 § 2, & 1991 c 315 § 4;

(4) RCW 43.160.212 and 1996 c 168 § 4, 1995 c 226 § 6, & 1993 c 316 § 5;

(5) RCW 43.31.651 and 1995 c 226 § 10, 1993 c 280 § 51, & 1991 c 314 § 9;

(6) RCW 43.63A.021 and 1995 c 226 § 11;

(7) RCW 43.63A.600 and 1995 c 226 § 12, 1994 c 114 § 1, 1993 c 280 § 77, & 1991 c 315 § 23;

(8) RCW 43.63A.440 and 1995 c 226 § 13, 1993 c 280 § 74, & 1989 c 424 § 7;

(9) RCW 43.160.200 and 1995 c 226 § 16, 1993 c 320 § 7, 1993 c 316 § 4, & 1991 c 314 § 23;

(10) RCW 28B.50.258 and 1995 c 226 § 18 & 1991 c 315 § 16;

(11) RCW 28B.50.262 and 1995 c 226 § 19 & 1994 c 282 § 3;

(12) RCW 28B.80.570 and 1995 c 226 § 20, 1992 c 21 § 6, & 1991 c 315 § 18;

(13) RCW 28B.80.575 and 1995 c 226 § 21 & 1991 c 315 § 19;

(14) RCW 28B.80.580 and 1995 c 226 § 22, 1993 sp.s. c 18 § 34, 1992 c 231 § 31, & 1991 c 315 § 20;

(15) RCW 28B.80.585 and 1995 c 226 § 23 & 1991 c 315 § 21;

(16) RCW 43.17.065 and 1995 c 226 § 24, 1993 c 280 § 37, 1991 c 314 § 28, & 1990 1st ex.s. c 17 § 77;

(17) RCW 43.20A.750 and 1995 c 226 § 25, 1993 c 280 § 38, 1992 c 21 § 4, & 1991 c 153 § 28;

(18) RCW 43.168.140 and 1995 c 226 § 28 & 1991 c 314 § 20;

(19) RCW 50.12.270 and 1995 c 226 § 30 & 1991 c 315 § 3;

(20) RCW 50.70.010 and 1995 c 226 § 31, 1992 c 21 § 1, & 1991 c 315 § 5; and

(21) RCW 50.70.020 and 1995 c 226 § 32 & 1991 c 315 § 6. [1996 c 168 § 5; 1995 c 226 § 35.]

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

43.131.387 Permit assistance center—Termination. The permit assistance center and its powers and duties shall be terminated June 30, 1999, as provided in RCW 43.131.388. [1995 c 347 § 617.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

43.131.388 Permit assistance center—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2000:

(1) RCW 90.60.010 and 1995 c 347 § 601;

(2) RCW 90.60.020 and 1995 c 347 § 602;

(3) RCW 90.60.030 and 1995 c 347 § 603;

(4) RCW 90.60.040 and 1995 c 347 § 604;

(5) RCW 90.60.050 and 1995 c 347 § 605;

(6) RCW 90.60.060 and 1995 c 347 § 606;

(7) RCW 90.60.070 and 1995 c 347 § 607;

(8) RCW 90.60.080 and 1995 c 347 § 608;

(9) RCW 90.60.090 and 1995 c 347 § 609;

(10) RCW 90.60.100 and 1995 c 347 § 610;

(11) RCW 90.60.110 and 1995 c 347 § 611;

(12) RCW 90.60.120 and 1995 c 347 § 612;

(13) RCW 90.60.130 and 1995 c 347 § 613;

(14) RCW 90.60.140 and 1995 c 347 § 614;

(15) RCW 90.60.150 and 1995 c 347 § 615; and

(16) RCW 90.60.800 and 1995 c 347 § 616. [1995 c 347 § 618.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

43.131.389 Office of public defense—Termination. The office of public defense and its powers and duties shall be terminated on June 30, 2000, as provided in RCW 43.131.390. [1996 c 221 § 7.]

43.131.390 Office of public defense—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2001:

(1) RCW 2.70.005 and 1996 c 221 § 1;

(2) RCW 2.70.010 and 1996 c 221 § 2;

- (3) RCW 2.70.020 and 1996 c 221 § 3;
 (4) RCW 2.70.030 and 1996 c 221 § 4; and
 (5) RCW 2.70.040 and 1996 c 221 § 5. [1996 c 221 § 8.]

43.131.900 Expiration of RCW 43.131.010 through 43.131.150—Exception. RCW 43.131.010 through 43.131.150 shall expire on June 30, 2000, unless extended by law for an additional fixed period of time. [1988 c 17 § 2; 1982 c 223 § 16; 1979 c 22 § 3; 1977 ex.s. c 289 § 16.]

43.131.901 Severability—1977 ex.s. c 289. If any provision of this 1977 amendatory act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the 1977 amendatory act which can be given effect without the invalid provision or application, and to this end the provisions of this 1977 amendatory act are declared severable. [1977 ex.s. c 289 § 18.]

43.131.910 Severability—1979 c 99. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 c 99 § 90.]

Chapter 43.132

FISCAL IMPACT OF PROPOSED LEGISLATION ON POLITICAL SUBDIVISIONS

Sections

- 43.132.010 Intent.
 43.132.020 Fiscal notes—Preparation—Contents—Scope—Revisions—Reports.
 43.132.030 Designation of department of community, trade, and economic development to prepare fiscal notes—Cooperation of state agencies, legislative staffs, and local government associations.
 43.132.040 Fiscal notes—Transmission of copies to designated recipients.
 43.132.050 Fiscal notes—Transmission of copies upon request.
 43.132.055 Fiscal notes—Expenditures by local government—Fiscal responsibility.
 43.132.060 Legislative action upon or validity of measures not affected.
Legislative fiscal notes: Chapter 43.88A RCW.

43.132.010 Intent. It is the intent of this chapter to create a uniform and coordinated procedure to determine the fiscal impact of proposed legislation on units of local government. [1977 ex.s. c 19 § 1.]

43.132.020 Fiscal notes—Preparation—Contents—Scope—Revisions—Reports. The director of financial management or the director's designee shall, in cooperation with appropriate legislative committees and legislative staff, establish a mechanism for the determination of the fiscal impact of proposed legislation which if enacted into law would directly or indirectly increase or decrease revenues received or expenditures incurred by counties, cities, towns, or any other political subdivisions of the state. The office of financial management shall, when requested by a member of

the state legislature, report in writing as to such fiscal impact and said report shall be known as a "fiscal note".

Such fiscal notes shall indicate by fiscal year the total impact on the subdivisions involved for the first two years the legislation would be in effect and also a cumulative six year forecast of the fiscal impact. Where feasible and applicable, the fiscal note also shall indicate the fiscal impact on each individual county or on a representative sampling of cities, towns, or other political subdivisions.

A fiscal note as defined in this section shall be provided only upon request of any member of the state legislature. A legislator also may request that such a fiscal note be revised to reflect the impact of proposed amendments or substitute bills. Fiscal notes shall be completed within seventy-two hours of the request unless a longer time period is allowed by the requesting legislator. In the event a fiscal note has not been completed within seventy-two hours of a request, a daily report shall be prepared for the requesting legislator by the director of financial management which report summarizes the progress in preparing the fiscal note. If the request is referred to the director of community, trade, and economic development, the daily report shall also include the date and time such referral was made. [1995 c 399 § 79; 1984 c 125 § 16; 1979 c 151 § 149; 1977 ex.s. c 19 § 2.]

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

43.132.030 Designation of department of community, trade, and economic development to prepare fiscal notes—Cooperation of state agencies, legislative staffs, and local government associations. The director of financial management is hereby empowered to designate the director of community, trade, and economic development as the official responsible for the preparation of fiscal notes authorized and required by this chapter. It is the intent of the legislature that when necessary the resources of other state agencies, appropriate legislative staffs, and the various associations of local government may be employed in the development of such fiscal notes. [1995 c 399 § 80; 1985 c 6 § 10; 1979 c 151 § 150; 1977 ex.s. c 19 § 3.]

43.132.040 Fiscal notes—Transmission of copies to designated recipients. When a fiscal note is prepared and approved as to form and completeness by the director of financial management, the director shall transmit copies immediately to:

- (1) The requesting legislator;
- (2) With respect to proposed legislation held by the senate, the chairperson of the committee which holds or has acted upon the proposed legislation, the chairperson of the ways and means committee, the chairperson of the local government committee, and the secretary of the senate; and
- (3) With respect to proposed legislation held by the house of representatives, the chairperson of the committee which holds or has acted upon the proposed legislation, the chairpersons of the revenue and taxation and appropriations committees, the chairperson of the local government committee, and the chief clerk of the house of representatives. [1986 c 158 § 18; 1979 c 151 § 151; 1977 ex.s. c 19 § 4.]

43.132.050 Fiscal notes—Transmission of copies upon request. The office of financial management may make additional copies of the fiscal note available to members of the legislature and others on request.

At the request of any member of the senate or house of representatives, whichever is considering the proposed legislation, and unless it is prohibited by the rules of the body, copies of the fiscal note or a synopsis thereof shall be placed on the members' desks at the time the proposed legislation takes its place on the second reading calendar.

Whenever its proposed legislation accompanied by such a fiscal note is passed by either the senate or the house of representatives, the fiscal note shall be transmitted with the bill to the other house. [1986 c 158 § 19; 1979 c 151 § 152; 1977 ex.s. c 19 § 5.]

43.132.055 Fiscal notes—Expenditures by local government—Fiscal responsibility. When the fiscal note indicates that a bill or resolution would require expenditures of funds by a county, city, town, or other unit of local government, the legislature shall determine the state's fiscal responsibility and shall make every effort to appropriate the funds or provide the revenue generating authority necessary to implement the legislation during the ensuing biennium. [1979 ex.s. c 112 § 2.]

43.132.060 Legislative action upon or validity of measures not affected. Nothing in this chapter shall prevent either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules of the senate and house of representatives, nor shall the lack of any fiscal note as provided in this chapter or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature. [1977 ex.s. c 19 § 6.]

Chapter 43.133

WASHINGTON SUNRISE ACT

Sections

43.133.010	Legislative declaration.
43.133.020	Definitions.
43.133.030	Sunrise notes—Procedure.
43.133.040	Sunrise notes—Contents.
43.133.050	Sunrise notes—Preparation.
43.133.060	Sunrise notes—Filing.
43.133.070	Forwarding of notification and sunrise note to committees when standing committee votes out bill creating board or special purpose district.
43.133.080	Effect of chapter on validity of legislative action.
43.133.900	Short title.

43.133.010 Legislative declaration. Because of the proliferation of boards and special purpose districts, the legislature recognizes the necessity of developing a uniform and coordinated procedure for determining the need for these new units of government. [1987 c 342 § 1.]

43.133.020 Definitions. (1) For purposes of this chapter, "special purpose district" means any unit of local government other than a city, town, county, or school district.

(2) For purposes of this chapter, "board" means a board, commission, council, committee or task force. [1987 c 342 § 2.]

43.133.030 Sunrise notes—Procedure. The office of financial management and the department of community, trade, and economic development shall, in cooperation with appropriate legislative committees and legislative staff, establish a procedure for the provision of sunrise notes on the expected impact of bills and resolutions that authorize the creation of new boards and new types of special purpose districts. [1995 c 399 § 81; 1987 c 342 § 3.]

43.133.040 Sunrise notes—Contents. Sunrise notes shall include:

(1) The purpose and expected impact of the new board or special purpose district;

(2) The powers and duties of the new board or special purpose district;

(3) The direct or potential duplication of the powers and duties of existing boards or special purpose districts; and

(4) Other information relevant to the need for the new board or special purpose district. [1987 c 342 § 4.]

43.133.050 Sunrise notes—Preparation. (1) The office of financial management shall prepare sunrise notes for legislation concerning the creation of new boards. The department of community, trade, and economic development shall prepare sunrise notes for legislation creating new types of special purpose districts.

(2) A sunrise note shall be prepared for all executive and agency request legislation that creates a board or special purpose district.

(3) The office of financial management or the department of community, trade, and economic development shall also provide a sunrise note at the request of any committee of the legislature. [1995 c 399 § 82; 1987 c 342 § 5.]

43.133.060 Sunrise notes—Filing. Sunrise notes shall be filed with:

(1) The committee to which the bill or resolution was referred upon introduction in the house of origin;

(2) The senate committee on ways and means or its successor;

(3) The house of representatives committee on ways and means or its successor;

(4) The senate governmental operations committee or its successor; and

(5) The house of representatives state government committee or its successor. [1987 c 342 § 6.]

43.133.070 Forwarding of notification and sunrise note to committees when standing committee votes out bill creating board or special purpose district. Legislative standing committees shall forward notification and the sunrise note, if available, to the senate or house of representatives ways and means committee and the senate governmental operations committee or the house of representatives state government committee whenever a bill providing for the creation of a new board or special purpose district is voted out of the standing committee. [1987 c 342 § 7.]

43.133.080 Effect of chapter on validity of legislative action. Nothing in this chapter prevents either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules and joint rules of the senate and house of representatives, nor shall the lack of any sunrise note as provided in this chapter or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature. [1987 c 342 § 8.]

43.133.900 Short title. This chapter shall be known as the Washington sunrise act. [1987 c 342 § 9.]

Chapter 43.135

STATE EXPENDITURES LIMITATIONS

(Formerly: Tax revenue limitations)

Sections

- 43.135.010 Findings—Intent.
- 43.135.025 General fund expenditure limit—Computation—Annual limit adjustment—Definitions—Emergency exception—State treasurer duty, penalty.
- 43.135.035 Tax legislation—Conditions and restrictions—Ballot title—Declarations of emergency—Taxes on intangible property—Expenditure limit to reflect program cost shifting or fund transfer.
- 43.135.045 Emergency reserve fund—Excess balance to education construction fund—Appropriation conditions.
- 43.135.055 Fee increase restriction.
- 43.135.060 Prohibition of new or extended programs without full reimbursement—Transfer of programs—Determination of costs.
- 43.135.902 Short title—1994 c 2.
- 43.135.903 Severability—1994 c 2.
- 43.135.904 Effective dates—1994 c 2.

43.135.010 Findings—Intent. The people of the state of Washington hereby find and declare:

(1) The continuing increases in our state tax burden and the corresponding growth of state government is contrary to the interest of the people of the state of Washington.

(2) It is necessary to limit the rate of growth of state government while assuring adequate funding of essential services, including basic education as defined by the legislature.

(3) The current budgetary system in the state of Washington lacks stability. The system encourages crisis budgeting and results in cutbacks during lean years and overspending during surplus years.

(4) It is therefore the intent of this chapter to:

(a) Establish a limit on state expenditures that will assure that the growth rate of state expenditures does not exceed the growth rate of inflation and state population;

(b) Assure that local governments are provided funds adequate to render those services deemed essential by their citizens;

(c) Assure that the state does not impose responsibility on local governments for new programs or increased levels of service under existing programs unless the costs thereof are paid by the state;

(d) Provide for adjustment of the limit when costs of a program are transferred between the state and another political entity;

(e) Establish a procedure for exceeding this limit in emergency situations;

(f) Provide for voter approval of tax increases; and

(g) Avoid overfunding and underfunding state programs by providing stability, consistency, and long-range planning. [1994 c 2 § 1 (Initiative Measure No. 601, approved November 2, 1993); 1980 c 1 § 1 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.025 General fund expenditure limit—Computation—Annual limit adjustment—Definitions—Emergency exception—State treasurer duty, penalty. (1) The state shall not expend from the general fund during any fiscal year state moneys in excess of the state expenditure limit established under this chapter.

(2) Except pursuant to a declaration of emergency under RCW 43.135.035 or pursuant to an appropriation under RCW 43.135.045(4)(b), the state treasurer shall not issue or redeem any check, warrant, or voucher that will result in a state general fund expenditure for any fiscal year in excess of the state expenditure limit established under this chapter. A violation of this subsection constitutes a violation of RCW 43.88.290 and shall subject the state treasurer to the penalties provided in RCW 43.88.300.

(3) The state expenditure limit for any fiscal year shall be the previous fiscal year's state expenditure limit increased by a percentage rate that equals the fiscal growth factor.

(4) For purposes of computing the state expenditure limit for the fiscal year beginning July 1, 1995, the phrase "the previous fiscal year's state expenditure limit" means the total state expenditures from the state general fund, not including federal funds, for the fiscal year beginning July 1, 1989, plus the fiscal growth factor. This calculation is then computed for the state expenditure limit for fiscal years 1992, 1993, 1994, and 1995, and as required under RCW 43.135.035(4).

(5) Each November, the office of financial management shall adjust the expenditure limit for the preceding fiscal year based on actual expenditures and known changes in the fiscal growth factor and then project an expenditure limit for the next two fiscal years. The office of financial management shall notify the legislative fiscal committees of all adjustments to the state expenditure limit and projections of future expenditure limits.

(6) "Fiscal growth factor" means the average of the sum of inflation and population change for each of the prior three fiscal years.

(7) "Inflation" means the percentage change in the implicit price deflator for the United States for each fiscal year as published by the federal bureau of labor statistics.

(8) "Population change" means the percentage change in state population for each fiscal year as reported by the office of financial management. [1994 c 2 § 2 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.035 Tax legislation—Conditions and restrictions—Ballot title—Declarations of emergency—Taxes on intangible property—Expenditure limit to reflect program cost shifting or fund transfer. (1) After July 1, 1995, any action or combination of actions by the legislature that raises state revenue or requires revenue-neutral tax shifts

may be taken only if approved by a two-thirds vote of each house, and then only if state expenditures in any fiscal year, including the new revenue, will not exceed the state expenditure limits established under this chapter.

(2)(a) If the legislative action under subsection (1) of this section will result in expenditures in excess of the state expenditure limit, then the action of the legislature shall not take effect until approved by a vote of the people at a November general election. The office of financial management shall adjust the state expenditure limit by the amount of additional revenue approved by the voters under this section. This adjustment shall not exceed the amount of revenue generated by the legislative action during the first full fiscal year in which it is in effect. The state expenditure limit shall be adjusted downward upon expiration or repeal of the legislative action.

(b) The ballot title for any vote of the people required under this section shall be substantially as follows:

"Shall taxes be imposed on in order to allow a spending increase above last year's authorized spending adjusted for inflation and population increases?"

(3)(a) The state expenditure limit may be exceeded upon declaration of an emergency for a period not to exceed twenty-four months by a law approved by a two-thirds vote of each house of the legislature and signed by the governor. The law shall set forth the nature of the emergency, which is limited to natural disasters that require immediate government action to alleviate human suffering and provide humanitarian assistance. The state expenditure limit may be exceeded for no more than twenty-four months following the declaration of the emergency and only for the purposes contained in the emergency declaration.

(b) Additional taxes required for an emergency under this section may be imposed only until thirty days following the next general election, unless an extension is approved at that general election. The additional taxes shall expire upon expiration of the declaration of emergency. The legislature shall not impose additional taxes for emergency purposes under this subsection unless funds in the education construction fund have been exhausted.

(c) The state or any political subdivision of the state shall not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.

(4) If the cost of any state program or function is shifted from the state general fund on or after January 1, 1993, to another source of funding, or if moneys are transferred from the state general fund to another fund or account, the office of financial management shall lower the state expenditure limit to reflect the shift. [1994 c 2 § 4 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.045 Emergency reserve fund—Excess balance to education construction fund—Appropriation conditions. (1) The emergency reserve fund is established in the state treasury. During each fiscal year, the state treasurer shall deposit in the emergency reserve fund all general fund—state revenues in excess of the state expenditure limit for that fiscal year. Deposits shall be made at the end of each fiscal quarter based on projections of state revenues and the state expenditure limit.

(2) The legislature may appropriate moneys from the emergency reserve fund only with approval of at least two-thirds of the members of each house of the legislature, and then only if the appropriation does not cause total expenditures to exceed the state expenditure limit under this chapter.

(3) The emergency reserve fund balance shall not exceed five percent of biennial general fund—state revenues as projected by the official state revenue forecast. Any balance in excess of five percent shall be transferred on a quarterly basis by the state treasurer to the education construction fund hereby created in the treasury.

(4)(a) Funds may be appropriated from the education construction fund exclusively for common school construction or higher education construction.

(b) Funds may be appropriated for any other purpose only if approved by a two-thirds vote of each house of the legislature and if approved by a vote of the people at the next general election. An appropriation approved by the people under this subsection shall result in an adjustment to the state expenditure limit only for the fiscal period for which the appropriation is made and shall not affect any subsequent fiscal period. [1994 c 2 § 3 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.055 Fee increase restriction. No fee may increase in any fiscal year by a percentage in excess of the fiscal growth factor for that fiscal year without prior legislative approval. [1994 c 2 § 8 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.060 Prohibition of new or extended programs without full reimbursement—Transfer of programs—Determination of costs. (1) After July 1, 1995, the legislature shall not impose responsibility for new programs or increased levels of service under existing programs on any political subdivision of the state unless the subdivision is fully reimbursed by specific appropriation by the state for the costs of the new programs or increases in service levels.

(2) If by order of any court, or legislative enactment, the costs of a federal or local government program are transferred to or from the state, the otherwise applicable state expenditure limit shall be increased or decreased, as the case may be, by the dollar amount of the costs of the program.

(3) The legislature, in consultation with the office of financial management or its successor agency, shall determine the costs of any new programs or increased levels of service under existing programs imposed on any political subdivision or transferred to or from the state.

(4) Subsection (1) of this section does not apply to the costs incurred for voting devices or machines under RCW 29.04.200. [1994 c 2 § 5 (Initiative Measure No. 601, approved November 2, 1993); 1990 2nd ex.s. c 1 § 601; 1990 c 184 § 2; 1980 c 1 § 6 (Initiative Measure No. 62, approved November 6, 1979).]

Severability—1990 2nd ex.s. c 1: See note following RCW 82.14.300.

43.135.902 Short title—1994 c 2. This chapter may be known and cited as the taxpayer protection act. [1994 c 2 § 10 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.903 Severability—1994 c 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1994 c 2 § 12 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.904 Effective dates—1994 c 2. (1) Sections 8 and 13 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [December 2, 1993].

(2) Sections 1 through 7 and 9 through 12 of this act shall take effect July 1, 1995. [1994 c 2 § 14 (Initiative Measure No. 601, approved November 2, 1993).]

Chapter 43.136

TERMINATION OF TAX PREFERENCES

Sections

- 43.136.010 Legislative findings—Intent.
- 43.136.020 "Tax preference" defined.
- 43.136.030 Legislative budget committee and department of revenue—Review of tax preferences—Reports.
- 43.136.040 Legislative budget committee review of tax preferences—Factors for consideration.
- 43.136.050 Powers and duties of ways and means committees.
- 43.136.070 Report on existing tax preferences to be provided—Additional information to be provided.

Analysis of desirability of existing tax exemptions by tax advisory council: RCW 43.38.020.

Biennial listing of reduction in revenues from tax exemptions to be submitted to legislature by department of revenue—Periodic review and submission of recommendations to legislature by governor: RCW 43.06.400.

Tax exemption impact report: RCW 82.01.110.

43.136.010 Legislative findings—Intent. The legislature recognizes that tax preferences are enacted by the legislature to meet objectives which are determined to be in the public interest. The legislature finds, however, that some tax preferences may not be efficient or equitable tools for the achievement of current legislative objectives. The legislature finds that unless it can be demonstrated that the public interest is served by the continued existence of tax preferences, they should be terminated or modified. The legislature further finds that periodic evaluations of tax preferences are needed to determine if their continued existence is in the public interest.

It is the intent of the legislature to establish a mechanism for scheduling periodic evaluations of tax preferences together with a system for their termination, continuation, or modification. By this mechanism, the legislature intends to ensure that thorough periodic evaluations are made and that those tax preferences which do not continue to serve the public interest are terminated or modified. [1982 1st ex.s. c 35 § 39.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.020 "Tax preference" defined. As used in this chapter, "tax preference" means an exemption, exclusion, or deduction from the base of a state tax; a credit against a

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state tax; a deferral of a state tax; or a preferential state tax rate. [1982 1st ex.s. c 35 § 40.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.030 *Legislative budget committee and department of revenue—Review of tax preferences—Reports. The *legislative budget committee shall review each tax preference for termination by the processes provided in this chapter. The review shall be completed and a report prepared on or before June 30th of the year prior to the date established for termination. Upon completion of its report, the *legislative budget committee shall transmit copies of the report to the department of revenue. The department of revenue may then conduct its own review of the tax preference scheduled for termination and shall prepare a report on or before September 30th of the year prior to the date established for termination. Upon completion of its report the department of revenue shall transmit copies of its report to the *legislative budget committee. The *legislative budget committee shall prepare a final report that includes the reports of both the department of revenue and the *legislative budget committee. The *legislative budget committee and the department of revenue shall, upon request, make available to each other all working papers, studies, and other documents which relate to reports required under this section. The *legislative budget committee shall transmit the final report to all members of the legislature, to the governor, and to the state library. [1982 1st ex.s. c 35 § 41.]

***Reviser's note:** The "legislative budget committee" was redesignated the "joint legislative audit and review committee" by 1996 c 288 § 3.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.040 *Legislative budget committee review of tax preferences—Factors for consideration. In reviewing a tax preference, the *legislative budget committee shall develop information needed by the legislature to determine if the tax preference should be terminated as scheduled, modified, or reestablished without modification. The *legislative budget committee shall consider, but not be limited to, the following factors in the review.

(1) The persons or organizations whose state tax liabilities are directly affected by the tax preference.

(2) Legislative objectives that might provide a justification for the tax preference.

(3) Evidence that the existence of the tax preference has contributed to the achievement of any of the objectives identified in subsection (2) of this section.

(4) The extent to which continuation of the tax preference beyond its scheduled termination date might contribute to any of the objectives identified in subsection (2) of this section.

(5) Fiscal impacts of the tax preference, including past impacts and expected future impacts if it is not terminated as scheduled.

(6) The extent to which termination of the tax preference would affect the distribution of liability for payment of state taxes. [1982 1st ex.s. c 35 § 42.]

***Reviser's note:** The "legislative budget committee" was redesignated the "joint legislative audit and review committee" by 1996 c 288 § 3.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.050 Powers and duties of ways and means committees. (1) Following receipt of the final report from the *legislative budget committee, the ways and means committees of the house of representatives and the senate shall jointly hold a public hearing to consider the final report and any related data. The committees shall also receive testimony from the governor, or the governor's designee, and other interested parties, including the general public.

(2) Following the joint hearing, the committees may separately hold additional meetings or hearings to come to a final determination as to whether a continuation, modification, or termination of a tax preference is in the public interest. If a committee determines that a tax preference should be continued or modified, it shall make the determination as a bill. No more than one tax preference shall be reestablished or modified in any one bill. [1982 1st ex.s. c 35 § 43.]

***Reviser's note:** The "legislative budget committee" was redesignated the "joint legislative audit and review committee" by 1996 c 288 § 3.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.070 Report on existing tax preferences to be provided—Additional information to be provided. On or before September 30, 1982, the department of revenue shall provide the *select joint committee with a report on existing tax preferences. The report shall include a list of tax preferences and a description of each one. Upon request of the *select joint committee, the department of revenue shall provide additional information needed by the *select joint committee to meet its responsibilities under this chapter. [1982 1st ex.s. c 35 § 45.]

***Reviser's note:** RCW 43.115.050, which created the select joint committee, was repealed by 1993 c 142 § 1.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Chapter 43.140 GEOTHERMAL ENERGY

Sections

- 43.140.010 Purpose.
- 43.140.020 Definitions.
- 43.140.030 Geothermal account—Deposit of revenues.
- 43.140.040 Geothermal account—Limitations on distributions.
- 43.140.050 Distribution of funds to county of origin.
- 43.140.060 Appropriation for exploration and assessment of geothermal energy—Reimbursement.
- 43.140.900 Termination of chapter.

Geothermal resources: RCW 79.12.095.

43.140.010 Purpose. The purpose of this chapter is to provide for the allocation of revenues distributed to the state under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), with respect to activities of the United States bureau of land management undertaken pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. Sec. 1001 et. seq.) in order to accomplish the following general objectives:

(1) Reduction of dependence on nonrenewable energy and stimulation of the state's economy through development of geothermal energy.

(2) Mitigation of the social, economic, and environmental impacts of geothermal development.

(3) Financial assistance to counties to offset the costs of providing public services and facilities necessitated by the development of geothermal resources within their jurisdictions.

(4) Maintenance of the productivity of renewable resources through the investment of proceeds from these resources. [1981 c 158 § 1.]

43.140.020 Definitions. As used in this chapter:

(1) "County of origin" means any county in which the United States bureau of land management has leased lands for geothermal development.

(2) "Geothermal energy" means the natural heat of the earth and the medium by which this heat is extracted from the earth, including liquids or gases, as well as any minerals contained in any natural or injected fluids, brines, and associated gas but excluding oil, hydrocarbon gas, and other hydrocarbon substances. [1981 c 158 § 2.]

43.140.030 Geothermal account—Deposit of revenues. There is created the geothermal account in the state treasury. All expenditures from this account are subject to appropriation and chapter 43.88 RCW.

All revenues received by the state treasurer under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), with respect to activities of the United States bureau of land management undertaken pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. Sec. 1001 et. seq.) shall be deposited in the geothermal account in the state treasury immediately upon receipt. [1991 sp.s. c 13 § 7; 1985 c 57 § 58; 1981 c 158 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.140.040 Geothermal account—Limitations on distributions. Distribution of funds from the geothermal account of the general fund shall be subject to the following limitations:

(1) Thirty percent to the department of natural resources for geothermal exploration and assessment;

(2) Thirty percent to Washington State University or its statutory successor for the purpose of encouraging the development of geothermal energy; and

(3) Forty percent to the county of origin for mitigating impacts caused by geothermal energy exploration, assessment, and development. [1996 c 186 § 510; 1981 c 158 § 4.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

43.140.050 Distribution of funds to county of origin. The state treasurer shall be responsible for distribution of funds to the county of origin. Each county's share of rentals and royalties from a lease including lands in more than one county shall be computed on the basis of the ratio that the

acreage within each county has to the total acreage in the lease. Washington State University shall obtain the necessary information to make the distribution of funds on such a basis. [1996 c 186 § 511; 1996 c 186 § 107; 1981 c 158 § 5.]

Reviser's note: This section was amended by 1996 c 186 § 107 and by 1996 c 186 § 511, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

43.140.060 Appropriation for exploration and assessment of geothermal energy—Reimbursement. The legislature hereby appropriates one hundred forty-eight thousand dollars from the general fund of the state treasury to the department of natural resources for the purpose of exploration and assessment of geothermal energy within the state of Washington. The department of natural resources shall reimburse the general fund from its share of the revenues credited to the geothermal account up to one hundred forty-eight thousand dollars. Geothermal Steam Act revenues credited to the department's share of the geothermal account in excess of one hundred forty-eight thousand dollars shall be expended by the department of natural resources for the purpose of exploration and assessment of geothermal energy within the state of Washington. [1981 c 158 § 7.]

43.140.900 Termination of chapter. This chapter shall terminate on June 30, 2001. [1991 c 76 1; 1981 c 158 § 8.]

Chapter 43.143

OCEAN RESOURCES MANAGEMENT ACT

Sections

- 43.143.005 Legislative findings.
- 43.143.010 Legislative policy and intent—Moratorium on leases for oil and gas exploration, development, or production—
Appeals from regulation of recreational uses—
Participation in federal ocean and marine resource decisions.
- 43.143.020 Definitions.
- 43.143.030 Planning and project review criteria.
- 43.143.040 Oil and gas leasing analysis.
- 43.143.900 Captions not law.
- 43.143.901 Short title.
- 43.143.902 Severability—1989 1st ex.s. c 2.

Oil or gas exploration in marine waters: RCW 90.58.550.

Transport of petroleum products or hazardous substances: Chapter 88.40 RCW.

43.143.005 Legislative findings. (1) Washington's coastal waters, seabed, and shorelines are among the most valuable and fragile of its natural resources.

(2) Ocean and marine-based industries and activities, such as fishing, aquaculture, tourism, and marine transportation have played a major role in the history of the state and will continue to be important in the future. Other industries and activities, such as those based on the development and extraction of minerals and other nonrenewable resources, can provide social and economic benefits as well.

(3) Washington's coastal waters, seabed, and shorelines are faced with conflicting use demands. Some uses may pose unacceptable environmental or social risks at certain times.

(4) At present, there is not enough information available to adequately assess the potential adverse effects of oil and gas exploration and production off Washington's coast.

(5) The state of Washington has primary jurisdiction over the management of coastal and ocean natural resources within three miles of its coastline. From three miles seaward to the boundary of the two hundred mile exclusive economic zone, the United States federal government has primary jurisdiction. Since protection, conservation, and development of the natural resources in the exclusive economic zone directly affect Washington's economy and environment, the state has an inherent interest in how these resources are managed. [1989 1st ex.s. c 2 § 8.]

43.143.010 Legislative policy and intent—Moratorium on leases for oil and gas exploration, development, or production—Appeals from regulation of recreational uses—Participation in federal ocean and marine resource decisions. (1) The purpose of this chapter is to articulate policies and establish guidelines for the exercise of state and local management authority over Washington's coastal waters, seabed, and shorelines.

(2) There shall be no leasing of Washington's tidal or submerged lands extending from mean high tide seaward three miles along the Washington coast from Cape Flattery south to Cape Disappointment, nor in Grays Harbor, Willapa Bay, and the Columbia river downstream from the Longview bridge, for purposes of oil or gas exploration, development, or production until at least July 1, 2000. During the 2000 legislative session, the legislature shall determine whether the moratorium on leasing should be extended past July 1, 2000. This determination shall be based on the information available at that time, including the analysis described in RCW 43.143.040. If the legislature does not extend the moratorium on leasing, the moratorium will end on July 1, 2000. At any time that oil or gas leasing, exploration, and development are allowed to occur, these activities shall be required to meet or exceed the standards and criteria contained in RCW 43.143.030.

(3) When conflicts arise among uses and activities, priority shall be given to resource uses and activities that will not adversely impact renewable resources over uses which are likely to have an adverse impact on renewable resources.

(4) It is the policy of the state of Washington to actively encourage the conservation of liquid fossil fuels, and to explore available methods of encouraging such conservation.

(5) It is not currently the intent of the legislature to include recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources within the uses and activities which must meet the planning and review criteria set forth in RCW 43.143.030. It is not the intent of the legislature, however, to permanently exclude these uses from the requirements of RCW 43.143.030. If information becomes available which indicates that such uses should reasonably be covered by the requirements of RCW 43.143.030, the permitting government

or agency may require compliance with those requirements, and appeals of that decision shall be handled through the established appeals procedure for that permit or approval.

(6) The state shall participate in federal ocean and marine resource decisions to the fullest extent possible to ensure that the decisions are consistent with the state's policy concerning the use of those resources. [1995 c 339 § 1; 1989 1st ex.s. c 2 § 9.]

43.143.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Coastal counties" means Clallam, Jefferson, Grays Harbor, and Pacific counties.

(2) "Coastal waters" means the waters of the Pacific Ocean seaward from Cape Flattery south to Cape Disappointment, from mean high tide seaward two hundred miles. [1989 1st ex.s. c 2 § 10.]

43.143.030 Planning and project review criteria.

(1) When the state of Washington and local governments develop plans for the management, conservation, use, or development of natural resources in Washington's coastal waters, the policies in RCW 43.143.010 shall guide the decision-making process.

(2) Uses or activities that require federal, state, or local government permits or other approvals and that will adversely impact renewable resources, marine life, fishing, aquaculture, recreation, navigation, air or water quality, or other existing ocean or coastal uses, may be permitted only if the criteria below are met or exceeded:

(a) There is a demonstrated significant local, state, or national need for the proposed use or activity;

(b) There is no reasonable alternative to meet the public need for the proposed use or activity;

(c) There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;

(d) All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Columbia river, Willapa Bay and Grays Harbor estuaries, and Olympic national park;

(e) All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;

(f) Compensation is provided to mitigate adverse impacts to coastal resources or uses;

(g) Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and

(h) The use or activity complies with all applicable local, state, and federal laws and regulations. [1989 1st ex.s. c 2 § 11.]

43.143.040 Oil and gas leasing analysis. Prior to September 1, 1994, the department of natural resources and the department of ecology, working together and at the direction of the joint select committee on marine and ocean resources, shall complete an analysis of the potential positive and negative impacts of the leasing of state-owned lands

which is described in RCW 43.143.010(2). The department shall consult with the departments of fish and wildlife and community, trade, and economic development, and with the public, when preparing this analysis. The analysis shall be presented to the legislature no later than September 1, 1994. This analysis shall be used by the legislature in determining whether the oil and gas leasing moratorium contained in RCW 43.143.010 should be extended. [1995 c 399 § 83; 1989 1st ex.s. c 2 § 12.]

43.143.900 Captions not law. Section captions as used in this chapter do not constitute any part of the law. [1989 1st ex.s. c 2 § 18.]

43.143.901 Short title. Sections 8 through 12 of this act shall constitute a new chapter in Title 43 RCW and may be known and cited as the ocean resources management act. [1989 1st ex.s. c 2 § 19.]

43.143.902 Severability—1989 1st ex.s. c 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 1st ex.s. c 2 § 20.]

Chapter 43.145

**NORTHWEST INTERSTATE COMPACT ON
LOW-LEVEL RADIOACTIVE WASTE
MANAGEMENT**

Sections

43.145.010 Compact.

43.145.020 Requirements of Washington representative to Northwest low-level waste compact committee.

43.145.030 Rule-making authority.

Radioactive Waste Storage and Transportation Act of 1980: Chapter 70.99 RCW.

43.145.010 Compact. The Northwest Interstate Compact on Low-Level Radioactive Waste Management is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and other states joining the compact in accordance with the terms of the compact.

**NORTHWEST INTERSTATE COMPACT ON
LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT**

ARTICLE I—Policy and Purpose

The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to

provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

ARTICLE II—Definitions

As used in this compact:

(1) "Facility" means any site, location, structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities;

(2) "Low-level waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations;

(3) "Generator" means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste;

(4) "Host state" means a state in which a facility is located.

ARTICLE III—Regulatory Practices

Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this Article. Nothing in this Article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this Article.

ARTICLE IV—Regional Facilities

Section 1. Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

Section 2. No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in Article V.

Section 3. Until such time as Section 2 takes effect as provided in Article VI, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

(1) The generator's name and address;

(2) A description of the contents of the low-level waste container;

(3) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable federal regulations and such additional requirements as may be imposed by the host state;

(4) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

Section 4. Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

Section 5. The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the state of Washington allowing access to its low-level waste disposal facility by generators in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact may be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure or [of] such facilities, so long as such action by a host state is applied equally to all generators within the region composed of the party states.

Section 6. Any host state may establish a schedule of fees and requirements related to its facility, to assure that

closure, perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

**ARTICLE V—Northwest Low-level Waste,
Compact Committee**

The governor of each party state shall designate one official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the Northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing regulations concerning low-level waste management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations. Notwithstanding any provision of Article IV to the contrary, the committee may enter into arrangements with states, provinces, individual generators, or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

ARTICLE VI—Eligible Parties and Effective Date

Section 1. Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

Section 2. After the compact has initially taken effect pursuant to Section 1, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

Section 3. Section 2 of Article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in Public Law 96-573, Congress may withdraw its consent to the compact after every five-year period.

ARTICLE VII—Severability

If any provision of this compact, or its application to any person or circumstance, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable. [1981 c 124 § 1.]

43.145.020 Requirements of Washington representative to Northwest low-level waste compact committee. The person designated as the Washington representative to the committee as specified in Article V shall adhere to all provisions of the low-level radioactive waste compact. In considering special conditions or arrangements for access to

the state's facilities from wastes generated outside of the region, the committee member shall ensure at a minimum, that the provisions of Article IV, Section 3 are complied with. After 1992 the Washington representative may approve access to the state's facility only for the states currently members of the Rocky Mountain compact or states which generate less than one thousand cubic feet of waste annually and are contiguous with a state which is a member of the Northwest compact. [1990 c 21 § 5; 1981 c 124 § 2.]

43.145.030 Rule-making authority. See RCW 43.200.070.

Chapter 43.146

**PACIFIC STATES AGREEMENT ON
RADIOACTIVE MATERIAL
TRANSPORTATION MANAGEMENT**

Sections

- 43.146.010 Pacific States Agreement on Radioactive Materials Transportation Management.
43.146.900 Legislative directive—State designee.

43.146.010 Pacific States Agreement on Radioactive Materials Transportation Management. The Pacific States Agreement on Radioactive Materials Transportation Management is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and other states joining the agreement in accordance with its terms.

**PACIFIC STATES AGREEMENT ON
RADIOACTIVE MATERIALS
TRANSPORTATION MANAGEMENT**

ARTICLE I—Policy and Purpose

The party states recognize that protection of the health and safety of citizens and the environment, and the most economical transportation of radioactive materials, can be accomplished through cooperation and coordination among neighboring states. It is the purpose of this agreement to establish a committee comprised of representatives from each party state to further cooperation between the states on emergency response and to coordinate activities by the states to eliminate unnecessary duplication of rules and regulations regarding the transportation and handling of radioactive material.

The party states intend that this agreement facilitate both interstate commerce and protection of public health and the environment. To accomplish this goal, the party states direct the committee to develop model regulatory standards for party states to act upon and direct the committee to coordinate decisions by party states relating to the routing and inspection of shipments of radioactive material.

ARTICLE II—Definitions

As used in this agreement:

- (1) "Carrier" includes common, private, and contract carriers.
- (2) "Hazardous material" means a substance or material which has been determined by the United States department of transportation to be capable of posing an unreasonable

risk to health, safety, and property when transported in commerce, and which has been so designated.

(3) "Radioactive material" has the meaning given that term in federal department of transportation regulations found in 49 C.F.R. Sec. 173, and includes, but is not limited to, high-level radioactive waste, low-level radioactive waste, and spent nuclear fuel, as defined in section 2 of the nuclear waste policy act of 1982 (96 Stat. 2202; 42 U.S.C.A. Sec. 10101).

(4) "Transportation" means the transport by any means of radioactive material destined for or derived from any location, and any loading, unloading, or storage incident to such transport. "Transportation" does not include permanent storage or disposal of the material.

ARTICLE III—Regulatory Practices

Section 1. The party states agree to develop model standards, not in conflict with federal law or regulations, for carriers of radioactive material to provide information regarding:

- (1) The amount and kind of material transported;
- (2) The mode of transportation and, to the extent feasible, the route or routes and the time schedule;
- (3) The carrier's compliance with local, state, and federal rules and regulations related to radioactive material transportation;
- (4) The carrier's compliance with federal and state liability insurance requirements.

Section 2. Consistent with federal law or regulations pertaining to transportation of radioactive material, the party states also agree to:

- (1) Develop model uniform procedures for issuing permits to carriers;
- (2) Develop model uniform record-keeping processes that allow access on demand by each state;
- (3) Develop model uniform safety standards for carriers;
- (4) Coordinate routing of shipments of radioactive materials;
- (5) Develop a method for coordinating the party states' emergency response plans to provide for regional emergency response including (a) systems for sharing information essential to radiation control efforts, (b) systems for sharing emergency response personnel, and (c) a method to allocate costs and clarify liability when a party state or its officers request or render emergency response;
- (6) Recommend parking requirements for motor vehicles transporting radioactive materials;
- (7) Coordinate state inspections of carriers; and
- (8) Develop other cooperative arrangements and agreements to enhance safety.

Section 3. The party states also agree to coordinate emergency response training and preparedness drills among the party states, Indian tribes, and affected political subdivisions of the party states, and, if possible, with federal agencies.

Section 4. The party states recognize that the transportation management of hazardous waste and hazardous materials is similar in many respects to that of radioactive materials. The party states, therefore, agree to confer as to transportation management and emergency response for those items where similarities in management exist.

ARTICLE IV—Pacific States Radioactive Materials Transportation Committee

Section 1. Each party state shall designate one official of that state to confer with appropriate legislative committees and with other officials of that state responsible for managing transportation of radioactive material and with affected Indian tribes and be responsible for administration of this agreement. The officials so designated shall together comprise the Pacific states radioactive materials transportation committee. The committee shall meet as required to consider and, where necessary, coordinate matters addressed in this agreement. The parties shall inform the committee of existing regulations concerning radioactive materials transportation management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations.

Section 2. The committee may also engage in long-term planning to assure safe and economical management of radioactive material transportation on a continuing basis.

Section 3. To the extent practicable, the committee shall coordinate its activities with those of other organizations.

ARTICLE V—Eligible Parties and Effective Date

Section 1. The states of Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming are eligible to become a party to this agreement. As to any eligible party, this agreement shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two states. Any party state may withdraw from this agreement by enacting a statute repealing its approval.

Section 2. After the agreement has initially taken effect under section 1 of this article, any eligible party state may become a party to this agreement by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1988, whichever occurs first, unless the agreement has by then been enacted as a statute by that state.

ARTICLE VI—Severability

If any provision of this agreement, or its application to any person or circumstance, is held to be invalid, all other provisions of this agreement, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this agreement are severable. [1987 c 90 § 1.]

43.146.900 Legislative directive—State designee. (1)

Section 1 of this act shall constitute a new chapter in Title 43 RCW.

(2) The Washington state designee to the committee shall be appointed by the governor. [1987 c 90 § 2.]

Chapter 43.147

PACIFIC NORTHWEST ECONOMIC REGION AGREEMENT

Sections

- 43.147.010 Terms of agreement.
- 43.147.020 Finding.
- 43.147.030 Cooperative activities encouraged.
- 43.147.040 Interlibrary sharing—Finding.
- 43.147.050 Interlibrary sharing—Definition—Member libraries.
- 43.147.060 PNWER-Net working subgroup—Generally.
- 43.147.070 PNWER-Net working subgroup—Duties.
- 43.147.080 PNWER-Net working subgroup—Gifts, grants, donations.

43.147.010 Terms of agreement. The Pacific Northwest Economic Region is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect in accordance with the terms of this agreement.

THE PACIFIC NORTHWEST ECONOMIC REGION

ARTICLE I—Policy and Purpose

States and provinces participating in the Pacific Northwest Economic Region shall seek to develop and establish policies that: Promote greater regional collaboration among the seven entities; enhance the overall competitiveness of the region in international and domestic markets; increase the economic well-being of all citizens in the region; and improve the quality of life of the citizens of the Pacific Northwest.

States and provinces recognize that there are many public policy areas in which cooperation and joint efforts would be mutually beneficial. These areas include, but are not limited to: International trade; economic development; human resources; the environment and natural resources; energy; and education. Parties to this agreement shall work diligently to establish collaborative activity in these and other appropriate policy areas where such cooperation is deemed worthwhile and of benefit to the participating entities. Participating states and provinces also agree that there are areas in which cooperation may not be feasible.

The substantive actions of the Pacific Northwest Economic Region may take the form of uniform legislation enacted by two or more states and/or provinces or policy initiatives endorsed as appropriate by participating entities. It shall not be necessary for all states and provinces to participate in each initiative.

ARTICLE II—Eligible Parties and Effective Date

Each of the following states and provinces is eligible to become a party to this agreement: Alaska, Alberta, British Columbia, Idaho, Montana, Oregon, and Washington. This agreement establishing the Pacific Northwest Economic Region shall become effective when it is executed by one state, one province, and one additional state and/or province in a form deemed appropriate by each entity. This agreement shall continue in force and remain binding upon each state and province until renounced by it. Renunciation of this agreement must be preceded by sending one year's notice in writing of intention to withdraw from the agreement to the other parties to the agreement.

ARTICLE III—Organizational Structure

Each state and province participating in this agreement shall appoint representatives to the Pacific Northwest Economic Region. The organizational structure of the Pacific Northwest Economic Region shall consist of the following: A delegate council consisting of four legislators and the governor or governor's designee from each participating state and four representatives and the premier or the premier's designee from each participating province and an executive committee consisting of one legislator from each participating state and/or province who is a member of the delegate council and four of the seven governors/premiers or their designees who are members of the delegate council. The legislator members of the executive committee from each state or province shall be chosen by the legislator members of that state or province. The four governor or premier members of the executive committee shall be chosen by the governors and premiers from among the governors and premiers on the delegate council. At least one of four members representing the governors and premiers on the executive committee must be the premier of a Canadian province. Policy committees may be established to carry out further duties and responsibilities of the Pacific Northwest Economic Region.

ARTICLE IV—Duties and Responsibilities

The delegate council shall have the following duties and responsibilities: Facilitate the involvement of other government officials in the development and implementation of specific collaborative initiatives; work with policy-making committees in the development and implementation of specific initiatives; approve general organizational policies developed by the executive committee; provide final approval of the annual budget and staffing structure for the Pacific Northwest Economic Region developed by the executive committee; and other duties and responsibilities as may be established in the rules and regulations of the Pacific Northwest Economic Region. The executive committee shall perform the following duties and responsibilities: Elect the president and vice-president of the Pacific Northwest Economic Region; approve and implement general organizational policies; develop the annual budget; devise the annual action plan; act as liaison with other public and private sector entities; review the availability of, and if appropriate apply for, (1) tax exempt status under the laws and regulations of the United States or any state or subdivision thereof and (2) similar status under the laws and regulations of Canada or any province or subdivision thereof, and approve such rules, regulations, organizational policies, and staffing structure for the Pacific Northwest Economic Region and take such further actions on behalf of the Pacific Northwest Economic Region as may be deemed by the executive committee to be necessary or appropriate to qualify for and maintain such tax exempt or similar status under the applicable laws or regulations; and other duties and responsibilities established in the rules and regulations of the Pacific Northwest Economic Region. The rules and regulations of the Pacific Northwest Economic Region shall establish the procedure for voting.

ARTICLE V—Membership of Policy Committees

Policy committees dealing with specific subject matter may be established by the executive committee.

Each participating state and province shall appoint legislators and governors or premiers to sit on these committees in accordance with its own rules and regulations concerning such appointments.

ARTICLE VI—General Provisions

This agreement shall not be construed to limit the powers of any state or province or to amend or repeal or prevent the enactment of any legislation. [1993 c 108 § 1; 1991 c 251 § 2.]

43.147.020 Finding. The legislature finds that there is a new emerging global economy in which countries and regions located in specific areas of the world are forging new cooperative arrangements.

The legislature finds that these new cooperative arrangements are increasing the competitiveness of the participating countries and regions, thus increasing the economic benefits and the overall quality of life for the citizens of the individual countries and regions.

The legislature also finds that the Pacific Northwest states of Alaska, Idaho, Montana, Oregon, and Washington and the Canadian provinces of Alberta and British Columbia are in a strategic position to act together, as a region, thus increasing the overall competitiveness of the individual states and provinces that will provide substantial economic benefits for all of their citizens. [1991 c 251 § 1.]

43.147.030 Cooperative activities encouraged. It is the intent of chapter 251, Laws of 1991 to direct and encourage the establishment of cooperative activities between the seven legislative bodies of the region. The state representatives to the Pacific Northwest Economic Region shall work through appropriate channels to advance consideration of proposals developed by this body. [1991 c 251 § 3.]

43.147.040 Interlibrary sharing—Finding. In chapter 251, Laws of 1991, the legislature enacted into law the Pacific Northwest economic region agreement and made the state of Washington a party along with member states Alaska, Idaho, Montana, and Oregon, and member Canadian provinces Alberta and British Columbia. The legislature recognized that the member states and provinces of the Pacific Northwest economic region are in a strategic position to act together, as a region, thus increasing the overall competitiveness of the members and providing substantial economic benefits for all of their citizens.

For those reasons, in chapter 251, Laws of 1991, the legislature also encouraged the establishment of cooperative activities between the seven legislative bodies of the Pacific Northwest economic region. The member states and provinces now desire to engage in such cooperation by electronically sharing twenty-two million volumes from certain of their respective universities. The member states and provinces have determined that such interlibrary sharing will provide substantial economic benefit for their citizens. The legislature agrees, specifically also finding that such interlibrary sharing furthers a major component of education

strategy in the 1990's and twenty-first century, namely providing increased access to knowledge via technology. [1993 c 485 § 1.]

43.147.050 Interlibrary sharing—Definition—Member libraries. Unless the context clearly requires otherwise, as used in RCW 43.147.040 through 43.147.080 "PNWER-Net" means the technology network to be created by the member states and provinces of the Pacific Northwest economic region that will be capable of electronically linking the following undergraduate university libraries of the member states and provinces:

- (1) Alaska:
 - (a) University of Alaska, Anchorage;
 - (b) University of Alaska, Juneau;
- (2) Alberta:
 - (a) University of Alberta, Calgary;
 - (b) University of Alberta, Edmonton;
- (3) British Columbia:
 - (a) University of British Columbia, Vancouver;
 - (b) University of Victoria, Victoria;
- (4) Idaho:
 - (a) Boise State University, Boise;
 - (b) University of Idaho, Moscow;
- (5) Montana:
 - (a) Montana State University, Bozeman;
 - (b) University of Montana, Missoula;
- (6) Oregon:
 - (a) Oregon State University, Corvallis;
 - (b) University of Oregon, Eugene;
- (7) Washington:
 - (a) University of Washington, Seattle; and
 - (b) Washington State University, Pullman. [1993 c 485 § 2.]

43.147.060 PNWER-Net working subgroup—Generally. (1) The PNWER-Net working subgroup is hereby created for the member state of Washington. The working subgroup shall be composed of seven members as follows: Two members of the senate, one from each of the major caucuses, appointed by the president of the senate; two members of the house of representatives, appointed by the speaker of the house of representatives; the state librarian; and the primary undergraduate academic librarian from each of the state's two research institutions of higher education.

(2) The staff support shall be provided by the senate committee services and, to the extent authorized by the chief clerk of the house of representatives, by the house of representatives office of program research as mutually agreed by the legislators on the working group.

(3) Legislative members shall be reimbursed for expenses in accordance with RCW 44.04.120. Nonlegislative members shall be reimbursed for expenses in accordance with RCW 43.03.050 and 43.03.060. [1993 c 485 § 3.]

43.147.070 PNWER-Net working subgroup—Duties. The PNWER-Net working subgroup shall have the following duties:

(1) To work with working subgroups from other member states and provinces in an entity known as the PNWER-Net working group to develop PNWER-Net;

(2) To assist the PNWER-Net working group in developing criteria to ensure that designated member libraries use existing telecommunications infrastructure including the internet; and

(3) To report to the legislature by December 1, 1994, concerning the status of PNWER-Net. [1993 c 485 § 4.]

43.147.080 PNWER-Net working subgroup—Gifts, grants, donations. The PNWER-Net working group may accept gifts, grants, and donations from private individuals and entities made for the purposes of RCW 43.147.040 through 43.147.070. [1993 c 485 § 5.]

Chapter 43.150

CENTER FOR VOLUNTEERISM AND CITIZEN SERVICE

Sections

- 43.150.010 Legislative findings.
- 43.150.020 Short title.
- 43.150.030 Definitions.
- 43.150.040 Center for volunteerism and citizen service authorized—Coordinator—Staff.
- 43.150.050 Programs and activities authorized.
- 43.150.070 Receipt and expenditure of donations—Fees—Voluntary action center fund created.
- 43.150.080 At-risk children—Collaborative program.

43.150.010 Legislative findings. (1) The legislature finds that:

(a) Large numbers of Washington's citizens are actively engaged in carrying forward the ethic of service and voluntary activities that benefit their citizens, their communities, and the entire state;

(b) This contribution continues to provide the equivalent of hundreds of millions of dollars in services that might otherwise create a need for additional tax collections;

(c) Many Washington citizens have yet to become fully involved in the life of their communities; many societal needs exist that could and should be met by new citizen service initiatives;

(d) The state of Washington needs to continue to encourage and expand the ethic of civic responsibility among its citizenry, through individuals working on their own, and through local and state-wide organizations, both governmental and private and nonprofit agencies;

(e) This ethic of citizen service benefits those who serve and those who receive services; in both cases there is the betterment of all Washington communities;

(f) Public and private agencies depend in large measure on the efforts of volunteers for the accomplishment of their missions and actively seek to increase these efforts;

(g) State agencies can and should extend their service delivery programs through the increased use of and support for volunteers;

(h) The national and community service act of 1990 provides an opportunity for Washington to support citizen service and volunteer activities in Washington;

(i) Business, industry, communities, schools, and labor in Washington state are increasingly interested in opportunities for community service and in developing the volunteer and service ethic;

(j) While providing both tangible and intangible benefits, volunteers in turn need respect and support for their efforts;

(k) The state itself, through the programs and services of its agencies as well as through the provisions of law and rule making, can and should provide a primary role and focus for encouraging the ethic of citizen service and support for volunteer efforts and programs;

(l) Planned and coordinated recognition, information, training, and technical assistance for volunteer and citizen service efforts through a state-wide center for voluntary action have been proven to be effective means of multiplying the resources volunteers bring to the needs of their communities; and

(m) It is important that Washington state position itself to raise volunteerism to the highest attainable levels, and along with the private sector, become a voice in the role citizen service will take in providing solutions to societal needs.

(2) Therefore, the legislature, in recognition of these findings, enacts the center for volunteerism and citizen service act to ensure that the state of Washington actively promotes the ethic of service and makes every appropriate effort to encourage effective involvement of individuals in their communities and of volunteers who supplement the services of private, nonprofit community agencies and organizations, agencies of local government throughout the state, and the state government. [1992 c 66 § 1; 1982 1st ex.s. c 11 § 1.]

43.150.020 Short title. This chapter may be known and cited as the center for volunteerism and citizen service act. [1992 c 66 § 2; 1982 1st ex.s. c 11 § 2.]

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

(1) "Volunteer" means a person who is willing to work without expectation of salary or financial reward and who chooses where he or she provides services and the type of services he or she provides.

(2) "Center" means the state center for volunteerism and citizen service. [1995 c 269 § 2301; 1992 c 66 § 3; 1982 1st ex.s. c 11 § 3.]

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

43.150.040 Center for volunteerism and citizen service authorized—Coordinator—Staff. The governor may establish a state-wide center for volunteerism and citizen service within the department of community, trade, and economic development and appoint an executive administrator, who may employ such staff as necessary to carry out the purposes of this chapter. The provisions of chapter 41.06 RCW do not apply to the executive adminis-

trator and the staff. [1995 c 399 § 84; 1992 c 66 § 4; 1985 c 6 § 11; 1982 1st ex.s. c 11 § 4.]

43.150.050 Programs and activities authorized. The center, working in cooperation with individuals, local groups, and organizations throughout the state, may undertake any program or activity for which funds are available which furthers the goals of this chapter. These programs and activities may include, but are not limited to:

(1) Providing information about programs, activities, and resources of value to volunteers and to organizations operating or planning volunteer or citizen service programs;

(2) Sponsoring recognition events for outstanding individuals and organizations;

(3) Facilitating the involvement of business, industry, government, and labor in community service and betterment;

(4) Organizing, or assisting in the organization of, training workshops and conferences;

(5) Publishing schedules of significant events, lists of published materials, accounts of successful programs and programming techniques, and other information concerning the field of volunteerism and citizen service, and distributing this information broadly;

(6) Reviewing the laws and rules of the state of Washington, and proposed changes therein, to determine their impact on the success of volunteer activities and programs, and recommending such changes as seem appropriate to ensure the achievement of the goals of this chapter;

(7) Seeking funding sources for enhancing, promoting, and supporting the ethic of service and facilitating or providing information to those organizations and agencies which may benefit;

(8) Providing information about agencies and individuals who are working to prevent the spread of the human immunodeficiency virus, as defined in chapter 70.24 RCW, and to agencies and individuals who are working to provide health and social services to persons with acquired immunodeficiency syndrome, as defined in chapter 70.24 RCW. [1992 c 66 § 5; 1988 c 206 § 301; 1982 1st ex.s. c 11 § 5.]

Severability—1988 c 206: See RCW 70.24.900.

43.150.070 Receipt and expenditure of donations—Fees—Voluntary action center fund created. (1) The center may receive such gifts, grants, and endowments from private or public sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purpose of the center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. The center may charge reasonable fees, or other appropriate charges, for attendance at workshops and conferences, for various publications and other materials which it is authorized to prepare and distribute for the purpose of defraying all or part of the costs of those activities and materials.

(2) A fund known as the voluntary action center fund is created, which consists of all gifts, grants, and endowments, fees, and other revenues received pursuant to this chapter. The state treasurer is the custodian of the fund. Disbursements from the fund shall be on authorization of the executive administrator of the center or the administrator's designee, and may be made for the following purposes to enhance the capabilities of the center's activities, such as:

(a) Reimbursement of center volunteers for travel expenses as provided in RCW 43.03.050 and 43.03.060; (b) publication and distribution of materials involving volunteerism and citizen service; (c) for other purposes designated in gifts, grants, or endowments consistent with the purposes of this chapter. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1992 c 66 § 7; 1982 1st ex.s. c 11 § 7.]

43.150.080 At-risk children—Collaborative program. A volunteer organization or individual volunteer may assist a public agency, with the agency's approval, in a collaborative program designed to serve the needs of at-risk children. The center, with the advice and counsel of the attorney general, shall develop guidelines defining at-risk children and establish reasonable safety standards to protect the safety of program participants and volunteers, including but not limited to background checks as appropriate as provided in RCW 43.43.830 through 43.43.834. In carrying out the volunteer activity, the individual volunteer or member of the volunteer organization shall not be considered to be an employee or agent of any public agency involved in the collaborative program. The public agency shall have no liability for any acts of the individual volunteer or volunteer organization. Prior to participation, a volunteer and the public agency administering the collaborative program shall sign a written master agreement, approved in form by the attorney general, that includes provisions defining the scope of the volunteer activities and waiving any claims against each other. A volunteer organization or individual volunteer shall not be liable for civil damages resulting from any act or omission arising from volunteer activities which comply with safety standards issued by the center for volunteerism and citizen service, other than acts or omissions constituting gross negligence or willful or wanton misconduct. [1993 c 365 § 1.]

Chapter 43.155

PUBLIC WORKS PROJECTS

Sections

- 43.155.010 Legislative findings and policy.
- 43.155.020 Definitions.
- 43.155.030 Public works board created.
- 43.155.040 General powers of the board.
- 43.155.050 Public works assistance account.
- 43.155.060 Public works financing powers—Competitive bids on projects.
- 43.155.065 Emergency public works projects.
- 43.155.068 Loans for preconstruction activities.
- 43.155.070 Eligibility, priority, limitations, and exceptions.
- 43.155.080 Records and audits.
- 43.155.090 Loan agreements.

43.155.010 Legislative findings and policy. The legislature finds that there exists in the state of Washington over four billion dollars worth of critical projects for the planning, acquisition, construction, repair, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, and storm and sanitary sewage systems. The December, 1983 Washington state public works report prepared by the planning and community affairs agency

documented that local governments expect to be capable of financing over two billion dollars worth of the costs of those critical projects but will not be able to fund nearly half of the documented needs.

The legislature further finds that Washington's local governments have unmet financial needs for solid waste disposal, including recycling, and encourages the board to make an equitable geographic distribution of the funds.

It is the policy of the state of Washington to encourage self-reliance by local governments in meeting their public works needs and to assist in the financing of critical public works projects by making loans, financing guarantees, and technical assistance available to local governments for these projects. [1996 c 168 § 1; 1985 c 446 § 7.]

43.155.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Board" means the public works board created in RCW 43.155.030.

(2) "Department" means the department of community, trade, and economic development.

(3) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.

(4) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.

(5) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems and solid waste facilities, including recycling facilities.

(6) "Solid waste or recycling project" means remedial actions necessary to bring abandoned or closed landfills into compliance with regulatory requirements and the repair, restoration, and replacement of existing solid waste transfer, recycling facilities, and landfill projects limited to the opening of landfill cells that are in existing and permitted landfills.

(7) "Technical assistance" means training and other services provided to local governments to: (a) Help such local governments plan, apply, and qualify for loans and financing guarantees from the board, and (b) help local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities. [1996 c 168 § 2; 1995 c 399 § 85; 1985 c 446 § 8.]

43.155.030 Public works board created. (1) The public works board is hereby created.

(2) The board shall be composed of thirteen members appointed by the governor for terms of four years, except that five members initially shall be appointed for terms of two years. The board shall include: (a) Three members, two of whom shall be elected officials and one shall be a

public works manager, appointed from a list of at least six persons nominated by the association of Washington cities or its successor; (b) three members, two of whom shall be elected officials and one shall be a public works manager, appointed from a list of at least six persons nominated by the Washington state association of counties or its successor; (c) three members appointed from a list of at least six persons nominated jointly by the Washington state association of water districts, the Washington public utility districts association, and the Washington state association of sewer districts or their successors; and (d) four members appointed from the general public. In appointing the four general public members, the governor shall endeavor to balance the geographical composition of the board and to include members with special expertise in relevant fields such as public finance, architecture and civil engineering, and public works construction. The governor shall appoint one of the general public members of the board as chair. The term of the chair shall coincide with the term of the governor.

(3) Staff support to the board shall be provided by the department.

(4) Members of the board shall receive no compensation but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(5) If a vacancy on the board occurs by death, resignation, or otherwise, the governor shall fill the vacant position for the unexpired term. Each vacancy in a position appointed from lists provided by the associations under subsection (2) of this section shall be filled from a list of at least three persons nominated by the relevant association or associations. Any members of the board, appointive or otherwise, may be removed by the governor for cause in accordance with RCW 43.06.070 and 43.06.080. [1985 c 446 § 9.]

43.155.040 General powers of the board. The board may:

(1) Accept from any state or federal agency, loans or grants for the planning or financing of any public works project and enter into agreements with any such agency concerning the loans or grants;

(2) Provide technical assistance to local governments;

(3) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter;

(4) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter;

(5) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter. [1985 c 446 § 10.]

43.155.050 Public works assistance account. The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities

conducted and financed by the board under the drinking water assistance account. During the 1995-97 fiscal biennium, moneys in the public works assistance account may be appropriated for transfer to the flood control assistance account to be used for flood control assistance, including grants under chapter 86.26 RCW. To the extent that moneys in the public works assistance account are not appropriated during the 1995-97 fiscal biennium for public works or flood control assistance, the legislature may direct their transfer to the state general fund. In awarding grants under chapter 86.26 RCW, the department of ecology shall give strong preference to local governments that have: (1) Implemented, or are in the process of implementing, an ordinance that establishes a flood plain policy that is substantially more stringent than minimum federal requirements; (2) completed a comprehensive flood control plan meeting the requirements of RCW 86.12.200; or (3) constructed, or are in the process of constructing, a system of overtopping dikes or levees that allow public access. [1995 2nd sp.s. c 18 § 918; 1995 c 376 § 11; 1993 sp.s. c 24 § 921; 1985 c 471 § 8.]

Reviser's note: This section was amended by 1995 c 376 § 11 and by 1995 2nd sp.s. c 18 § 918, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—Effective date—1995 2nd sp.s. c 18: See notes following RCW 19.118.110.

Findings—1995 c 376: See note following RCW 70.116.060.

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

Severability—Effective date—1985 c 471: See notes following RCW 82.04.260.

43.155.060 Public works financing powers—Competitive bids on projects. In order to aid the financing of public works projects, the board may:

(1) Make low-interest or interest-free loans to local governments from the public works assistance account or other funds and accounts for the purpose of assisting local governments in financing public works projects. The board may require such terms and conditions and may charge such rates of interest on its loans as it deems necessary or convenient to carry out the purposes of this chapter. Money received from local governments in repayment of loans made under this section shall be paid into the public works assistance account for uses consistent with this chapter.

(2) Pledge money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects. The board shall not pledge any amount greater than the sum of money in the public works assistance account plus money to be received from the payment of the debt service on loans made from that account, nor shall the board pledge the faith and credit or the taxing power of the state or any agency or subdivision thereof to the repayment of obligations issued by any local government.

(3) Create such subaccounts in the public works assistance account as the board deems necessary to carry out the purposes of this chapter.

(4) Provide a method for the allocation of loans and financing guarantees and the provision of technical assistance under this chapter.

All local public works projects aided in whole or in part under the provisions of this chapter shall be put out for competitive bids, except for emergency public works under RCW 43.155.065 for which the recipient jurisdiction shall comply with this requirement to the extent feasible and practicable. The competitive bids called for shall be administered in the same manner as all other public works projects put out for competitive bidding by the local governmental entity aided under this chapter. [1988 c 93 § 2; 1985 c 446 § 11.]

43.155.065 Emergency public works projects. The board may make low-interest or interest-free loans to local governments for emergency public works projects. Emergency public works projects shall include the construction, repair, reconstruction, replacement, rehabilitation, or improvement of a public water system that is in violation of health and safety standards and is being operated by a local government on a temporary basis. The loans may be used to help fund all or part of an emergency public works project less any reimbursement from any of the following sources: (1) Federal disaster or emergency funds, including funds from the federal emergency management agency; (2) state disaster or emergency funds; (3) insurance settlements; or (4) litigation. Emergency loans may be made only from those funds specifically appropriated from the public works assistance account for such purpose by the legislature. The amount appropriated from the public works assistance account for emergency loan purposes shall not exceed five percent of the total amount appropriated from this account in any biennium. [1990 c 133 § 7; 1988 c 93 § 1.]

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

43.155.068 Loans for preconstruction activities. (1) The board may make low-interest or interest-free loans to local governments for preconstruction activities on public works projects before the legislature approves the construction phase of the project. Preconstruction activities include design, engineering, bid-document preparation, environmental studies, right of way acquisition, and other preliminary phases of public works projects as determined by the board. The purpose of the loans authorized in this section is to accelerate the completion of public works projects by allowing preconstruction activities to be performed before the approval of the construction phase of the project by the legislature.

(2) Projects receiving loans for preconstruction activities under this section must be evaluated using the priority process and factors in RCW 43.155.070(2). The receipt of a loan for preconstruction activities does not ensure the receipt of a construction loan for the project under this chapter. Construction loans for projects receiving a loan for preconstruction activities under this section are subject to legislative approval under RCW 43.155.070 (4) and (5). The board shall adopt a single application process for local governments seeking both a loan for preconstruction activities under this section and a construction loan for the project.

(3) Preconstruction activity loans under this section may be made only from those funds specifically appropriated from the public works assistance account for such a purpose by the legislature. [1995 c 363 § 2.]

Finding—Purpose—1995 c 363: "The legislature finds that there continues to exist a great need for capital projects to plan, acquire, design, construct, and repair local government streets, roads, bridges, water systems, and storm and sanitary sewage systems. It is the purpose of this act to accelerate the construction of these projects under the public works assistance program." [1995 c 363 § 1.]

43.155.070 Eligibility, priority, limitations, and exceptions. (1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a long-term plan for financing public works needs;

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors; and

(d) A county, city, or town that is required or chooses to plan under RCW 36.70A.040 must have adopted a comprehensive plan in conformance with the requirements of chapter 36.70A RCW, after it is required that the comprehensive plan be adopted, and must have adopted development regulations in conformance with the requirements of chapter 36.70A RCW, after it is required that development regulations be adopted.

(2) The board shall develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board shall attempt to assure a geographical balance in assigning priorities to projects. The board shall consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

(c) The cost of the project compared to the size of the local government and amount of loan money available;

(d) The number of communities served by or funding the project;

(e) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(f) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;

(g) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and

(h) Other criteria that the board considers advisable.

(3) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(4) Before November 1 of each year, the board shall develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans made under RCW 43.155.065, 43.155.068, and subsection (7) of this section during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list shall include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list shall also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

(5) The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects. The legislature may remove projects from the list recommended by the board. The legislature shall not change the order of the priorities recommended for funding by the board.

(6) Subsection (5) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection (7) of this section.

(7)(a) Loans made for the purpose of capital facilities plans shall be exempted from subsection (5) of this section. In no case shall the total amount of funds utilized for capital facilities plans and emergency loans exceed the limitation in RCW 43.155.065.

(b) For the purposes of this section "capital facilities plans" means those plans required by the growth management act, chapter 36.70A RCW, and plans required by the public works board for local governments not subject to the growth management act.

(8) To qualify for loans or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW. [1996 c 168 § 3; 1995 c 363 § 3; 1993 c 39 § 1; 1991 sp.s. c 32 § 23; 1990 1st ex.s. c 17 § 82; 1990 c 133 § 6; 1988 c 93 § 3; 1987 c 505 § 40; 1985 c 446 § 12.]

Finding—Purpose—1995 c 363: See note following RCW 43.155.068.

Effective date—1993 c 39: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 39 § 2.]

Section headings not law—1991 sp.s. c 32: See RCW 36.70A.902.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

43.155.080 Records and audits. The board shall keep proper records of accounts and shall be subject to audit by the state auditor. [1987 c 505 § 41; 1985 c 446 § 13.]

43.155.090 Loan agreements. Loans from the public works assistance account under this chapter shall be made by loan agreement under chapter 39.69 RCW. [1987 c 19 § 6.]

Chapter 43.160

ECONOMIC DEVELOPMENT—PUBLIC FACILITIES LOANS AND GRANTS

Sections

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Public disclosure: RCW 42.17.310.

43.160.010 Legislative declaration. (1) The legislature finds that it is the public policy of the state of Washington to direct financial resources toward the fostering of economic development through the stimulation of investment and job opportunities and the retention of sustainable existing employment for the general welfare of the inhabit-

ants of the state. Reducing unemployment and reducing the time citizens remain jobless is important for the economic welfare of the state. A valuable means of fostering economic development is the construction of public facilities which contribute to the stability and growth of the state's economic base. Strengthening the economic base through issuance of industrial development bonds, whether single or umbrella, further serves to reduce unemployment. Consolidating issues of industrial development bonds when feasible to reduce costs additionally advances the state's purpose to improve economic vitality. Expenditures made for these purposes as authorized in this chapter are declared to be in the public interest, and constitute a proper use of public funds. A community economic revitalization board is needed which shall aid the development of economic opportunities. The general objectives of the board should include:

(a) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies;

(b) Encouraging the diversification of the economies of the state and regions within the state in order to provide greater seasonal and cyclical stability of income and employment;

(c) Encouraging wider access to financial resources for both large and small industrial development projects;

(d) Encouraging new economic development or expansions to maximize employment;

(e) Encouraging the retention of viable existing firms and employment; and

(f) Providing incentives for expansion of employment opportunities for groups of state residents that have been less successful relative to other groups in efforts to gain permanent employment.

(2) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to improve state highways in the vicinity of new industries considering locating in this state or existing industries that are considering significant expansion.

(a) The legislature finds it desirable to provide a process whereby the need for diverse public works improvements necessitated by planned economic development can be addressed in a timely fashion and with coordination among all responsible governmental entities.

(b) It is the intent of the legislature to create an economic development account within the motor vehicle fund from which expenditures can be made by the department of transportation for state highway improvements necessitated by planned economic development. All such improvements must first be approved by the state transportation commission and the community economic revitalization board in accordance with the procedures established by RCW 43.160.074 and 47.01.280. It is further the intent of the legislature that such improvements not jeopardize any other planned highway construction projects. The improvements are intended to be of limited size and cost, and to include such items as additional turn lanes, signalization, illumination, and safety improvements.

(3) The legislature also finds that the state's economic development efforts can be enhanced by providing funds to improve markets for those recyclable materials representing a large fraction of the waste stream. The legislature finds

that public facilities which result in private construction of processing or remanufacturing facilities for recyclable materials are eligible for consideration from the board.

(4) The legislature finds that sharing economic growth state-wide is important to the welfare of the state. Rural natural resource impact areas do not share in the economic vitality of the Puget Sound region. Infrastructure is one of several ingredients that are critical for economic development. Rural natural resource impact areas generally lack the infrastructure necessary to diversify and revitalize their economies. It is, therefore, the intent of the legislature to increase the availability of funds to help provide infrastructure to rural natural resource impact areas. [1996 c 51 § 1; 1991 c 314 § 21; 1989 c 431 § 61; 1987 c 422 § 1; 1984 c 257 § 1; 1982 1st ex.s. c 40 § 1.]

Severability—1996 c 51: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 51 § 11.]

Effective dates—1996 c 51: "(1) Sections 1 through 9 and 11 of this act shall take effect July 1, 1996.

(2) Section 10 of this act shall take effect June 30, 1997." [1996 c 51 § 12.]

Findings—1991 c 314: See note following RCW 43.31.601.

Severability—Section captions not law—1989 c 431: See RCW 70.95.901 and 70.95.902.

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

(1) "Board" means the community economic revitalization board.

(2) "Bond" means any bond, note, debenture, interim certificate, or other evidence of financial indebtedness issued by the board pursuant to this chapter.

(3) "Department" means the department of community, trade, and economic development.

(4) "Financial institution" means any bank, savings and loan association, credit union, development credit corporation, insurance company, investment company, trust company, savings institution, or other financial institution approved by the board and maintaining an office in the state.

(5) "Industrial development facilities" means "industrial development facilities" as defined in RCW 39.84.020.

(6) "Industrial development revenue bonds" means tax-exempt revenue bonds used to fund industrial development facilities.

(7) "Local government" or "political subdivision" means any port district, county, city, town, special purpose district, and any other municipal corporations or quasi-municipal corporations in the state providing for public facilities under this chapter.

(8) "Sponsor" means any of the following entities which customarily provide service or otherwise aid in industrial or other financing and are approved as a sponsor by the board: A bank, trust company, savings bank, investment bank, national banking association, savings and loan association, building and loan association, credit union, insurance company, or any other financial institution, governmental agency, or holding company of any entity specified in this subsection.

(9) "Umbrella bonds" means industrial development revenue bonds from which the proceeds are loaned, trans-

ferred, or otherwise made available to two or more users under this chapter.

(10) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and receiving or applying to receive revenues from bonds issued under this chapter.

(11) "Public facilities" means bridges, roads, domestic and industrial water, sanitary sewer, storm sewer, railroad, electricity, natural gas, buildings or structures, and port facilities.

(12) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets two of the five criteria set forth in subsection (13) of this section; or

(b) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets two of the five criteria set forth in subsection (13) of this section.

(13) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area that is located wholly or partially in an urbanized area or within two miles of an urbanized area is considered urbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter. [1996 c 51 § 2; 1995 c 226 § 14. Prior: 1993 c 320 § 1; 1993 c 280 § 55; 1992 c 21 § 3; 1991 c 314 § 22; 1985 c 466 § 58; 1985 c 6 § 12; 1984 c 257 § 2; 1983 1st ex.s. c 60 § 1; 1982 1st ex.s. c 40 § 2.]

Severability—Effective dates—1996 c 51: See notes following RCW 43.160.010.

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

43.160.030 Community economic revitalization board—Members—Terms—Chair, vice-chair—Management services—Travel expenses—Vacancies—Removal. (1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of the chairman of and one minority member appointed by the speaker of the house of representatives from the committee of the house of representatives that deals with issues of economic development, the chairman of and one minority member appointed by the president of the senate from the committee of the senate that deals with issues of economic development, and the following members appointed by the governor: A recognized private or public sector economist; one port district official; one county official; one city official; one representative of the public; one representative of small businesses each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chair. Thereafter each succeeding term shall be for three years. The chair of the board shall be selected by the governor. The members of the board shall elect one of their members to serve as vice-chair. The director of community, trade, and economic development, the director of revenue, the commissioner of employment security, and the secretary of transportation shall serve as nonvoting advisory members of the board.

(3) Management services, including fiscal and contract services, shall be provided by the department to assist the board in implementing this chapter and the allocation of private activity bonds.

(4) Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the governor shall fill the same for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW.

(6) A member appointed by the governor may not be absent from more than fifty percent of the regularly scheduled meetings in any one calendar year. Any member who exceeds this absence limitation is deemed to have withdrawn from the office and may be replaced by the governor. [1996 c 51 § 3; 1995 c 399 § 86; 1993 c 320 § 2. Prior: 1987 c 422 § 2; 1987 c 195 § 11; prior: 1985 c 446 § 2; 1985 c 6 § 13; prior: 1985 c 446 § 1; 1984 c 287 § 89; 1983 1st ex.s. c 60 § 2; 1982 1st ex.s. c 40 § 3.]

Severability—Effective dates—1996 c 51: See notes following RCW 43.160.010.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.160.035 Designees for board members. Each member of the house of representatives who is appointed to the community economic revitalization board under RCW 43.160.030 may designate another member of the trade, economic development, and housing committee of the house of representatives to take his or her place on the board for meetings at which the member will be absent. The designee shall have all powers to vote and participate in board

deliberations as have the other board members. Each member of the senate who is appointed to the community economic revitalization board under RCW 43.160.030 may designate another member of the trade, technology, and economic development committee of the senate to take his or her place on the board for meetings at which the member will be absent. The designee shall have all powers to vote and participate in board deliberations as have the other board members. Each agency head of an executive agency who is appointed to serve as a nonvoting advisory member of the community economic revitalization board under RCW 43.160.030 may designate an agency employee to take his or her place on the board for meetings at which the agency head will be absent. The designee will have all powers to participate in board deliberations as have the other board members but shall not have voting powers. [1993 c 320 § 3; 1987 c 422 § 3; 1985 c 446 § 4.]

43.160.040 Conflicts of interest—Code of ethics. In addition to other applicable provisions of law pertaining to conflicts of interest of public officials, no board member, appointive or otherwise, may participate in any decision on any board contract in which the board member has any interests, direct or indirect, with any firm, partnership, corporation, or association which would be the recipient of any aid under this chapter. In any instance where the participation occurs, the board shall void the transaction, and the involved member shall be subject to whatever further sanctions may be provided by law. The board shall frame and adopt a code of ethics for its members, which shall be designed to protect the state and its citizens from any unethical conduct by the board. [1982 1st ex.s. c 40 § 4.]

43.160.050 Powers of board. The board may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) Adopt an official seal and alter the seal at its pleasure.

(3) Utilize the services of other governmental agencies.

(4) Accept from any federal agency loans or grants for the planning or financing of any project and enter into an agreement with the agency respecting the loans or grants.

(5) Conduct examinations and investigations and take testimony at public hearings of any matter material for its information that will assist in determinations related to the exercise of the board's lawful powers.

(6) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter.

(7) Exercise all the powers of a public corporation under chapter 39.84 RCW.

(8) Invest any funds received in connection with industrial development revenue bond financing not required for immediate use, as the board considers appropriate, subject to any agreements with owners of bonds.

(9) Arrange for lines of credit for industrial development revenue bonds from and enter into participation agreements with any financial institution.

(10) Issue industrial development revenue bonds in one or more series for the purpose of defraying the cost of

acquiring or improving any industrial development facility or facilities and securing the payment of the bonds as provided in this chapter.

(11) Enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of this chapter.

(12) Sell, purchase, or insure loans to finance the costs of industrial development facilities.

(13) Service, contract, and pay for the servicing of loans for industrial development facilities.

(14) Provide financial analysis and technical assistance for industrial development facilities when the board reasonably considers it appropriate.

(15) Collect, with respect to industrial development revenue bonds, reasonable interest, fees, and charges for making and servicing its lease agreements, loan agreements, mortgage loans, notes, bonds, commitments, and other evidences of indebtedness. Interest, fees, and charges are limited to the amounts required to pay the costs of the board, including operating and administrative expenses and reasonable allowances for losses that may be incurred.

(16) Procure insurance or guarantees from any party as allowable under law, including a governmental agency, against any loss in connection with its lease agreements, loan agreements, mortgage loans, and other assets or property.

(17) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter.

(18) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter. [1996 c 51 § 4; 1987 c 422 § 4; 1982 1st ex.s. c 40 § 5.]

Severability—Effective dates—1996 c 51: See notes following RCW 43.160.010.

43.160.060 Loans and grants to political subdivisions for public facilities authorized—Application—Requirements for financial assistance. The board is authorized to make direct loans to political subdivisions of the state for the purposes of assisting the political subdivisions in financing the cost of public facilities, including development of land and improvements for public facilities, as well as the construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision and the finding by the board that unique circumstances exist. The board shall not obligate more than twenty percent of its biennial appropriation as grants.

Application for funds shall be made in the form and manner as the board may prescribe. In making grants or loans the board shall conform to the following requirements:

(1) The board shall not provide financial assistance:

(a) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(b) For any project that evidence exists would result in a development or expansion that would displace existing jobs in any other community in the state.

(c) For the acquisition of real property, including buildings and other fixtures which are a part of real property.

(2) The board shall only provide financial assistance:

(a) For those projects which would result in specific private developments or expansions (i) in manufacturing, production, food processing, assembly, warehousing, and industrial distribution; (ii) for processing recyclable materials or for facilities that support recycling, including processes not currently provided in the state, including but not limited to, de-inking facilities, mixed waste paper, plastics, yard waste, and problem-waste processing; (iii) for manufacturing facilities that rely significantly on recyclable materials, including but not limited to waste tires and mixed waste paper; (iv) which support the relocation of businesses from nondistressed urban areas to distressed rural areas; or (v) which substantially support the trading of goods or services outside of the state's borders.

(b) For projects which it finds will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities.

(c) When the application includes convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made.

(3) The board shall prioritize each proposed project according to the relative benefits provided to the community by the jobs the project would create, not just the total number of jobs it would create after the project is completed and according to the unemployment rate in the area in which the jobs would be located. As long as there is more demand for financial assistance than there are funds available, the board is instructed to fund projects in order of their priority.

(4) A responsible official of the political subdivision shall be present during board deliberations and provide information that the board requests.

Before any financial assistance application is approved, the political subdivision seeking the assistance must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board. [1996 c 51 § 5; 1993 c 320 § 4; 1990 1st ex.s. c 17 § 73; 1989 c 431 § 62; 1987 c 422 § 5; 1985 c 446 § 3; 1983 1st ex.s. c 60 § 3; 1982 1st ex.s. c 40 § 6.]

Severability—Effective dates—1996 c 51: See notes following RCW 43.160.010.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Severability—Section captions not law—1989 c 431: See RCW 70.95.901 and 70.95.902.

43.160.070 Conditions. Public facilities financial assistance, when authorized by the board, is subject to the following conditions:

(1) The moneys in the public facilities construction loan revolving fund shall be used solely to fulfill commitments arising from financial assistance authorized in this chapter or, during the 1989-91 fiscal biennium, for economic development purposes as appropriated by the legislature. The total outstanding amount which the board shall dispense at any time pursuant to this section shall not exceed the moneys available from the fund. The total amount of

outstanding financial assistance in Pierce, King, and Snohomish counties shall never exceed sixty percent of the total amount of outstanding financial assistance disbursed by the board.

(2) On contracts made for public facilities loans the board shall determine the interest rate which loans shall bear. The interest rate shall not exceed ten percent per annum. The board may provide reasonable terms and conditions for repayment for loans as the board determines. The loans shall not exceed twenty years in duration.

(3) Repayments of loans made under the contracts for public facilities construction loans shall be paid into the public facilities construction loan revolving fund.

(4) When every feasible effort has been made to provide loans and loans are not possible, the board may provide grants upon finding that unique circumstances exist. [1996 c 51 § 6; 1990 1st ex.s. c 16 § 802; 1983 1st ex.s. c 60 § 4; 1982 1st ex.s. c 40 § 7.]

Severability—Effective dates—1996 c 51: See notes following RCW 43.160.010.

Severability—1990 1st ex.s. c 16: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 1st ex.s. c 16 § 803.]

43.160.074 Application—Request for improvements to existing highways—Procedures. (1) An application to the board from a political subdivision may also include a request for improvements to an existing state highway or highways. The application is subject to all of the applicable criteria relative to qualifying types of development set forth in this chapter, as well as procedures and criteria established by the board.

(2) Before board consideration of an application from a political subdivision that includes a request for improvements to an existing state highway or highways, the application shall be forwarded by the board to the transportation commission.

(3) The board may not make its final determination on any application made under subsection (1) of this section before receiving approval, as submitted or amended or disapproval from the transportation commission as specified in RCW 47.01.280. Notwithstanding its disposition of the remainder of any such application, the board may not approve a request for improvements to an existing state highway or highways without the approval as submitted or amended of the transportation commission as specified in RCW 47.01.280.

(4) The board shall notify the transportation commission of its decision regarding any application made under this section. [1985 c 433 § 5.]

Nonseverability—1985 c 433: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the entire act and the application of the provision to other persons or circumstances is invalid and of no further force and effect." [1985 c 433 § 10.]

43.160.076 Financial assistance in distressed counties or natural resources impact areas. (*Effective until June 30, 1997.*) (1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for financial assistance in a biennium, the board shall spend at least fifty percent for financial

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assistance for projects in distressed counties or rural natural resources impact areas. For purposes of this section, the term "distressed counties" includes any county, in which the average level of unemployment for the three years before the year in which an application for financial assistance is filed, exceeds the average state employment for those years by twenty percent.

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in distressed counties or rural natural resources impact areas are clearly insufficient to use up the fifty percent allocation, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for financial assistance to projects not located in distressed counties or rural natural resources impact areas. [1996 c 51 § 7; 1995 c 226 § 15; 1993 c 320 § 5; 1991 c 314 § 24; 1985 c 446 § 6.]

Severability—Effective dates—1996 c 51: See notes following RCW 43.160.010.

Repeal—1991 c 314: "RCW 43.160.076 and 1991 c 314 § 24 & 1985 c 446 § 6 are each repealed effective June 30, 1997." [1995 c 226 § 7; 1993 c 320 § 10; 1991 c 314 § 32.]

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

Findings—1991 c 314: See note following RCW 43.31.601.

43.160.077 Applications—Processing of recyclable materials—Department of ecology notice. (1) When the board receives an application from a political subdivision that includes a request for assistance in financing the cost of public facilities to encourage the development of a private facility to process recyclable materials, a copy of the application shall be sent by the board to the department of ecology.

(2) The board shall notify the department of ecology of its decision regarding any application made under this section. [1993 c 320 § 6; 1989 c 431 § 63.]

Severability—Section captions not law—1989 c 431: See RCW 70.95.901 and 70.95.902.

43.160.078 Board to familiarize government officials and public with chapter provisions. In order to enhance competition for grants and loans and the quality of projects for which loans and grants are sought, the board shall take such reasonable measures as are necessary to familiarize government officials and members of the public with the provisions of this chapter, particularly the board's authority to make grants and loans. [1985 c 446 § 5.]

43.160.080 Public facilities construction loan revolving account. There shall be a fund in the state treasury known as the public facilities construction loan revolving account, which shall consist of all moneys collected under this chapter, except moneys of the board collected in connection with the issuance of industrial development revenue bonds, and any moneys appropriated to it by law: PROVIDED, That seventy-five percent of all principal and interest payments on loans made with the proceeds deposited in the account under section 901, chapter 57, Laws of 1983 1st ex. sess. shall be deposited in the general fund as reimbursement for debt service payments on the bonds

authorized in RCW 43.83.184. Disbursements from the revolving account shall be on authorization of the board. In order to maintain an effective expenditure and revenue control, the public facilities construction loan revolving account shall be subject in all respects to chapter 43.88 RCW. [1992 c 235 § 10; 1991 sp.s. c 13 § 115; 1987 c 422 § 6; 1984 c 257 § 12; 1983 1st ex.s. c 60 § 6; 1982 1st ex.s. c 40 § 8.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

43.160.090 Records—Audits. The board and the department shall keep proper records of accounts and shall be subject to audit by the state auditor. [1996 c 51 § 8; 1987 c 505 § 42; 1982 1st ex.s. c 40 § 9.]

Severability—Effective dates—1996 c 51: See notes following RCW 43.160.010.

43.160.100 Status of board. The board is an authority and an instrumentality of the state within the meaning of those terms in the regulations of the Internal Revenue Service prescribed pursuant to Section 103 of the federal Internal Revenue Code of 1954, as amended. [1984 c 257 § 3.]

43.160.115 Cooperation with *Washington state development loan fund committee required—Transfer of funds. In addition to its powers and duties under this chapter, the community economic revitalization board shall cooperate with the *Washington state development loan fund committee in order to provide for coordination of their very similar programs. Under this chapter, it is the duty of the department of community, trade, and economic development and the board to financially assist the committee to the extent required by law. Funds appropriated to the board or the department of community, trade, and economic development for the use of the board shall be transferred to the department of community, trade, and economic development to the extent required by law. [1995 c 399 § 87; 1987 c 422 § 7; 1987 c 195 § 12; 1985 c 164 § 14.]

***Reviser's note:** The Washington state development loan fund committee was terminated on June 30, 1994, and its powers and duties were transferred to the director of the department of community, trade, and economic development.

Severability—1985 c 164: See RCW 43.168.900.

43.160.120 Commingling of funds prohibited. No part of the proceeds received from the sale of any industrial development revenue bonds under this chapter, of any revenues derived from an industrial development facility acquired or held under this chapter, or of any interest realized on moneys received under this chapter, may be commingled by the board with funds of the state. [1984 c 257 § 5.]

43.160.130 Personal liability. The members and employees of the board and the department shall not be personally liable or accountable by reason of the issuance of or on any bond issued by the board. [1984 c 257 § 6.]

43.160.140 Accounts. The board may create and administer funds and accounts and establish such funds and accounts with financial institutions as are necessary to implement its duties under RCW *43.160.050 (8) through (17) and 43.160.100 through 43.160.170. [1987 c 422 § 8; 1984 c 257 § 7.]

***Reviser's note:** RCW 43.160.050 was amended by 1996 c 51 § 4, changing subsections (8) through (17) to subsections (7) through (16).

43.160.150 Faith and credit not pledged. Bonds issued under this chapter do not constitute a debt, liability, obligation, or pledge of the faith and credit of the state but are payable solely from the revenues or assets of the board. A bond issued under this chapter must disclose on its face (1) the state of Washington is not obligated to pay the principal or the interest thereon; (2) no tax funds or governmental revenue may be used to pay the principal or interest thereon; and (3) neither the faith and credit nor the taxing power of the state or any subdivision or agency thereof is pledged to the payment of the principal or interest on the bond. [1984 c 257 § 8.]

43.160.160 Security. In order to assure payment of the bonds, the board shall consider and may require users to provide appropriate security. Such security may include but is not limited to letters of credit, deeds of trust, guarantees, mortgage insurance or cash reserves. If federal funds are used to provide additional security for the protection of bond purchasers the board shall require a credit analysis by a financial institution of each user of an umbrella board [bond] in order to ensure the marketability of the bonds. [1984 c 257 § 9.]

43.160.170 Special reserve account. (1) The board may establish a special reserve account and pay into it any:

(a) Proceeds of the sale of bonds to the extent provided in the resolutions or indentures of the board authorizing their issuance; and

(b) Other funds which may be available to the board from any other source for the purpose of the account.

(2) All funds held in the special reserve account must be used solely for the payment of the principal of, premium, if any, and interest on the bonds secured in whole or in part by the account, the sinking fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity. Funds in the account may not be withdrawn at any time in an amount that reduces the account to an amount less than the sum of minimum reserve requirements established in the resolutions or indentures of the board for the account except, with respect to bonds secured in whole or in part by the account, for the purpose of making payment, when due, of principal, premium, if any, interest, and sinking fund payments for the payment of which other money pledged is not available. Any income or interest earned by or incremental to the special reserve account due to its investment may be transferred to other accounts of the board to an extent that does not reduce the amount of the special reserve account below the sum of

minimum reserve requirements for the account. [1984 c 257 § 10.]

43.160.180 Private activity bond subcommittee. (1) There is hereby created the private activity bond subcommittee of the board.

(2) The subcommittee shall be primarily responsible for reviewing and making recommendations to the board on requests for certification and allocation pursuant to the provisions of chapter 39.86 RCW and as authorized by rules adopted by the board.

(3) The subcommittee shall consist of the following members: Six members of the board including: (a) The chair; (b) the county official; (c) the city official; (d) the port district official; (e) a legislator, appointed by the chair; and (f) the representative of the public. The members' terms shall coincide with their terms of appointment to the board.

(4) Staff support to the subcommittee shall be provided by the department of community, trade, and economic development.

(5) Members of the subcommittee shall receive no compensation but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(6) If a vacancy on the subcommittee occurs by death, resignation, failure to hold the office from which the member was appointed, or otherwise, the vacancy shall be filled through the procedures specified for filling the corresponding vacancy on the board. [1995 c 399 § 88; 1987 c 422 § 9; 1985 c 446 § 15.]

43.160.200 Economic development account—Rural natural resources impact areas. (*Expires June 30, 1997.*)

(1) The economic development account is created within the public facilities construction loan revolving fund under RCW 43.160.080. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of RCW 43.160.010(3) and this section. The account is subject to allotment procedures under chapter 43.88 RCW.

(2) Applications under this section for assistance from the economic development account are subject to all of the applicable criteria set forth under this chapter, as well as procedures and criteria established by the board, except as otherwise provided.

(3) Eligible applicants under this section are limited to political subdivisions of the state in rural natural resources impact areas that demonstrate, to the satisfaction of the board, the local economy's dependence on the forest products and salmon fishing industries.

(4) Applicants must demonstrate that their request is part of an economic development plan consistent with applicable state planning requirements. Applicants must demonstrate that tourism projects have been approved by the local government. Industrial projects must be approved by the local government and the associate development organization.

(5) Publicly owned projects may be financed under this section upon proof by the applicant that the public project is a necessary component of, or constitutes in whole, a tourism project.

(6) Applications must demonstrate local match and participation. Such match may include: Land donation, other public or private funds or both, or other means of local commitment to the project.

(7) Board financing for feasibility studies shall not exceed twenty-five thousand dollars per study. Board funds for feasibility studies may be provided as a grant and require a dollar for dollar match with up to one-half in-kind match allowed.

(8) Board financing for tourism projects shall not exceed two hundred fifty thousand dollars. Other public facility projects under this section shall not exceed five hundred thousand dollars. Loans with flexible terms and conditions to meet the needs of the applicants shall be provided. Grants may also be authorized, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision.

(9) The board shall develop guidelines for allowable local match and feasibility studies.

(10) Applications under this section need not demonstrate evidence that specific private development or expansion is ready to occur or will occur if funds are provided.

(11) The board shall establish guidelines for providing financial assistance under this section to ensure that the requirements of this chapter are complied with. The guidelines shall include:

(a) A process to equitably compare and evaluate applications from competing communities.

(b) Criteria to ensure that approved projects will have a high probability of success and are likely to provide long-term economic benefits to the community. The criteria shall include: (i) A minimum amount of local participation, determined by the board per application, to verify community support for the project; (ii) an analysis that establishes the project is feasible using standard economic principles; and (iii) an explanation from the applicant regarding how the project is consistent with the communities' economic strategy and goals.

(c) A method of evaluating the impact of the financial assistance on the economy of the community and whether the financial assistance achieved its purpose. [1996 c 51 § 9; 1995 c 226 § 16. Prior: 1993 c 320 § 7; 1993 c 316 § 4; 1991 c 314 § 23.]

Severability—Effective dates—1996 c 51: See notes following RCW 43.160.010.

Sunset Act application: See note following RCW 43.31.601.

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

Expiration date—1991 c 314: "RCW 43.160.200 expires June 30, 1997." [1995 c 226 § 8; 1993 c 316 § 7; 1991 c 314 § 33.]

Effective date—1993 c 316: See note following RCW 43.31.611.

Findings—1991 c 314: See note following RCW 43.31.601.

43.160.210 Distressed counties—Twenty percent of financial assistance. (*Effective June 30, 1997.*) (1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for financial assistance, the board shall designate at least twenty percent for financial assistance for projects in distressed counties. For purposes of this section, the term "distressed counties" includes any county, in which: (a) The average level of unemployment for the three years before the year in which

an application for financial assistance is filed, exceeds the average state employment for those years by twenty percent; or (b) a county that has a median household income that is less than seventy-five percent of the state median household income for the previous three years.

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in distressed counties are clearly insufficient to use up the twenty percent allocation, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for financial assistance for projects not located in distressed counties. [1996 c 290 § 1; 1996 c 51 § 10; 1991 c 314 § 25.]

Reviser's note: This section was amended by 1996 c 51 § 10 and by 1996 c 290 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective dates—1996 c 290 §§ 1, 6: "(1) *Section 6 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 30, 1996].

(2) Section 1 of this act shall take effect June 30, 1997." [1996 c 290 § 8.]

***Reviser's note:** 1996 c 290 § 6 was vetoed.

Severability—Effective dates—1996 c 51: See notes following RCW 43.160.010.

Effective date—1991 c 314: "RCW 43.160.210 shall take effect June 30, 1997." [1995 c 226 § 9; 1993 c 320 § 11; 1993 c 316 § 8; 1991 c 314 § 34.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.160.212 Rural natural resources impact areas—Loans for public works facilities. (1) For the period beginning July 1, 1991, and ending June 30, 1997, in rural natural resources impact areas the public works board may award low-interest or interest-free loans to local governments for construction of new or expanded public works facilities that stimulate economic growth or diversification.

(2) For the period beginning on June 6, 1996, and ending June 30, 1997, areas in zip codes immediately adjacent and contiguous to rural natural resource impact areas within the same county are eligible for loans under this section if a significant benefit can be shown for underemployed or unemployed workers living in rural natural resource impact areas, and there is projected to be at least eight hundred million dollars in private sector investment within six years in a project benefitting from such loans.

(3) For the purposes of this section and section 27, chapter 314, Laws of 1991:

(a) "Public facilities" means bridge, road and street, domestic water, sanitary sewer, and storm sewer systems.

(b) "Rural natural resources impact area" means:

(i) A nonmetropolitan county, as defined by the 1990 decennial census, that meets two of the five criteria set forth in subsection (4) of this section; or

(ii) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets two of the five criteria set forth in subsection (4) of this section.

(4) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area that is located wholly or partially in an urbanized area or within two miles of an urbanized area is considered urbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter.

(5) The loans may have a deferred payment of up to five years but shall be repaid within twenty years. The public works board may require other terms and conditions and may charge such rates of interest on its loans as it deems appropriate to carry out the purposes of this section. Repayments shall be made to the public works assistance account.

(6) The board may make such loans irrespective of the annual loan cycle and reporting required in RCW 43.155.070. [1996 c 168 § 4; 1995 c 226 § 6; 1993 c 316 § 5; 1992 c 21 § 8; 1991 c 314 § 26.]

Sunset Act application: See note following RCW 43.31.601.

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

43.160.900 Community economic revitalization board—Implementation of chapter—Report to legislature. The community economic revitalization board shall report to the appropriate standing committees of the legislature biennially on the implementation of this chapter. The report shall include information on the number of applications for community economic revitalization board assistance, the number and types of projects approved, the grant or loan amount awarded each project, the projected number of jobs created or retained by each project, the actual number of jobs created or retained by each project, the number of delinquent loans, and the number of project terminations. The report may also include additional performance measures and recommendations for programmatic changes. The first report shall be submitted by December 1, 1994. [1993 c 320 § 8; 1987 c 422 § 10; 1985 c 446 § 25; 1982 1st ex.s. c 40 § 10.]

Effective date—1993 c 320 § 8: "Section 8 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 12, 1993]." [1993 c 320 § 12.]

43.160.901 Severability—1982 1st ex.s. c 40. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the

application of the provision to other persons or circumstances is not affected. [1982 1st ex.s. c 40 § 11.]

43.160.902 Captions not part of law—1984 c 257.

As used in this act, captions constitute no part of the law. [1984 c 257 § 14.]

Chapter 43.163

ECONOMIC DEVELOPMENT FINANCE AUTHORITY

Sections

- 43.163.005 Purpose—Construction.
- 43.163.010 Definitions.
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- 43.163.200 Construction.
- 43.163.210 Nonrecourse revenue bond financing—Economic development activities—Tax-exempt bonds for manufacturing or processing activities—New products.
- 43.163.900 Report—1989 c 279.
- 43.163.901 Severability—1989 c 279.

Public disclosure: RCW 42.17.310.

43.163.005 Purpose—Construction. Economic development is essential to the health, safety, and welfare of all Washington citizens by broadening and strengthening state and local tax bases, providing meaningful employment opportunities and thereby enhancing the quality of life. Economic development increasingly is dependent upon the ability of small-sized and medium-sized businesses and farms to finance growth and trade activities. Many of these businesses face an unmet need for capital that limits their growth. These unmet capital needs are a problem in both urban and rural areas which cannot be solved by the private sector alone. There presently exist some federal programs, private credit enhancements and other financial tools to complement the private banking industry in providing this needed capital. More research is needed to develop effective strategies to enhance access to capital and thereby stimulate economic development.

It is the purpose of this chapter to establish a state economic development finance authority to act as a financial conduit that, without using state funds or lending the credit

of the state or local governments, can issue nonrecourse revenue bonds, and participate in federal, state, and local economic development programs to help facilitate access to needed capital by Washington businesses that cannot otherwise readily obtain needed capital on terms and rates comparable to large corporations, and can help local governments obtain capital more efficiently. It is also a primary purpose of this chapter to encourage the employment and retention of Washington workers at meaningful wages and to develop innovative approaches to the problem of unmet capital needs. This chapter is enacted to accomplish these and related purposes and shall be construed liberally to carry out its purposes and objectives. [1990 c 53 § 1; 1989 c 279 § 1.]

Findings—Purpose—1994 c 302: "The legislature finds that when public funds are used to support private enterprise, the public may gain through the creation of new jobs, the diversification of the economy, or higher quality jobs for existing workers. The legislature further finds that such returns on public investments are not automatic and that tax-based incentives, in particular, may result in a greater tax burden on businesses and individuals that are not eligible for the public support. It is the purpose of this chapter to collect information sufficient to allow the legislature and the executive branch to make informed decisions about the merits of existing tax-based incentives and loan programs intended to encourage economic development in the state." [1994 c 302 § 1.]

***Reviser's note:** 1994 c 302 § 2 was vetoed by the governor. 1994 c 302 § 3 is a codification direction and 1994 c 302 § 4 is an emergency clause. The code reviser's office chose not to create a new chapter for the only remaining section, section 1.

43.163.010 Definitions. As used in this chapter, the following words and terms have the following meanings, unless the context requires otherwise:

(1) "Authority" means the Washington economic development finance authority created under RCW 43.163.020 or any board, body, commission, department or officer succeeding to the principal functions of the authority or to whom the powers conferred upon the authority shall be given by law;

(2) "Bonds" means any bonds, notes, debentures, interim certificates, conditional sales or lease financing agreements, lines of credit, forward purchase agreements, investment agreements, and other banking or financial arrangements, guaranties, or other obligations issued by or entered into by the authority. Such bonds may be issued on either a tax-exempt or taxable basis;

(3) "Borrower" means one or more public or private persons or entities acting as lessee, purchaser, mortgagor, or borrower who has obtained or is seeking to obtain financing either from the authority or from an eligible banking organization that has obtained or is seeking to obtain funds from the authority to finance a project. A borrower may include a party who transfers the right of use and occupancy to another party by lease, sublease or otherwise, or a party who is seeking or has obtained a financial guaranty from the authority;

(4) "Eligible banking organization" means any organization subject to regulation by the director of the department of financial institutions, any national bank, federal savings and loan association, and federal credit union located within this state;

(5) "Eligible export transaction" means any preexport or export activity by a person or entity located in the state of Washington involving a sale for export and product sale

which, in the judgment of the authority: (a) Will create or maintain employment in the state of Washington, (b) will obtain a material percent of its value from manufactured goods or services made, processed or occurring in Washington, and (c) could not otherwise obtain financing on reasonable terms from an eligible banking organization;

(6) "Eligible farmer" means any person who is a resident of the state of Washington and whose specific acreage qualifying for receipts from the federal department of agriculture under its conservation reserve program is within the state of Washington;

(7) "Eligible person" means an individual, partnership, corporation, or joint venture carrying on business, or proposing to carry on business within the state and is seeking financial assistance under RCW 43.163.210;

(8) "Financial assistance" means the infusion of capital to persons for use in the development and exploitation of specific inventions and products;

(9) "Financing document" means an instrument executed by the authority and one or more persons or entities pertaining to the issuance of or security for bonds, or the application of the proceeds of bonds or other funds of, or payable to, the authority. A financing document may include, but need not be limited to, a lease, installment sale agreement, conditional sale agreement, mortgage, loan agreement, trust agreement or indenture, security agreement, letter or line of credit, reimbursement agreement, insurance policy, guaranty agreement, or currency or interest rate swap agreement. A financing document also may be an agreement between the authority and an eligible banking organization which has agreed to make a loan to a borrower;

(10) "Plan" means the general plan of economic development finance objectives developed and adopted by the authority, and updated from time to time, as required under RCW 43.163.090;

(11) "Economic development activities" means activities related to: Manufacturing, processing, research, production, assembly, tooling, warehousing, pollution control, energy generating, conservation, transmission, and sports facilities and industrial parks;

(12) "Project costs" means costs of:

(a) Acquisition, lease, construction, reconstruction, remodeling, refurbishing, rehabilitation, extension, and enlargement of land, rights to land, buildings, structures, docks, wharves, fixtures, machinery, equipment, excavations, paving, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities, and any other real or personal property included in an economic development activity;

(b) Architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, acquisition, lease, construction, reconstruction, remodeling, refurbishing, rehabilitation, extension, and enlargement of an activity included under subsection (11) of this section, including costs of studies assessing the feasibility of an economic development activity;

(c) Finance costs, including the costs of credit enhancement and discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any financing document;

(d) Start-up costs, working capital, capitalized research and development costs, capitalized interest during construc-

tion and during the eighteen months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves;

(e) The refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and

(f) Other costs incidental to any of the costs listed in this section;

(13) "Product" means a product, device, technique, or process that is or may be exploitable commercially. "Product" does not refer to pure research, but shall be construed to apply to products, devices, techniques, or processes that have advanced beyond the theoretic stage and are readily capable of being, or have been, reduced to practice;

(14) "Financing agreements" means, and includes without limitation, a contractual arrangement with an eligible person whereby the authority obtains rights from or in an invention or product or proceeds from an invention or product in exchange for the granting of financial and other assistance to the person. [1994 c 238 § 1; 1994 c 92 § 498; 1989 c 279 § 2.]

Reviser's note: This section was amended by 1994 c 92 § 498 and by 1994 c 238 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1994 c 238: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 238 § 6.]

Effective date—1994 c 238: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1994]." [1994 c 238 § 7.]

43.163.020 Economic development finance authority created—Membership. The Washington economic development finance authority is established as a public body corporate and politic, with perpetual corporate succession, constituting an instrumentality of the state of Washington exercising essential governmental functions. The authority is a public body within the meaning of RCW 39.53.010.

The authority shall consist of eighteen [seventeen] members as follows: The director of the department of community, trade, and economic development, the director of the department of agriculture, the state treasurer, one member from each caucus in the house of representatives appointed by the speaker of the house, one member from each caucus in the senate appointed by the president of the senate, and ten public members with one representative of women-owned businesses and one representative of minority-owned businesses and with at least three of the members residing east of the Cascades. The public members shall be residents of the state appointed by the governor on the basis of their interest or expertise in trade, agriculture or business finance or jobs creation and development. One of the public members shall be appointed by the governor as chair of the authority and shall serve as chair of the authority at the pleasure of the governor. The authority may select from its membership such other officers as it deems appropriate.

The term of the persons appointed by the governor as public members of the authority, including the public member appointed as chair, shall be four years from the date of appointment, except that the term of three of the initial appointees shall be for two years from the date of appoint-

ment and the term of four of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms.

In the event of a vacancy on the authority due to death, resignation or removal of one of the public members, or upon the expiration of the term of one of the public members, the governor shall appoint a successor for the remainder of the unexpired term. If either of the state offices is abolished, the resulting vacancy on the authority shall be filled by the state officer who shall succeed substantially to the power and duties of the abolished office.

Any public member of the authority may be removed by the governor for misfeasance, malfeasance or willful neglect of duty after notice and a public hearing, unless such notice and hearing shall be expressly waived in writing by the affected public member.

The state officials serving in ex officio capacity may each designate an employee of their respective departments to act on their behalf in all respects with regard to any matter to come before the authority. Such designations shall be made in writing in such manner as is specified by the rules of the authority.

The members of the authority shall serve without compensation but shall be entitled to reimbursement, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter. The authority may borrow funds from the department for the purpose of reimbursing members for expenses; however, the authority shall repay the department as soon as practicable.

A majority of the authority shall constitute a quorum. [1995 c 399 § 89; 1990 c 53 § 2; 1989 c 279 § 3.]

43.163.030 Small businesses—Funding of export transactions. (1) The authority, in cooperation with the small business export finance assistance center and other export assistance entities, is authorized to develop and conduct a program or programs to provide for the funding of export transactions for small businesses which are unable to obtain funding from private commercial lenders.

(2) The authority is authorized to secure or provide guaranties or insurance for loans and otherwise to provide for loans for any eligible export transaction. Loans may be made either directly by the authority or through an eligible banking organization. For such purpose, the authority may use funds legally available to it to provide for insurance or to guarantee eligible export transactions for which guaranteed funding has been provided.

(3) The authority shall make every effort to cause guaranties or insurance to be provided from the export-import bank of the United States, the foreign credit insurance association, the small business administration or such other similar or succeeding federal or private programs whose financial performance in the guarantee or insurance of export transactions is sound and recognized in the financial community. The maximum amount payable under any guaranty shall be specifically set forth in writing at the time any such guaranteed funding is entered into by the authority.

(4) Prior to providing or securing a guarantee of funding or otherwise providing for a loan for any eligible export transaction hereunder, the authority shall obtain assurance

that there has been made an investigation of the credit of the exporter in order to determine its viability, the economic benefits to be derived from the eligible export transaction, the prospects for repayment, and such other facts as it deems necessary in order to determine that such guaranteed funding is consistent with the purposes of this chapter. [1989 c 279 § 4.]

Small business export finance assistance center: Chapter 43.210 RCW.

43.163.040 Farmers—Advance financing, agriculture conservation reserve program. To provide capital for economic development purposes, the authority is authorized to develop and conduct a program or programs to provide advance financing to eligible farmers in respect of the contract payments due to them under the federal department of agriculture conservation reserve program. Such advance financing may be provided in the form of lease, sale, loan or other similar financing transactions. [1989 c 279 § 5.]

43.163.050 Pooling of loans. The authority is authorized to develop and conduct a program or programs to promote small business and agricultural financing in the state through the pooling of loans or portions of loans made or guaranteed through programs administered by federal agencies including the small business or farmers home administrations. For such purpose, the authority may acquire from eligible banking organizations and other financial intermediaries who make or hold loans made or guaranteed through programs administered by the federal small business or farmers home administrations all or portions of such loans, and the authority may contract or coordinate with parties authorized to acquire or pool loans made or guaranteed by a federal agency or with parties authorized to administer such loan or guarantee programs. [1990 c 53 § 3; 1989 c 279 § 6.]

43.163.060 Scope of authority's powers—Duties of other agencies. (1) The authority is authorized to participate fully in federal and other governmental economic development finance programs and to take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs and to meet their requirements.

(2) The authority shall coordinate its programs with those contributing to a common purpose found elsewhere in the departments of community, trade, and economic development, agriculture or employment security, or any other department or organization of, or affiliated with, the state or federal government, and shall avoid any duplication of such activities or programs provided elsewhere. The departments of community, trade, and economic development, agriculture, employment security and other relevant state agencies shall provide to the authority all reports prepared in the course of their ongoing activities which may assist in the identification of unmet capital financing needs by small-sized and medium-sized businesses in the state. [1995 c 399 § 90; 1989 c 279 § 7.]

43.163.070 Use of funds. The authority may use any funds legally available to it for any purpose specifically authorized by this chapter, or for otherwise improving

economic development in this state by assisting businesses and farm enterprises that do not have access to capital at terms and rates comparable to large corporations due to the location of the business, the size of the business, the lack of financial expertise, or other appropriate reasons: PROVIDED, That no funds of the state shall be used for such purposes. [1990 c 53 § 4; 1989 c 279 § 8.]

43.163.080 General operating procedures. (1) The authority shall adopt general operating procedures for the authority. The authority shall also adopt operating procedures for individual programs as they are developed for obtaining funds and for providing funds to borrowers. These operating procedures shall be adopted by resolution prior to the authority operating the applicable programs.

(2) The operating procedures shall include, but are not limited to: (a) Appropriate minimum reserve requirements to secure the authority's bonds and other obligations; (b) appropriate standards for securing loans and other financing the authority provides to borrowers, such as guarantees or collateral; and (c) strict standards for providing financing to borrowers, such as (i) the borrower is a responsible party with a high probability of being able to repay the financing provided by the authority, (ii) the financing is reasonably expected to provide economic growth or stability in the state by enabling a borrower to increase or maintain jobs or capital in the state, (iii) the borrowers with the greatest needs or that provide the most public benefit are given higher priority by the authority, and (iv) the financing is consistent with any plan adopted by the authority under RCW 43.163.090. [1994 c 238 § 2; 1990 c 53 § 5; 1989 c 279 § 9.]

Severability—Effective date—1994 c 238: See notes following RCW 43.163.010.

43.163.090 Economic development finance objectives plan—Legislative review. The authority shall adopt a general plan of economic development finance objectives to be implemented by the authority during the period of the plan. The authority may exercise the powers authorized under this chapter prior to the adoption of the initial plan. In developing the plan, the authority shall consider and set objectives for:

(1) Employment generation associated with the authority's programs;

(2) The application of funds to sectors and regions of the state economy evidencing need for improved access to capital markets and funding resources;

(3) Geographic distribution of funds and programs available through the authority;

(4) Eligibility criteria for participants in authority programs;

(5) The use of funds and resources available from or through federal, state, local, and private sources and programs;

(6) Standards for economic viability and growth opportunities of participants in authority programs;

(7) New programs which serve a targeted need for financing assistance within the purposes of this chapter; and

(8) Opportunities to improve capital access as evidenced by programs existent in other states or as they are made possible by results of private capital market circumstances.

At least one public hearing shall be conducted by the authority on the plan prior to its adoption. The plan shall be adopted by resolution of the authority no later than November 15, 1990. The plan shall be submitted to the chief clerk of the house of representatives and secretary of the senate for transmittal to and review by the appropriate standing committees no later than December 15, 1990. The authority shall periodically update the plan as determined necessary by the authority, but not less than once every two years. The plan or updated plan shall include a report on authority activities conducted since the commencement of authority operation or since the last plan was reported, whichever is more recent, including a statement of results achieved under the purposes of this chapter and the plan. Upon adoption, the authority shall conduct its programs in observance of the objectives established in the plan. [1989 c 279 § 10.]

43.163.100 Powers of the authority. In addition to accomplishing the economic development finance programs specifically authorized in this chapter, the authority may:

(1) Maintain an office or offices;

(2) Sue and be sued in its own name, and plead and be impleaded;

(3) Engage consultants, agents, attorneys, and advisers, contract with federal, state, and local governmental entities for services, and hire such employees, agents and other personnel as the authority deems necessary, useful, or convenient to accomplish its purposes;

(4) Make and execute all manner of contracts, agreements and instruments and financing documents with public and private parties as the authority deems necessary, useful, or convenient to accomplish its purposes;

(5) Acquire and hold real or personal property, or any interest therein, in the name of the authority, and to sell, assign, lease, encumber, mortgage, or otherwise dispose of the same in such manner as the authority deems necessary, useful, or convenient to accomplish its purposes;

(6) Open and maintain accounts in qualified public depositories and otherwise provide for the investment of any funds not required for immediate disbursement, and provide for the selection of investments;

(7) Appear in its own behalf before boards, commissions, departments, or agencies of federal, state, or local government;

(8) Procure such insurance in such amounts and from such insurers as the authority deems desirable, including, but not limited to, insurance against any loss or damage to its property or other assets, public liability insurance for injuries to persons or property, and directors and officers liability insurance;

(9) Apply for and accept subventions, grants, loans, advances, and contributions from any source of money, property, labor, or other things of value, to be held, used and applied as the authority deems necessary, useful, or convenient to accomplish its purposes;

(10) Establish guidelines for the participation by eligible banking organizations in programs conducted by the authority under this chapter;

(11) Act as an agent, by agreement, for federal, state, or local governmental entities to carry out the programs authorized in this chapter;

(12) Establish, revise, and collect such fees and charges as the authority deems necessary, useful, or convenient to accomplish its purposes;

(13) Make such expenditures as are appropriate for paying the administrative costs and expenses of the authority in carrying out the provisions of this chapter: **PROVIDED**, That expenditures with respect to the economic development financing programs of the authority shall not be made from funds of the state;

(14) Establish such reserves and special funds, and controls on deposits to and disbursements from them, as the authority deems necessary, useful, or convenient to accomplish its purposes;

(15) Give assistance to public bodies by providing information, guidelines, forms, and procedures for implementing their financing programs;

(16) Prepare, publish and distribute, with or without charge, such studies, reports, bulletins, and other material as the authority deems necessary, useful, or convenient to accomplish its purposes;

(17) Delegate any of its powers and duties if consistent with the purposes of this chapter;

(18) Adopt rules concerning its exercise of the powers authorized by this chapter; and

(19) Exercise any other power the authority deems necessary, useful, or convenient to accomplish its purposes and exercise the powers expressly granted in this chapter. [1990 c 53 § 6; 1989 c 279 § 11.]

43.163.110 Restrictions on authority's activity.

Notwithstanding any other provision of this chapter, the authority shall not:

(1) Give any state money or property or loan any state money or credit to or in aid of any individual, association, company, or corporation, or become directly or indirectly the owner of any stock in or bonds of any association, company, or corporation;

(2) Issue bills of credit or accept deposits of money for time or demand deposit, administer trusts, engage in any form or manner in, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings and loan association other than as provided in this chapter;

(3) Be or constitute a bank or trust company within the jurisdiction or under the control of the director of financial institutions, the comptroller of the currency of the United States of America or the treasury department thereof;

(4) Be or constitute a bank, broker or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange or securities dealers' law of the United States of America or the state;

(5) Engage in the financing of housing as provided for in chapter 43.180 RCW;

(6) Engage in the financing of health care facilities as provided for in chapter 70.37 RCW; or

(7) Engage in financing higher education facilities as provided for in chapter 28B.07 RCW. [1994 c 92 § 499; 1989 c 279 § 12.]

43.163.120 Staffing, restrictions—Authority not to receive appropriated state funds—Report to legislature.

The authority shall receive no appropriation of state funds. The department of community, trade, and economic development shall provide staff to the authority, to the extent permitted by law, to enable the authority to accomplish its purposes; the staff from the department of community, trade, and economic development may assist the authority in organizing itself and in designing programs, but shall not be involved in the issuance of bonds or in making credit decisions regarding financing provided to borrowers by the authority. The authority shall report each December on its activities to the appropriate standing committees of the house of representatives and senate. [1994 c 238 § 3; 1989 c 279 § 13.]

Severability—Effective date—1994 c 238: See notes following RCW 43.163.010.

43.163.130 Nonrecourse revenue bonds—Issuance.

(1) The authority may issue its nonrecourse revenue bonds in order to obtain the funds to carry out the programs authorized in this chapter. The bonds shall be special obligations of the authority, payable solely out of the special fund or funds established by the authority for their repayment.

(2) Any bonds issued under this chapter may be secured by a financing document between the authority and the purchasers or owners of such bonds or between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state.

(a) The financing document may pledge or assign, in whole or in part, the revenues and funds held or to be received by the authority, any present or future contract or other rights to receive the same, and the proceeds thereof.

(b) The financing document may contain such provisions for protecting and enforcing the rights, security, and remedies of bondowners as may be reasonable and proper, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event of default which may include the acceleration of maturities, restrictions on the individual rights of action by bondowners, and covenants setting forth duties of and limitations on the authority in conduct of its programs and the management of its property.

(c) In addition to other security provided in this chapter or otherwise by law, bonds issued by the authority may be secured, in whole or in part, by financial guaranties, by insurance or by letters of credit issued to the authority or a trustee or any other person, by any bank, trust company, insurance or surety company or other financial institution, within or without the state. The authority may pledge or assign, in whole or in part, the revenues and funds held or to be received by the authority, any present or future contract or other rights to receive the same, and the proceeds thereof, as security for such guaranties or insurance or for the reimbursement by the authority to any issuer of such letter of credit of any payments made under such letter of credit.

(3) Without limiting the powers of the authority contained in this chapter, in connection with each issue of its obligation bonds, the authority shall create and establish one or more special funds, including, but not limited to debt service and sinking funds, reserve funds, project funds, and

such other special funds as the authority deems necessary, useful, or convenient.

(4) Any security interest created against the unexpended bond proceeds and against the special funds created by the authority shall be immediately valid and binding against the money and any securities in which the money may be invested without authority or trustee possession. The security interest shall be prior to any party having any competing claim against the moneys or securities, without filing or recording under Article 9 of the Uniform Commercial Code, Title 62A RCW, and regardless of whether the party has notice of the security interest.

(5) The bonds may be issued as serial bonds, term bonds or any other type of bond instrument consistent with the provisions of this chapter. The bonds shall bear such date or dates; mature at such time or times; bear interest at such rate or rates, either fixed or variable; be payable at such time or times; be in such denominations; be in such form; bear such privileges of transferability, exchangeability, and interchangeability; be subject to such terms of redemption; and be sold at public or private sale, in such manner, at such time or times, and at such price or prices as the authority shall determine. The bonds shall be executed by the manual or facsimile signatures of the authority's chair and either its secretary or executive director, and may be authenticated by the trustee (if the authority determines to use a trustee) or any registrar which may be designated for the bonds by the authority.

(6) Bonds may be issued by the authority to refund other outstanding authority bonds, at or prior to maturity of, and to pay any redemption premium on, the outstanding bonds. Bonds issued for refunding purposes may be combined with bonds issued for the financing or refinancing of new projects. Pending the application of the proceeds of the refunding bonds to the redemption of the bonds to be redeemed, the authority may enter into an agreement or agreements with a corporate trustee regarding the interim investment of the proceeds and the application of the proceeds and the earnings on the proceeds to the payment of the principal of and interest on, and the redemption of, the bonds to be redeemed.

(7) The bonds of the authority may be negotiable instruments under Title 62A RCW.

(8) Neither the members of the authority, nor its employees or agents, nor any person executing the bonds shall be personally liable on the bonds or be subject to any personal liability or accountability by reason of the issuance of the bonds.

(9) The authority may purchase its bonds with any of its funds available for the purchase. The authority may hold, pledge, cancel or resell the bonds subject to and in accordance with agreements with bondowners.

(10) The authority shall not exceed two hundred fifty million dollars in total outstanding debt at any time.

(11) The state finance committee shall be notified in advance of the issuance of bonds by the authority in order to promote the orderly offering of obligations in the financial markets.

(12) The authority may not issue any bonds after June 30, 2000. [1994 c 238 § 5; 1989 c 279 § 14.]

Severability—Effective date—1994 c 238: See notes following RCW 43.163.010.

43.163.140 Nonrecourse revenue bonds—Contracts—Restrictions. (1) Bonds issued by the authority under this chapter shall not be deemed to constitute obligations, either general, special or moral, of the state or of any political subdivision of the state, or pledge of the faith and credit of the state or of any political subdivision, or general obligations of the authority. The bonds shall be special obligations of the authority and shall be payable solely from the special fund or funds created by the authority for their repayment. The issuance of bonds under this chapter shall not obligate, directly, indirectly, or contingently, the state or any political subdivision of the state to levy any taxes or appropriate or expend any funds for the payment of the principal or the interest on the bonds. The substance of the limitations included in this paragraph shall be plainly printed, written, engraved, or reproduced on each bond and in any disclosure document prepared in conjunction with the offer and sale of bonds.

(2) Neither the proceeds of bonds issued under this chapter nor any money used or to be used to pay the principal of, premium, if any, or interest on the bonds shall constitute public money or property. All of such money shall be kept segregated and set apart from funds of the state and any political subdivision of the state and shall not be subject to appropriation or allotment by the state or subject to the provisions of chapter 43.88 RCW.

(3) Contracts entered into by the authority shall be entered into in the name of the authority and not in the name of the state. The obligations of the authority under such contracts shall be obligations only of the authority and shall not, in any way, constitute obligations of the state. [1989 c 279 § 15.]

43.163.150 Nonrecourse revenue bonds—Financing documents, scope. The authority may enter into financing documents with borrowers regarding bonds issued by the authority that may provide for the payment by each borrower of amounts sufficient, together with other revenues available to the authority, if any, to: (1) Pay the borrower's share of the fees established by the authority; (2) pay the principal of, premium, if any, and interest on outstanding bonds of the authority issued in respect of such borrower as the same shall become due and payable; and (3) create and maintain reserves required or provided for by the authority in connection with the issuance of such bonds. The payments shall not be subject to supervision or regulation by any department, committee, board, body, bureau, or agency of the state other than the authority. [1989 c 279 § 16.]

43.163.160 Nonrecourse revenue bonds—Money received shall be trust funds. All money received by or on behalf of the authority with respect to this issuance of its bonds shall be trust funds to be held and applied solely as provided in this chapter. The authority, in lieu of receiving and applying the moneys itself, may enter into trust agreement or indenture with one or more banks or trust companies having the power and authority to conduct trust business in the state to:

(1) Perform all of any part of the obligations of the authority with respect to: (a) Bonds issued by it; (b) the receipt, investment and application of the proceeds of the

bonds and money paid by a participant or available from other sources for the payment of the bonds; (c) the enforcement of the obligations of a borrower in connection with the financing or refinancing of any project; and (d) other matters relating to the exercise of the authority's powers under this chapter;

(2) Receive, hold, preserve, and enforce any security interest or evidence of security interest granted by a participant for purposes of securing the payment of the bonds; and

(3) Act on behalf of the authority or the owners of bonds of the authority for purposes of assuring or enforcing the payment of the bonds, when due. [1989 c 279 § 17.]

43.163.170 Nonrecourse revenue bonds—Owner and trustee, enforcement of rights. Any owner of bonds of the authority issued under this chapter, and the trustee under any trust agreement or indenture, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any of their respective rights, and may become the purchaser at any foreclosure sale if the person is the highest bidder, except to the extent the rights given are restricted by the authority in any bond resolution or trust agreement or indenture authorizing the issuance of the bonds. [1989 c 279 § 18.]

43.163.180 Nonrecourse revenue bonds as legal investment. The bonds or [of] the authority are securities in which all public officers and bodies of this state and all counties, cities, municipal corporations and political subdivisions, all banks, eligible banking organizations, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control. [1989 c 279 § 19.]

43.163.190 Chapter as an alternative bond issuance method. This chapter provides a complete, additional and alternative method for accomplishing the purposes of this chapter and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds. [1989 c 279 § 20.]

43.163.200 Construction. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, or parts thereof, the provisions of this chapter are controlling. [1989 c 279 § 21.]

43.163.210 Nonrecourse revenue bond financing—Economic development activities—Tax-exempt bonds for manufacturing or processing activities—New products. For the purpose of facilitating economic development in the state of Washington and encouraging the employment of Washington workers at meaningful wages:

(1) The authority may develop and conduct a program or programs to provide nonrecourse revenue bond financing for the project costs for no more than five economic devel-

opment activities, per fiscal year, included under the authority's general plan of economic development finance objectives. In addition, the authority may issue tax-exempt bonds to finance ten manufacturing or processing activities, per fiscal year, for which the total project cost is less than one million dollars per project.

(2) The authority may also develop and conduct a program that will stimulate and encourage the development of new products within Washington state by the infusion of financial aid for invention and innovation in situations in which the financial aid would not otherwise be reasonably available from commercial sources. The authority is authorized to provide nonrecourse revenue bond financing for this program.

(a) For the purposes of this program, the authority shall have the following powers and duties:

(i) To enter into financing agreements with eligible persons doing business in Washington state, upon terms and on conditions consistent with the purposes of this chapter, for the advancement of financial and other assistance to the persons for the development of specific products, procedures, and techniques, to be developed and produced in this state, and to condition the agreements upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues shall remain in this state and accrue to it;

(ii) Own, possess, and take license in patents, copyrights, and proprietary processes and negotiate and enter into contracts and establish charges for the use of the patents, copyrights, and proprietary processes when the patents and licenses for products result from assistance provided by the authority;

(iii) Negotiate royalty payments to the authority on patents and licenses for products arising as a result of assistance provided by the authority;

(iv) Negotiate and enter into other types of contracts with eligible persons that assure that public benefits will result from the provision of services by the authority; provided that the contracts are consistent with the state Constitution;

(v) Encourage and provide technical assistance to eligible persons in the process of developing new products;

(vi) Refer eligible persons to researchers or laboratories for the purpose of testing and evaluating new products, processes, or innovations; and

(vii) To the extent permitted under its contract with eligible persons, to consent to a termination, modification, forgiveness, or other change of a term of a contractual right, payment, royalty, contract, or agreement of any kind to which the authority is a party.

(b) Eligible persons seeking financial and other assistance under this program shall forward an application, together with an application fee prescribed by rule, to the authority. An investigation and report concerning the advisability of approving an application for assistance shall be completed by the staff of the authority. The investigation and report may include, but is not limited to, facts about the company under consideration as its history, wage standards, job opportunities, stability of employment, past and present financial condition and structure, pro forma income statements, present and future markets and prospects, integrity of management as well as the feasibility of the proposed product and invention to be granted financial aid, including

the state of development of the product as well as the likelihood of its commercial feasibility. After receipt and consideration of the report set out in this subsection and after other action as is deemed appropriate, the application shall be approved or denied by the authority. The applicant shall be promptly notified of action by the authority. In making the decision as to approval or denial of an application, priority shall be given to those persons operating or planning to operate businesses of special importance to Washington's economy, including, but not limited to: (i) Existing resource-based industries of agriculture, forestry, and fisheries; (ii) existing advanced technology industries of electronics, computer and instrument manufacturing, computer software, and information and design; and (iii) emerging industries such as environmental technology, biotechnology, biomedical sciences, materials sciences, and optics.

(3) The authority may also develop and implement, if authorized by the legislature, such other economic development financing programs adopted in future general plans of economic development finance objectives developed under RCW 43.163.090.

(4) The authority may not issue any bonds for the programs authorized under this section after June 30, 2000. [1996 c 310 § 1; 1994 c 238 § 4.]

Effective date—1996 c 310 § 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 30, 1996]." [1996 c 310 § 3.]

Severability—Effective date—1994 c 238: See notes following RCW 43.163.010.

43.163.900 Report—1989 c 279. The *legislative budget committee shall conduct a program and fiscal review of the Washington economic development financial authority. The final report shall be completed by December 1, 1992. [1989 c 279 § 24.]

***Reviser's note:** The "legislative budget committee" was redesignated the "joint legislative audit and review committee" by 1996 c 288 § 3.

43.163.901 Severability—1989 c 279. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 c 279 § 26.]

Chapter 43.165

COMMUNITY REVITALIZATION TEAM— ASSISTANCE TO DISTRESSED AREAS

Sections

43.165.010 Definitions.

43.165.010 Definitions. Unless the context clearly requires to the contrary, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department.

(3) "Distressed area" means: (a) A county that has an unemployment rate that is twenty percent above the state-wide average for the previous three years; (b) a county that

has a median household income that is less than seventy-five percent of the state median household income for the previous three years; (c) a community or area that has experienced sudden and severe or long-term and severe loss of employment, or erosion of its economic base due to decline of its dominant industries; or (d) an area within a county which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(4) "Economic development revolving loan funds" means a local, not-for-profit or governmentally sponsored business loan program.

(5) "Team" means the community revitalization team.

(6) "Technical assistance" includes, but is not limited to, assistance with strategic planning, market research, business plan development review, organization and management development, accounting and legal services, grant and loan packaging, and other assistance which may be expected to contribute to the redevelopment and economic well-being of a distressed area. [1996 c 290 § 2; 1995 c 399 § 91; 1987 c 461 § 1; 1985 c 229 § 1.]

Chapter 43.168

WASHINGTON STATE DEVELOPMENT LOAN FUND COMMITTEE

Sections

43.168.010 Legislative findings and declaration.

43.168.020 Definitions.

43.168.031 State development loan fund committee—Terminated June 30, 1994—Powers and duties transferred.

43.168.040 Approval of applications for federal community development block grant funds for projects.

43.168.050 Application approval—Conditions and limitations.

43.168.060 Staff support and other duties of department—Rules.

43.168.070 Processing of applications—Contents of applications.

43.168.090 Availability of funds for committee use.

43.168.100 Entitlement community grants—Conditions.

43.168.110 Washington state development loan fund.

43.168.120 Guidelines for use of funds for existing economic development revolving loan funds—Grants to local governments to assist existing economic development revolving loan funds.

43.168.130 Development of performance standards—Report.

43.168.140 Rural natural resources impact areas.

43.168.150 Minority and women-owned businesses—Application process—Joint loan guarantee program.

43.168.900 Severability—1985 c 164.

Community economic revitalization board to cooperate with committee: RCW 43.160.115.

Public disclosure: RCW 42.17.310.

43.168.010 Legislative findings and declaration.
The legislature finds that:

(1) The economic health and well-being of the state, particularly in areas of high unemployment, economic stagnation, and poverty, is of substantial public concern.

(2) The consequences of minimal economic activity and persistent unemployment and underemployment are serious threats to the safety, health, and welfare of residents of these areas, decreasing the value of private investments and jeopardizing the sources of public revenue.

(3) The economic and social interdependence of communities and the vitality of industrial and economic activity necessitates, and is in part dependent on preventing substantial dislocation of residents and rebuilding the diversification of the areas' economy.

(4) The ability to remedy problems in stagnant areas of the state is beyond the power and control of the regulatory process and influence of the state, and the ordinary operations of private enterprise without additional governmental assistance are insufficient to adequately remedy the problems of poverty and unemployment.

(5) The revitalization of depressed communities requires the stimulation of private investment, the development of new business ventures, the provision of capital to ventures sponsored by local organizations and capable of growth in the business markets, and assistance to viable, but under-financed, small businesses in order to create and preserve jobs that are sustainable in the local economy.

Therefore, the legislature declares there to be a substantial public purpose in providing capital to promote economic development and job creation in areas of economic stagnation, unemployment, and poverty. To accomplish this purpose, the legislature hereby creates the Washington state development loan fund committee and vests in the committee the authority to spend federal funds to stimulate the economy of distressed areas. [1985 c 164 § 1.]

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

(1) "Committee" means the Washington state development loan fund committee.

(2) "Department" means the department of community, trade, and economic development.

(3) "Director" means the director of community, trade, and economic development.

(4) "Distressed area" means: (a) A county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years; (b) a county that has a median household income that is less than seventy-five percent of the state median household income for the previous three years; (c) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent; (d) an area within a county, which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated

individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate; or (e) a county designated as a rural natural resources impact area under RCW 43.31.601 if an application is filed by July 1, 1997. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(5) "Fund" means the Washington state development loan fund.

(6) "Local development organization" means a nonprofit organization which is organized to operate within an area, demonstrates a commitment to a long-standing effort for an economic development program, and makes a demonstrable effort to assist in the employment of unemployed or underemployed residents in an area.

(7) "Project" means the establishment of a new or expanded business in an area which when completed will provide employment opportunities. "Project" also means the retention of an existing business in an area which when completed will provide employment opportunities. [1996 c 290 § 3; 1995 c 226 § 27; 1993 c 280 § 56; 1991 c 314 § 19; 1988 c 42 § 18; 1987 c 461 § 2; 1985 c 164 § 2.]

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

Severability—1988 c 42: See note following RCW 4.24.480.

43.168.031 State development loan fund committee—Terminated June 30, 1994—Powers and duties transferred. The Washington state development loan fund committee shall be terminated on June 30, 1994, and its powers and duties transferred to the director of the department of community, trade, and economic development. [1995 c 399 § 92; 1988 c 186 § 7.]

43.168.040 Approval of applications for federal community development block grant funds for projects. Subject to the restrictions contained in this chapter, the committee is authorized to approve applications of local governments for federal community development block grant funds which the local governments would use to make loans to finance business projects within their jurisdictions. Applications approved by the committee under this chapter shall conform to applicable federal requirements. [1987 c 461 § 3; 1985 c 164 § 4.]

43.168.050 Application approval—Conditions and limitations. (1) The committee may only approve an application providing a loan for a project which the committee finds:

(a) Will result in the creation of employment opportunities, the maintenance of threatened employment, or development or expansion of business ownership by minorities and women;

(b) Has been approved by the director as conforming to federal rules and regulations governing the spending of federal community development block grant funds;

(c) Will be of public benefit and for a public purpose, and that the benefits, including increased or maintained employment, improved standard of living, the employment of disadvantaged workers, and development or expansion of business ownership by minorities and women, will primarily accrue to residents of the area;

(d) Will probably be successful;

(e) Would probably not be completed without the loan because other capital or financing at feasible terms is unavailable or the return on investment is inadequate.

(2) The committee shall, subject to federal block grant criteria, give higher priority to economic development projects that contain provisions for child care.

(3) The committee may not approve an application if it fails to provide for adequate reporting or disclosure of financial data to the committee. The committee may require an annual or other periodic audit of the project books.

(4) The committee may require that the project be managed in whole or in part by a local development organization and may prescribe a management fee to be paid to such organization by the recipient of the loan or grant.

(5)(a) Except as provided in (b) of this subsection, the committee shall not approve any application which would result in a loan or grant in excess of three hundred fifty thousand dollars.

(b) The committee may approve an application which results in a loan or grant of up to seven hundred thousand dollars if the application has been approved by the director.

(6) The committee shall fix the terms and rates pertaining to its loans.

(7) Should there be more demand for loans than funds available for lending, the committee shall provide loans for those projects which will lead to the greatest amount of employment or benefit to a community. In determining the "greatest amount of employment or benefit" the committee shall also consider the employment which would be saved by its loan and the benefit relative to the community, not just the total number of new jobs or jobs saved.

(8) To the extent permitted under federal law the committee shall require applicants to provide for the transfer of all payments of principal and interest on loans to the Washington state development loan fund created under this chapter. Under circumstances where the federal law does not permit the committee to require such transfer, the committee shall give priority to applications where the applicants on their own volition make commitments to provide for the transfer.

(9) The committee shall not approve any application to finance or help finance a shopping mall.

(10) For loans not made to minority and women-owned businesses, the committee shall make at least eighty percent of the appropriated funds available to projects located in distressed areas, and may make up to twenty percent available to projects located in areas not designated as distressed. For loans not made to minority and women-owned businesses, the committee shall not make funds available to projects located in areas not designated as distressed if the fund's net worth is less than seven million one hundred thousand dollars.

(11) If an objection is raised to a project on the basis of unfair business competition, the committee shall evaluate the potential impact of a project on similar businesses located in the local market area. A grant may be denied by the committee if a project is not likely to result in a net increase in employment within a local market area.

(12) For loans to minority and women-owned businesses who do not meet the credit criteria, the committee may consider nontraditional credit standards to offset past discrimination that has precluded full participation of minority or women-owned businesses in the economy. For applicants with high potential who do not meet the credit criteria, the committee shall consider developing alternative borrowing methods. For applicants denied loans due to credit problems, the committee shall provide financial counseling within available resources and provide referrals to credit rehabilitation services. In circumstances of competing applications, priority shall be given to members of eligible groups which previously have been least served by this fund. [1993 c 512 § 12; 1990 1st ex.s. c 17 § 74; 1989 c 430 § 9; 1987 c 461 § 4; 1986 c 204 § 2; 1985 c 164 § 5.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.168.060 Staff support and other duties of department—Rules. The department shall provide adequate and appropriate staff and other support to the committee. A record of committee proceedings shall be maintained by the department. The department is encouraged to work with local development organizations to promote applications for loans by the fund. The department shall also provide assistance to local development organizations and local governments to identify viable projects for consideration by the committee. The department shall adopt such rules and regulations as are appropriate for the committee to carry out its authority under this chapter. [1985 c 164 § 6.]

43.168.070 Processing of applications—Contents of applications. The committee may receive and approve applications on a monthly basis but shall receive and approve applications on at least a quarterly basis for each fiscal year. The committee shall make every effort to simplify the loan process for applicants. Department staff shall process and assist in the preparation of applications. Each application shall show in detail the nature of the project, the types and numbers of jobs to be created, wages to be paid to new employees, and methods to hire unemployed persons from the area. Each application shall contain a credit analysis of the business to receive the loan. The chairperson of the committee may convene the committee on short notice to respond to applications of a serious or immediate nature. [1993 c 512 § 14; 1987 c 461 § 5; 1985 c 164 § 7.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.168.090 Availability of funds for committee use.

The department shall make available for use by the committee an amount of federal community development block grant funds equal to the amount of state funds transferred or appropriated to the department for purposes of supplementing the department's block grant funds. [1985 c 164 § 9.]

43.168.100 Entitlement community grants—

Conditions. The committee may make grants of state funds to local governments which qualify as "entitlement communities" under the federal law authorizing community development block grants. These grants may only be made on the condition that the entitlement community provide the committee with assurances that it will: (1) Spend the grant moneys for purposes and in a manner which satisfies state constitutional requirements; (2) spend the grant moneys for purposes and in a manner which would satisfy federal requirements; and (3) spend at least the same amount of the grant for loans to businesses from the federal funds received by the entitlement community. [1993 c 512 § 15; 1986 c 204 § 1; 1985 c 164 § 10.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.168.110 Washington state development loan fund. There is established the Washington state development loan fund which shall be an account in the state treasury. All loan payments of principal and interest which are transferred under RCW 43.168.050 shall be deposited into the account. Moneys in the account may be spent only after legislative appropriation for loans under this chapter. Any expenditures of these moneys shall conform to federal law. [1992 c 235 § 11; 1985 c 164 § 11.]

43.168.120 Guidelines for use of funds for existing economic development revolving loan funds—Grants to local governments to assist existing economic development revolving loan funds. (1) The committee shall develop guidelines for development loan funds to be used to fund existing economic development revolving loan funds. Consideration shall be given to the selection process for grantees, loan quality criteria, legal and regulatory issues, and ways to minimize duplication between development loan funds and local economic development revolving loan funds.

(2) If it appears that all of the funds appropriated to the development loan fund for a biennium will not be fully granted to local governments within that biennium, the committee may make available up to twenty percent of the eighty percent of the funds available to projects in distressed areas under *RCW 43.168.050(9) for grants to local governments to assist existing economic development revolving loan funds in distressed areas. The grants to local governments shall be utilized to make loans to businesses that meet the specifications for loans under this chapter. The local governments shall, to the extent permitted under federal law, agree to convey to the development loan fund the principal and interest payments from existing loans that the local governments have made through their revolving loan funds. Under circumstances where the federal law does not permit the committee to require such transfer, the committee shall give priority to applications where the applicants on their

own volition make commitments to provide for the transfer. [1987 c 461 § 6.]

*Reviser's note: RCW 43.168.050 was amended by 1989 c 430 § 9, and the previous subsection (9) was renumbered as subsection (10).

43.168.130 Development of performance standards—Report. (1) The committee shall develop performance standards for judging the effectiveness of the program. Such standards shall include, to the extent possible, examining the effectiveness of grants in regard to:

(a) Job creation for individuals of low and moderate income;

(b) Retention of existing employment;

(c) The creation of new employment opportunities;

(d) The diversification of the economic base of local communities;

(e) The establishment of employee cooperatives;

(f) The provision of assistance in cases of employee buy-outs of firms to prevent the loss of existing employment;

(g) The degree of risk assumed by the development loan fund, with emphasis on loans which did not receive financing from commercial lenders, but which are considered financially sound.

(2) The committee shall report to the appropriate standing committees of the legislature on the development of performance standards by January 1, 1988. [1987 c 461 § 7.]

43.168.140 Rural natural resources impact areas.

Any funds appropriated by the legislature to the development loan fund for purposes of the timber recovery act shall be used for development loans in rural natural resources impact areas as defined in RCW 43.31.601. [1995 c 226 § 28; 1991 c 314 § 20.]

Sunset Act application: See note following RCW 43.31.601.

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

Findings—1991 c 314: See note following RCW 43.31.601.

43.168.150 Minority and women-owned businesses—Application process—Joint loan guarantee program.

Subject to the restrictions contained in this chapter, the committee is authorized to approve applications of minority and women-owned businesses for loans or loan guarantees from the fund. Applications approved by the committee under this chapter shall conform to applicable federal requirements. The committee shall prioritize available funds for loan guarantees rather than loans when possible. The committee may enter into agreements with other public or private lending institutions to develop a joint loan guarantee program for minority and women-owned businesses. If such a program is developed, the committee may provide funds, in conjunction with the other organizations, to operate the program. This section does not preclude the committee from making individual loan guarantees.

To the maximum extent practicable, the funds available under this section shall be made available on an equal basis to minority and women-owned businesses. The committee shall submit to the appropriate committees of the senate and house of representatives quarterly reports that detail the num-

ber of loans approved and the characteristics of the recipients by ethnic and gender groups. [1993 c 512 § 13.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.168.900 Severability—1985 c 164. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 164 § 15.]

Chapter 43.170

SMALL BUSINESS INNOVATORS' OPPORTUNITY PROGRAM

Sections

- 43.170.010 Legislative findings.
- 43.170.020 Definitions.
- 43.170.030 Small business innovators' opportunity program—Pilot project established—Composition and structure—User fee.
- 43.170.040 Chairman of program.
- 43.170.060 Eligibility.
- 43.170.070 Referral to investment opportunities office.

43.170.010 Legislative findings. The legislature recognizes the numerous benefits to the state's economic base from the establishment of small businesses by innovators and inventors and the numerous benefits provided by inventors and innovators through industrial diversification, broadening of the economic base, and providing financial benefits to our citizens and new products to the nation's consumers.

It is estimated that ninety-five percent of all inventions and innovations are never authoritatively considered primarily because inventors are unfamiliar with the business environment or financial structure necessary for implementing their proposals.

The legislature therefore recognizes a need to encourage and assist innovators and inventors. [1982 c 44 § 1.]

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

(1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of community, trade, and economic development.

(3) "Program" means the small business innovators' opportunity program.

(4) "Inventor" or "innovator" means one who thinks of, imagines, or creates something new which may result in a device, contrivance, or process for the first time, through the use of the imagination or ingenious thinking and experimentation.

(5) "Proposal" means a plan provided by an inventor or innovator on an idea for an invention or an improvement.

(6) "Higher education" means any university, college, community college, or technical institute in this state. [1995 c 399 § 93; 1985 c 466 § 60; 1982 c 44 § 2.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

43.170.030 Small business innovators' opportunity program—Pilot project established—Composition and structure—User fee. The department, in cooperation with institutions of higher education, shall establish as a pilot project a small business innovators' opportunity program to provide a professional research and counseling service on a user fee basis to inventors, innovators, and the business community.

The composition and organizational structure of the program shall be determined by the department in a manner which will foster the continuation of the program without state funding at the end of the pilot project established by this chapter. The department shall provide staff support for the program for the duration of the pilot project. The program shall:

- (1) Receive proposals from inventors and innovators;
- (2) Review proposals for accuracy and evaluate their prospects for marketability;
- (3) Cooperate with institutions of higher education to evaluate proposals for marketability, suitability for patent rights, and for the provision of professional research and counseling;
- (4) Provide assistance to the innovators and inventors as appropriate; and
- (5) Have the power to receive funds, contract with institutions of higher education, and carry out such other duties as are deemed necessary to implement this chapter.

The user fee shall be set by the director in an amount which is designed to recover the cost of the services provided. [1995 c 399 § 94; 1985 c 466 § 61; 1982 c 44 § 3.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

43.170.040 Chairman of program. The director shall be the chairman of the program during the pilot project. [1982 c 44 § 4.]

43.170.060 Eligibility. Only businesses with fifty employees or less which are not subsidiaries of another business and individuals are eligible to participate in the program. [1982 c 44 § 6.]

43.170.070 Referral to investment opportunities office. Any innovation or inventor receiving assistance under this program shall be referred to the investment opportunities office operated by the department. [1995 c 399 § 95; 1989 c 312 § 9.]

Severability—1989 c 312: See note following RCW 43.31.403.

Investment opportunities office: RCW 43.31.403.

Chapter 43.172

MINORITY AND WOMEN-OWNED BUSINESSES—SMALL BUSINESS BONDING ASSISTANCE PROGRAM

Sections

- 43.172.005 Intent.
- 43.172.010 Definitions.
- 43.172.011 Definitions—Bonding program.

- 43.172.020 Small business bonding assistance program—
Implementation—Rules.
- 43.172.030 Assistance from other agencies.
- 43.172.040 Entrepreneurial training course.
- 43.172.050 Entrepreneurial accreditation of small contracting businesses.
- 43.172.060 Professional services assistance—One-time grants.
- 43.172.070 Grant administration.
- 43.172.080 Bond guarantees—Generally.
- 43.172.090 Bond guarantees—Approval process.
- 43.172.100 Small business bonding assistance program fund—
Expenditures.
- 43.172.110 Small business bonding assistance program fund—Support.
- 43.172.120 Gifts, grants, endowments.
- 43.172.900 Short title—1993 c 512.
- 43.172.901 Part headings and section captions—1993 c 512.
- 43.172.902 Severability—1993 c 512.
- 43.172.903 Effective date—1993 c 512.

Minority and women business development office: RCW 43.31.0925.

43.172.005 Intent. It is the intent of the legislature to combat discrimination in the economy.

(1) The legislature finds that discrimination is in part responsible for:

(a) The disproportionately small percentage of the state's businesses that are owned by minorities and women;

(b) The limited and unequal opportunity minority and women entrepreneurs and business owners have to procure small business financing; and

(c) The difficulty many minority and women-owned contracting businesses have in securing bonds and contract work.

(2) The legislature further finds that:

(a) Many minority and women entrepreneurs and business owners lack training in how to establish and operate a business. This lack of training inhibits their competitiveness when they apply for business loans, bonds, and contracts;

(b) Minorities and women are an increasingly expanding portion of the population and work force. In order for these individuals to fully contribute to the society and economy it is necessary to ensure that minority and women entrepreneurs and business owners are provided an equal opportunity to procure small business financing, bonds, and contracts; and

(c) The growth of small businesses will have a favorable impact on the Washington economy by creating jobs, increasing competition in the marketplace, and expanding tax revenues. Access to financial markets, bonds, and contracts by entrepreneurs and small business owners is vital to this process. Without reasonable access to financing, bonds, and contracts, talented and aggressive entrepreneurs and small business owners are cut out of the economic system and the state's economy suffers.

(3) Therefore, the legislature declares there to be a substantial public purpose in providing technical assistance in the areas of marketing, finance, and management, and access to capital resources, bonds, and contracts, to help start or expand a minority or women-owned business, and specifically to encourage and make possible greater participation by minorities and women in international trade, public works and construction, and public facility concessions. To accomplish these purposes, it is the intent of the legislature to:

(a) Develop or contract for training courses in financing, marketing, managing, accounting, and recordkeeping for a

small business and to make these programs available to minority and women entrepreneurs and small business owners;

(b) Make public works and construction projects, public facility concessions, and purchase of goods and services accessible to a greater number of minority and women-owned businesses;

(c) Provide for the lending of nonstate funds to qualified minority and women entrepreneurs and business owners in order to provide the maximum practicable opportunity for innovative minority and women entrepreneurs and business owners to compete for small business financing; and

(d) Provide professional services assistance grants and bond guarantees on behalf of qualified contractors in order to provide the maximum practicable opportunity for minority and women-owned contracting businesses to participate in the Washington state economy by bidding and completing various public and private contracting jobs. [1993 c 512 § 1.]

Linked deposit program: RCW 43.86A.060.

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

(1) "Minority" means persons of color, including African-Americans, Hispanic/Latino Americans, Native Americans, and Asian/Pacific Islanders Americans;

(2) "Minority and women-owned business" means any resident minority business enterprise or women's business enterprise, certified as such by the office of minority and women's business enterprises under chapter 39.19 RCW and consistent with subsection (1) of this section. [1993 c 512 § 2.]

43.172.011 Definitions—Bonding program. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.172.020 through 43.172.110.

(1) "Approved surety company" means a surety company approved by the department for participation in providing direct bonding assistance to qualified contractors.

(2) "Bond" means any bond or security required for bid, payment, or performance of contracts.

(3) "Department" means the department of community, trade, and economic development.

(4) "Program" means the Washington state small business bonding assistance program provided for in this chapter.

(5) "Qualified contractor" means any resident minority business enterprise or women's business enterprise, as determined by the department to be consistent with the requirements of chapter 39.19 RCW and engaged in the contracting business, which has obtained a certificate of accreditation from the Washington state small business bonding assistance program. [1995 c 399 § 96; 1993 c 512 § 16.]

43.172.020 Small business bonding assistance program—Implementation—Rules. There is established within the department the Washington state small business bonding assistance program to assist resident minority and

women-owned small contracting businesses to acquire the managerial and financial skills, standards, and assistance necessary to enable them to obtain bid, payment, and performance bonds from surety companies for either advertised or designated contracts. The department shall implement the program by establishing a course of instruction as set forth in RCW 43.172.040. The department shall encourage surety companies and other private interests to help implement this course of instruction to assist minority and women-owned small contracting businesses. The department shall adopt rules to ensure the proper implementation of the program set forth in this chapter. [1995 c 399 § 97; 1993 c 512 § 17.]

43.172.030 Assistance from other agencies. The department shall seek information, advice, and assistance from regional minority contractor organizations, and the United States small business administration and any other appropriate organization or agency.

The following departments, offices, and agencies shall, at the request of the department, provide information, advice, and assistance to the department:

- (1) The department of general administration;
- (2) The Washington state *business assistance center;
- (3) The office of the insurance commissioner;
- (4) The Washington state economic development finance authority; and
- (5) The office of minority and women's business enterprises. [1993 c 512 § 18.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

43.172.040 Entrepreneurial training course. The *business assistance center shall modify the entrepreneurial training course established in RCW 43.31.093 in order to provide instruction which is appropriate to the specific needs of contracting businesses. This course of instruction shall be available to resident minority and women-owned small business contractors. The instruction shall be intensive, practical training courses in financing, bidding for contracts, managing, accounting, and recordkeeping for a contracting business, with an emphasis on federal, state, local, or private programs available to assist small contractors. The *business assistance center shall appoint professional instructors, with practical knowledge and experience in the field of small business contracting, to teach those courses developed to meet the specific needs of contracting businesses. Instruction shall be offered in major population centers throughout the state at times and locations which are convenient for people in the contracting business. [1993 c 512 § 19.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

43.172.050 Entrepreneurial accreditation of small contracting businesses. Any resident minority or women-owned small business contractor may select a key management employee or employees to attend any course of instruction established under RCW 43.31.093. When the

records, maintained by the *business assistance center, indicate that a key management employee of a small contracting business has attended all the courses offered, and has successfully completed any tests required, the department shall award the small contracting business a certificate of accreditation which acknowledges successful completion of the courses. The department may also award a certificate of accreditation if a review of the key management employee's education, experience, and business history indicates that the business already possesses the knowledge and skills offered through the course of instruction, or if the key management employee successfully completes all tests required of those who attend the entrepreneurial training course. [1993 c 512 § 20.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

43.172.060 Professional services assistance—One-time grants. Any qualified contractor seeking a grant for professional services assistance may apply to the department. If approved, the department may enter into an agreement to provide a grant of up to two thousand five hundred dollars on behalf of a qualified contractor for the acquisition of the professional services of certified public accountants, construction management companies, or any other technical, surety, financial, or managerial professionals. This assistance is only available to a qualified contractor on a one-time basis. [1993 c 512 § 21.]

43.172.070 Grant administration. The department shall administer all grants issued to assist qualified contractors and shall monitor the performance of all grant recipients in order to provide such further assistance as is necessary to ensure that all program requirements are met and that the program's purpose is fulfilled. However, nothing in this chapter should be construed to restrict the rendering of program services to any qualified contractor over and above the services provided by the grant. [1993 c 512 § 22.]

43.172.080 Bond guarantees—Generally. If a qualified contractor makes a bond application to an approved surety company for a public or private contracting job, but fails to obtain the bond because the contractor is unable to meet the requirements of the surety company on such bonding contracts, for reasons other than nonperformance, and if the approved surety company applies to the department to have the bond guaranteed by the program, then the department may provide a bond guarantee of up to seventy-five thousand dollars on behalf of the qualified contractor. [1993 c 512 § 23.]

43.172.090 Bond guarantees—Approval process. Upon receipt of an approved surety company's application for a bond guarantee, the program supervisor shall review the application in order to verify that:

- (1) The bond being sought by the qualified contractor is needed;
- (2) The contracting job is within the qualified contractor's capability to perform; and

(3) The qualified contractor has not been denied a bond due to nonperformance.

Based upon subsections (1) through (3) of this section, the department shall either approve or disapprove the application. If the application is approved, the department has the authority to enter into a contract with the approved surety company. Under the terms of this contract the approved surety company shall enter into a contract with, and issue the required bond to, the qualified contractor at the standard fees and charges usually made by the company for the type and amount of the bond issued. The bond issued by the approved surety company shall be guaranteed by money in the program fund. The approved surety company shall also agree to make a reasonable, good faith effort to pursue and collect any claims it may have against a qualified contractor who defaults on a bond guaranteed by the program, including, but not limited to, the institution of legal proceedings against the defaulting contractor, prior to collecting on the guarantee. [1993 c 512 § 24.]

43.172.100 Small business bonding assistance program fund—Expenditures. The Washington state small business bonding assistance program fund is created in the state treasury. Any amounts appropriated, donated, or granted to the program shall be deposited and credited to the program fund. Moneys in the program fund may be spent only after appropriation. Expenditures from the program fund shall only be used as follows:

(1) To pay the implementation costs of the program provided for in this chapter;

(2) To be disbursed by the department to enable qualified contractors to obtain services provided for in this chapter; and

(3) To guarantee bonds issued pursuant to RCW 43.172.080 and 43.172.090 and to pay such bonds in the event of default by a qualified contractor.

However, the full faith and credit of the state of Washington shall not be used to secure the bonds and the state's liability shall be limited to the money appropriated by the legislature. [1993 c 512 § 25.]

43.172.110 Small business bonding assistance program fund—Support. The department shall solicit funds and support from surety companies and other public and private entities with an interest in assisting Washington's small business contractors and may enter into agreements with such companies and interests by which they provide funds to the program fund to be matched with funds from nonstate sources. [1993 c 512 § 26.]

43.172.120 Gifts, grants, endowments. The department may receive gifts, grants, and endowments from public or private sources that may be made from time to time, in trust or otherwise, for the use and benefit of the Washington state small business bonding assistance program and spend gifts, grants, endowments or any income from the public or private sources according to their terms. [1993 c 512 § 27.]

43.172.900 Short title—1993 c 512. This act may be known and cited as the omnibus minority and women-owned businesses assistance act. [1993 c 512 § 38.]

43.172.901 Part headings and section captions—1993 c 512. Part headings and section captions as used in this act do not constitute part of the law. [1993 c 512 § 40.]

43.172.902 Severability—1993 c 512. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 512 § 41.]

43.172.903 Effective date—1993 c 512. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993. [1993 c 512 § 42.]

Chapter 43.175

GOVERNOR'S SMALL BUSINESS IMPROVEMENT COUNCIL

Sections

- 43.175.010 Governor's small business improvement council—Established—Membership—Travel expenses—Staff support and administrative assistance.
- 43.175.020 Duties.
- 43.175.901 Severability—1984 c 282.

43.175.010 Governor's small business improvement council—Established—Membership—Travel expenses—Staff support and administrative assistance. (1) There is established the governor's small business improvement council to consist of at least fifteen but not more than thirty members, including one member of each caucus in the house of representatives and the senate, to be appointed by the governor. In making the appointments, the governor shall consider the recommendations of business organizations and persons operating small businesses, and provide for the representation of women or members of minority groups, and agribusiness concerns. The governor shall appoint ex officio nonvoting members to the council from the various state agencies with business assistance services or responsibilities. Members of the governor's small business improvement council shall be appointed for terms of four years, but the governor may modify the terms of the initial members as necessary to achieve staggered terms.

(2) Members of the governor's small business improvement council shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 subject to legislative appropriation.

(3) The office of the governor shall provide staff support and administrative assistance to the council. [1987 c 348 § 6; 1985 c 466 § 62; 1984 c 282 § 7.]

Legislative findings—1987 c 348: "The Washington state legislature finds that businesses are an integral part of the state's economy which promote economic development and are a primary source of employment opportunities for the state's citizens. The legislature further recognizes the ability of state government to assist businesses and especially small businesses by coordinating existing business programs and expanding effective business services." [1987 c 348 § 1.]

Office of small business abolished—Transfer of functions—References—1987 c 348: "The office of small business is hereby abolished and its powers, duties, and functions are hereby transferred to the business assistance center. All references to the office of small business in the

Revised Code of Washington shall be construed to mean the business assistance center." [1987 c 348 § 9.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

43.175.020 Duties. The governor's small business improvement council shall seek to: Identify regulatory, administrative, and legislative proposals that will improve the entrepreneurial environment for small businesses; and advise and comment on state business programs and the *business assistance center on program policies, and services to assist small businesses. In consultation with the *business assistance center and the appropriate standing committees of the senate and house of representatives, the governor's small business improvement council shall submit its proposals and recommendations to the governor and the legislature prior to the convening of each regular session of the legislature. [1987 c 348 § 7; 1985 c 466 § 63; 1984 c 282 § 8.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Legislative findings—1987 c 348: See note following RCW 43.175.010.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

43.175.901 Severability—1984 c 282. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 282 § 17.]

Chapter 43.180

HOUSING FINANCE COMMISSION

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43.180.010 Declaration of public policies—Purpose.

It is declared to be the public policy of the state and a recognized governmental function to assist in making affordable and decent housing available throughout the state and by so doing to contribute to the general welfare. Decent housing for the people of our state is a most important public concern. Interest rates and construction costs have made it impossible for many Washington citizens to purchase their own homes. Older people, disabled persons, and low and moderate income families often cannot afford to rent decent housing. There exists throughout the state a serious shortage of safe, sanitary and energy efficient housing available at prices within the financial means of our citizens. General economic development within the state is also impeded by a lack of affordable housing. The state's economy, which is dependent on the timber, wood products, and construction industries, has been damaged by inadequate investment in housing construction and rehabilitation. The result has been high unemployment and economic hardship affecting the prosperity of all the people of the state, particularly those in the wood products industry.

It is the purpose of this chapter to establish a state housing finance commission to act as a financial conduit which, without using public funds or lending the credit of the state or local government, can issue nonrecourse revenue bonds and thereby make additional funds available at affordable rates to help provide housing throughout the state. It is also a primary purpose of this chapter to encourage the use of Washington state forest products in residential construction. This chapter is enacted to accomplish these and related purposes and shall be liberally construed to carry out its purposes and objectives. [1983 c 161 § 1.]

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

(1) "Bonds" means the bonds, notes, or other evidences of indebtedness of the commission, the interest paid on which may or may not qualify for tax exemption.

(2) "Code" means the federal internal revenue code of 1954, as now or hereafter amended, and the regulations and rulings promulgated thereunder.

(3) "Commission" means the Washington state housing finance commission or any board, body, commission, department, or officer succeeding to the principal functions thereof or to whom the powers conferred upon the commission shall be given by law.

(4) "Costs of housing" means all costs related to the development, design, acquisition, construction, reconstruction, leasing, rehabilitation, and other improvements of housing, as determined by the commission.

(5) "Eligible person" means a person or family eligible in accordance with standards promulgated by the commission. Such persons shall include those persons whose income is insufficient to obtain at a reasonable cost, without financial assistance, decent, safe, and sanitary housing in the area in which the person or family resides, and may include such other persons whom the commission determines to be eligible.

(6) "Housing" means specific new, existing, or improved residential dwellings within this state or dwellings to be constructed within this state. The term includes land, buildings, and manufactured dwellings, and improvements, furnishings, and equipment, and such other nonhousing facilities, furnishings, equipment, and costs as may be incidental or appurtenant thereto if in the judgment of the commission the facilities, furnishings, equipment and costs are an integral part of the project. Housing may consist of single-family or multifamily dwellings in one or more structures located on contiguous or noncontiguous parcels or any combination thereof. Improvements may include such equipment and materials as are appropriate to accomplish energy efficiency within a dwelling. The term also includes a dwelling constructed by a person who occupies and owns the dwelling, and nursing homes licensed under chapter 18.51 RCW.

(7) "Mortgage" means a mortgage, mortgage deed, deed of trust, security agreement, or other instrument securing a mortgage loan and constituting a lien on or security interest in housing. The property may be held in fee simple or on a leasehold under a lease having a remaining term, at the time the mortgage is acquired, of not less than the term of repayment of the mortgage loan secured by the mortgage. The property may also be housing which is evidenced by an interest in a cooperative association or corporation if ownership of the interest entitles the owner of the interest to occupancy of a dwelling owned by the association or corporation.

(8) "Mortgage lender" means any of the following entities which customarily provide service or otherwise aid in the financing of housing and which are approved as a mortgage lender by the commission: A bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, mortgage company, credit union, life insurance company, or any other financial institution, governmental agency, municipal corporation, or any holding company for any of the entities specified in this subsection.

(9) "Mortgage loan" means an interest-bearing loan or a participation therein, made to a borrower, for the purpose of financing the costs of housing, evidenced by a promissory note, and which may or may not be secured (a) under a mortgage agreement, (b) under any other security agreement, regardless of whether the collateral is personal or real property, or (c) by insurance or a loan guarantee of a third party. However, an unsecured loan shall not be considered a mortgage loan under this definition unless the amount of the loan is under two thousand five hundred dollars. [1990 c 167 § 1; 1983 c 161 § 2.]

43.180.030 Bonds not debt of state. Bonds issued under this chapter shall be issued in the name of the commission. The bonds shall not be obligations of the state of Washington and shall be obligations only of the commission payable from the special fund or funds created by the commission for their payment. Such funds shall not be or constitute public moneys or funds of the state of Washington but at all times shall be kept segregated and set apart from other funds.

Bonds issued under this chapter shall contain a recital on their face to the effect that payment of the principal of, interest on, and prepayment premium, if any, on the bonds, shall be a valid claim only as against the special fund or funds relating thereto, that neither the faith and credit nor the taxing power of the state or any municipal corporation, subdivision, or agency of the state, other than the commission as set forth in this chapter, is pledged to the payment of the principal of, interest on, and prepayment premium, if any, on the bonds.

Contracts entered into by the commission shall be entered into in the name of the commission and not in the name of the state of Washington. The obligations of the commission under the contracts shall be obligations only of the commission and are not in any way obligations of the state of Washington. [1983 c 161 § 3.]

43.180.040 Commission created. (1) There is hereby established a public body corporate and politic, with perpetual corporate succession, to be known as the Washington state housing finance commission. The commission is an instrumentality of the state exercising essential government functions and, for purposes of the code, acts as a constituted authority on behalf of the state when it issues bonds pursuant to this chapter. The commission is a "public body" within the meaning of RCW 39.53.010.

(2) The commission shall consist of the following voting members:

- (a) The state treasurer, ex officio;
- (b) The director of community, trade, and economic development, ex officio;
- (c) An elected local government official, ex officio, with experience in local housing programs, who shall be appointed by the governor with the consent of the senate;
- (d) A representative of housing consumer interests, appointed by the governor with the consent of the senate;
- (e) A representative of labor interests, appointed by the governor, with the consent of the senate, after consultation with representatives of organized labor;
- (f) A representative of low-income persons, appointed by the governor with the consent of the senate;
- (g) Five members of the public appointed by the governor, with the consent of the senate, on the basis of geographic distribution and their expertise in housing, real estate, finance, energy efficiency, or construction, one of whom shall be appointed by the governor as chair of the commission and who shall serve on the commission and as chair of the commission at the pleasure of the governor.

The term of the persons appointed by the governor, other than the chair, shall be four years from the date of their appointment, except that the terms of three of the initial appointees shall be for two years from the date of their

appointment. The governor shall designate the appointees who will serve the two-year terms. An appointee may be removed by the governor for cause pursuant to RCW 43.06.070 and 43.06.080. The governor shall fill any vacancy in an appointed position by appointment for the remainder of the unexpired term. If the *department of community development is abolished, the resulting vacancy shall be filled by a state official who shall be appointed to the commission by the governor. If this official occupies an office or position for which senate confirmation is not required, then his or her appointment to the commission shall be subject to the consent of the senate. The members of the commission shall be compensated in accordance with RCW 43.03.240 and may be reimbursed, solely from the funds of the commission, for expenses incurred in the discharge of their duties under this chapter, subject to the provisions of RCW 43.03.050 and 43.03.060. A majority of the commission constitutes a quorum. Designees shall be appointed in such manner and shall exercise such powers as are specified by the rules of the commission.

(3) The commission may adopt an official seal and may select from its membership a vice chair, a secretary, and a treasurer. The commission shall establish rules concerning its exercise of the powers authorized by this chapter. The rules shall be adopted in conformance with chapter 34.05 RCW. [1995 c 399 § 98; 1985 c 6 § 14; 1984 c 287 § 90; 1983 c 161 § 4.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.180.050 Housing financing powers—Annual audit. (1) In addition to other powers and duties prescribed in this chapter, and in furtherance of the purposes of this chapter to provide decent, safe, sanitary, and affordable housing for eligible persons, the commission is empowered to:

- (a) Issue bonds in accordance with this chapter;
- (b) Invest in, purchase, or make commitments to purchase or take assignments from mortgage lenders of mortgages or mortgage loans;
- (c) Make loans to or deposits with mortgage lenders for the purpose of making mortgage loans; and
- (d) Participate fully in federal and other governmental programs and to take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs and to meet their requirements, including such actions as the commission considers appropriate in order to have the interest payments on its bonds and other obligations treated as tax exempt under the code.

(2) The commission shall establish eligibility standards for eligible persons, considering at least the following factors:

- (a) Income;
- (b) Family size;
- (c) Cost, condition and energy efficiency of available residential housing;
- (d) Availability of decent, safe, and sanitary housing;

(e) Age or infirmity; and

(f) Applicable federal, state, and local requirements.

The state auditor shall audit the books, records, and affairs of the commission annually to determine, among other things, if the use of bond proceeds complies with the general plan of housing finance objectives including compliance with the objective for the use of financing assistance for implementation of cost-effective energy efficiency measures in dwellings. [1986 c 264 § 1; 1983 c 161 § 5.]

43.180.060 No power of eminent domain or taxation. The commission does not have the power of eminent domain and the commission does not have the power to levy any taxes of any kind. [1983 c 161 § 6.]

43.180.070 Housing finance plan. The commission shall adopt a general plan of housing finance objectives to be implemented by the commission during the period of the plan. The commission shall adopt a plan no later than December 15, 1983. The commission may exercise the powers authorized under this chapter prior to the adoption of the initial plan. In developing the plan, the commission shall consider and set objectives for:

- (1) The use of funds for single-family and multifamily housing;
- (2) The use of funds for new construction, rehabilitation, including refinancing of existing debt, and home purchases;
- (3) The housing needs of low-income and moderate-income persons and families, and of elderly or mentally or physically handicapped persons;
- (4) The use of funds in coordination with federal, state, and local housing programs for low-income persons;
- (5) The use of funds in urban, rural, suburban, and special areas of the state;
- (6) The use of financing assistance to stabilize and upgrade declining urban neighborhoods;
- (7) The use of financing assistance for economically depressed areas, areas of minority concentration, reservations, and in mortgage-deficient areas;
- (8) The geographical distribution of bond proceeds so that the benefits of the housing programs provided under this chapter will be available to address demand on a fair basis throughout the state;
- (9) The use of financing assistance for implementation of cost-effective energy efficiency measures in dwellings.

The plan shall include an estimate of the amount of bonds the commission will issue during the term of the plan and how bond proceeds will be expended.

The plan shall be adopted by resolution of the commission following at least one public hearing thereon, notice of which shall be made by mailing to the clerk of the governing body of each county and by publication in the Washington State Register no more than forty and no less than twenty days prior to the hearing. A draft of the plan shall be made available not less than thirty days prior to any such public hearing. At least every two years, the commission shall report to the legislature regarding implementation of the plan.

Prior to December 31, 1983, the commission shall submit the plan to the chief clerk of the house and secretary of the senate for transmittal to and review by the appropriate

standing committees. The commission may periodically update the plan. Proposed changes of the plan shall be submitted to the chief clerk of the house and secretary of the senate for transmittal to and review by the appropriate standing committees. This submittal of proposed changes shall occur at least fourteen days before final adoption of the changes by the commission.

The commission shall adopt rules designed to result in the use of bond proceeds in a manner consistent with the plan. These rules shall be adopted and in full force and effect by February 1, 1984. The commission may periodically update its rules.

The commission is not required to adopt a plan or rules for the use of the proceeds of bonds issued prior to February, 1984. This section is designed to deal only with the use of bond proceeds and nothing in this section shall be construed as a limitation on the commission's authority to issue bonds. [1983 c 161 § 7.]

43.180.080 General powers. In addition to other powers and duties specified in this chapter, the commission may:

(1) Establish in resolutions relating to any issuance of bonds, or in any financing documents relating to such issuance, such standards and requirements applicable to the purchase of mortgages and mortgage loans or the making of loans to mortgage lenders as the commission deems necessary or desirable, including but not limited to: (a) The time within which mortgage lenders must make commitments and disbursements for mortgages or mortgage loans; (b) the location and other characteristics of single-family housing or multifamily housing to be financed by mortgages and mortgage loans; (c) the terms and conditions of mortgages and mortgage loans to be acquired; (d) the amounts and types of insurance coverage required on mortgages, mortgage loans, and bonds; (e) the representations and warranties of mortgage lenders confirming compliance with such standards and requirements; (f) restrictions as to interest rate and other terms of mortgages or mortgage loans or the return realized therefrom by mortgage lenders; (g) the type and amount of collateral security to be provided to assure repayment of any loans from the commission and to assure repayment of bonds; and (h) any other matters related to the purchase of mortgages or mortgage loans or the making of loans to lending institutions as shall be deemed relevant by the commission;

(2) Sue and be sued in its own name;

(3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its purposes or powers, including but not limited to contracts or agreements for the origination, servicing, and administration of mortgages or mortgage loans, and the borrowing of money;

(4) Procure such insurance, including but not limited to insurance: (a) Against any loss in connection with its property and other assets, including but not limited to mortgages or mortgage loans, in such amounts and from such insurers as the commission deems desirable, and (b) to indemnify members of the commission for acts done in the course of their duties;

(5) Provide for the investment of any funds, including funds held in reserve, not required for immediate disbursement, and provide for the selection of investments;

(6) Fix, revise, and collect fees and charges in connection with the investigation and financing of housing or in connection with assignments, contracts, purchases of mortgages or mortgage loans, or any other actions permitted under this chapter or by the commission; and receive grants and contributions;

(7) Make such expenditures as are appropriate for paying the administrative costs of the commission and for carrying out the provisions of this chapter. These expenditures may be made only from funds consisting of the commission's receipts from fees and charges, grants and contributions, the proceeds of bonds issued by the commission, and other revenues; these expenditures shall not be made from funds of the state of Washington;

(8) Establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;

(9) Conduct such investigations and feasibility studies as it deems appropriate;

(10) Proceed with foreclosure actions or accept deeds in lieu of foreclosure together with the assignments of leases and rentals incidental thereto. Any properties acquired by the commission through such actions shall be sold as soon as practicable through persons licensed under chapter 18.85 RCW or at public auction, or by transfer to a public agency. In preparation for the disposition of the properties, the commission may own, lease, clear, construct, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, or encumber the properties;

(11) Take assignments of leases and rentals;

(12) Subject to any provisions of the commission's contracts with the holders of obligations of the commission, consent to any modification with respect to rate of interest, time, and payment of any installment of principal or interest or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract, or agreement of any kind;

(13) Subject to provisions of the commission's contracts with the holders of bonds, permit the reduction of rental or carrying charges to persons unable to pay the regular rent or schedule of charges if, by reason of other income of the commission or by reason of payment by any department, agency, or instrumentality of the United States or of this state, the reduction can be made without jeopardizing the economic stability of the housing being financed;

(14) Sell, at public or private sale, with or without public bidding, any mortgage, mortgage loan, or other instrument or asset held by the commission;

(15) Employ, contract with, or engage engineers, architects, attorneys, financial advisors, bond underwriters, mortgage lenders, mortgage administrators, housing construction or financing experts, other technical or professional assistants, and such other personnel as are necessary. The commission may delegate to the appropriate persons the power to execute legal instruments on its behalf;

(16) Receive contributions or grants from any source unless otherwise prohibited;

(17) Delegate any of its powers and duties if consistent with the purposes of this chapter;

(18) Exercise any other power reasonably required to implement the purposes of this chapter. [1983 c 161 § 8.]

43.180.090 Selection of bond counsel—Written policies to be adopted. (1) The commission shall adopt written policies to provide for the selection of bond counsel. The policies shall provide for the creation and maintenance of a roster of attorneys whom the commission believes possess the requisite special expertise and professional standing to provide bond counsel opinions which would be accepted by the underwriters, bondholders, and other members of the financial community, and which would be in furtherance of the public interest in obtaining the lowest possible interest rates on the bonds issued by the commission. Any attorney may apply to have his or her name placed on the roster, but may not be placed on the roster unless the attorney demonstrates to the commission's satisfaction that the attorney would issue the kind of opinions required by this section.

(2) Prior to selecting an attorney or attorneys to provide bond counsel services, the commission shall provide all attorneys on the roster with a notice of its intentions to select bond counsel and shall invite each of them to submit to the commission his or her fee schedule for providing bond counsel services. The commission shall have wide discretion in selecting the attorney or attorneys it considers to be most appropriate to provide the services, but in the exercise of this discretion the commission shall consider all submitted fee schedules and the public interest in achieving both savings in bond counsel fees and issuance of bonds on terms most favorable to the commission. At least once every two calendar years, the commission shall select anew an attorney or attorneys to serve as bond counsel. However, the commission may retain an attorney for longer than two years when necessary to complete work on a particular bond issue. An attorney previously retained may be selected again but only after the commission has provided other attorneys on the roster with an opportunity to be selected and has made the fee schedule review required under this subsection. In addition to or as an alternative to retaining counsel for a period of time, the commission may appoint an attorney to serve as counsel in respect to only a particular bond issue. [1983 c 161 § 9.]

43.180.100 Selection of underwriters—Written policies to be adopted. (1) The commission shall adopt written policies to provide for the selection of underwriters. The policies shall provide for the creation of a roster of underwriters whom the commission believes possess the requisite special expertise and professional standing to provide bond marketing services which would be accepted by bondholders and other members of the financial community, and which would be in furtherance of the public interest in marketing the commission's bonds at the lowest possible costs. Any underwriter may apply to have its name placed on the roster, but may not be placed on the roster unless it demonstrates to the commission's satisfaction that it meets the requirements of this section.

(2) Whenever the commission decides that it needs the services of an underwriter, it shall provide all underwriters on the roster with a notice of its intentions and shall invite

each of them to submit to the commission an itemization of its fees and other charges for providing underwriting services on the issue. The itemization shall be by categories designed by the commission. The commission shall have wide discretion in selecting the underwriter it considers to be most appropriate to provide the services, but in the exercise of this discretion the commission shall consider the underwriter's fees and other charges and the public interest in achieving both savings in the total costs of underwriting services and issuance of bonds on terms most favorable to the commission. [1983 c 161 § 10.]

43.180.110 Review of initial policies adopted under RCW 43.180.090 and 43.180.100—Adoption—Change. The commission shall submit the initial policies adopted under RCW 43.180.090 and 43.180.100 to the chief clerk of the house and the secretary of the senate for transmittal to and review by the appropriate standing committees and the joint administrative rules review committee. By January 1, 1984 the commission shall have adopted policies in the form of rules and regulations under chapter 34.05 RCW. Such rules and regulations may only be changed or revised in accordance with chapter 34.05 RCW. [1983 c 161 § 11.]

43.180.120 Rules for fair allocation of bond proceeds for nonrental single family housing. The legislature recognizes that the demand for mortgage loans for nonrental single family housing will probably greatly exceed the supply of bond proceeds available to satisfy the demand. Therefore, the commission shall adopt rules providing procedures to assure that the bond proceeds available for that kind of housing shall be made available to qualified mortgagors in a fair and equitable manner. [1983 c 161 § 12.]

43.180.130 Protection of bondholders—Mortgage insurance. The commission is encouraged to adopt policies which will assure that bondholders will be protected against the failure to make mortgage payments financed under this chapter. Such policies may require, among other things, mortgage insurance. [1983 c 161 § 13.]

43.180.140 Rules for energy efficiency. The commission shall adopt rules providing for financing assistance to implement cost-effective energy efficiency improvements. [1983 c 161 § 14.]

43.180.150 Bond issues—Terms—Issuance—Purchase, etc. (1) The commission's bonds shall bear such date or dates, mature at such time or times, be in such denominations, be in such form, be registered or registrable in such manner, be made transferable, exchangeable, and interchangeable, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, bear such fixed or variable rate or rates of interest, be payable at such time or times, and be sold in such manner and at such price or prices, as the commission determines. The bonds shall be executed by the chair, by either its duly elected secretary or its treasurer, and by the trustee or paying agent if the commission determines to use a trustee or paying agent for the bonds. Execution of the bonds may be by manual or facsimile signature.

(2) The bonds of the commission shall be subject to such terms, conditions, covenants, and protective provisions as are found necessary or desirable by the commission, including, but not limited to, pledges of the commission's assets, setting aside of reserves, limitations on additional forms of indebtedness, and the mortgaging of all or any part of the commission's real or personal property, then owned or thereafter acquired, and other provisions the commission finds are necessary or desirable for the security of bond holders.

(3) Any security interest created in the unexpended bond proceeds and in the special funds created by the commission shall be immediately valid and binding against such moneys and any securities in which such moneys may be invested without commission or trustee possession thereof, and the security interest shall be prior to any party having any competing claim in such moneys or securities, without filing or recording pursuant to chapter 62A.9 RCW and regardless of whether the party has notice of the security interest.

(4) When issuing bonds, the commission may provide for the future issuance of additional bonds or parity debt on a parity with outstanding bonds, and the terms and conditions of their issuance. The commission may refund or advance refund any bond of the commission in accordance with chapter 39.53 RCW or issue bonds with a subordinate lien against the fund or funds securing outstanding bonds.

(5) The chair of the state finance committee or the chair's designee shall be notified in advance of the issuance of bonds by the commission in order to promote the orderly offering of obligations in the financial markets.

(6) The members of the commission and any person executing the bonds are not liable personally on the indebtedness or subject to any personal liability or accountability by reason of the issuance thereof.

(7) The commission may, out of any fund available therefor, purchase its bonds in the open market. [1983 c 161 § 15.]

43.180.160 Debt limitation. The total amount of outstanding indebtedness of the commission may not exceed two billion dollars at any time. The calculation of outstanding indebtedness shall include the initial principal amount of an issue and shall not include interest that is either currently payable or that accrues as a part of the face amount of an issue payable at maturity or earlier redemption. Outstanding indebtedness shall not include notes or bonds as to which the obligation of the commission has been satisfied and discharged by refunding or for which payment has been provided by reserves or otherwise. [1996 c 310 § 2; 1986 c 264 § 2; 1983 c 161 § 16.]

43.180.170 Bond issues—Disposition of proceeds—Special fund. Proceeds from the sale of all bonds issued under this chapter received by the commission shall be deposited forthwith by the commission in any trust company, savings bank, savings and loan association, or bank having the powers of a trust company within or without the state, in a special fund or funds established for the particular purposes for which the bonds were issued and sold, which money shall not be funds of the state of Washington. Such fund or funds shall at all times be segregated and set apart from all

other funds and held in trust for the purposes for which such bonds were issued as determined by the commission. Money other than bond sale proceeds received by the commission for these same purposes, such as private contributions or grants from the federal government, may be deposited in such fund or funds. Proceeds received from the sale of the bonds may also be used to defray the expenses of the commission in connection with and incidental to the issuance and sale of bonds, as well as expenses for studies, surveys, estimates, plans, inspections, and examinations of or incidental to the purposes for which the bonds were issued, and other costs advanced therefor by third parties or by the commission. In lieu of the commission receiving and handling these moneys in the manner outlined in this section, the commission may appoint trustees, depositories, paying agents, and other financial institutions within or without the state to perform the functions outlined and to receive, hold, disburse, invest, and reinvest such funds on its behalf and for the protection of the bondholders. [1983 c 161 § 17.]

43.180.180 Bond issues—Disposition of revenues—Special trust fund. All revenues received by the commission including funds received from contributions or grants or in any other form to pay principal of and interest on bonds or for other bond requirements such as reserves shall be deposited by the commission in any trust company, savings bank, savings and loan association, or bank having the powers of a trust company within or without the state, to the credit of a special trust fund or funds. The commission may establish a bond fund or funds, and a reserve, sinking fund and other accounts therein, for payment of principal and interest and for other special requirements of the bonds as determined by the commission. In lieu of the commission receiving and handling these moneys as outlined in this section, the commission may appoint trustees, depositories, paying agents, and other financial institutions to perform the functions outlined and to receive, hold, disburse, invest, and reinvest such funds on its behalf and for the protection of the bondholders. Such revenues and funds, whether received and held by the commission or by others on its behalf, shall not be or constitute public funds of the state of Washington but at all times shall be kept segregated and apart from all other funds. [1983 c 161 § 18.]

43.180.190 Legal investments. Bonds issued under this chapter are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in obligations of the state may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivisions of the state for any purpose for which the deposit of bonds and other obligations of the state are now or may hereafter be authorized by law. [1983 c 161 § 19.]

43.180.200 Internal revenue code. For purposes of the code:

(1) The legislature reserves the right at any time to alter or change the structure, organization, programs, or activities of the commission and to terminate the commission, so long as the action does not impair any outstanding contracts entered into by the commission;

(2) Any net earnings of the commission beyond that necessary to retire its bonds and to carry out the purposes of this chapter shall not inure to the benefit of any person other than the state;

(3) Upon dissolution of the commission, title to all of its remaining property shall vest in the state;

(4) The commission constitutes the only housing finance agency of the state of Washington; and

(5) In order to take advantage of the maximum amount of tax exempt bonds for housing financing available pursuant to the code, any state ceiling with respect to housing shall be allocated in accordance with the following formula:

(a) Eighty percent of the state ceiling shall be allocated to the commission and twenty percent shall be allocated to the other issuing authorities in the state.

(b) The allocation to the issuing authorities other than the commission shall be distributed to such issuing authorities in amounts as determined following public notice by the department of community, trade, and economic development pursuant to rules promulgated by it. The distribution shall be in response to applications received from such issuing authorities and shall be based on the following factors: (i) The amount of housing to be made available by such applicant; (ii) the population within the jurisdiction of the applicant; (iii) coordination with other applicable federal and state housing programs; (iv) the likelihood of implementing the proposed financing during that year; and (v) consistency with the plan of the commission. On or before February 1 of each year, the department of community, trade, and economic development shall distribute the state ceiling allocation among such issuing authorities and any unused portion shall be added to the allocation of the commission. Each issuing authority other than the commission shall confirm its allocation distribution by providing to the department of community, trade, and economic development no later than June 1 a copy of an executed bond purchase contract or alternative documentation deemed sufficient by the commission to evidence the reasonable likelihood of the allocation distribution being fully used. Any portion of such allocation not so confirmed shall be added to the allocation of the commission on July 1. Prior to July 1, the commission shall provide written notice of the allocation decrease to the affected issuing authority. The reallocation shall not limit the authority of the commission to assign a portion of its allocation pursuant to subsection (5)(c) of this section.

(c) The commission may assign a portion of its allocation to another issuing agency. [1995 c 399 § 99; 1986 c 264 § 3; 1985 c 6 § 15; 1984 c 28 § 1; 1983 c 161 § 20.]

43.180.220 Housing finance program—Mortgage financing—Investments—Flexible loan underwriting guidelines. The commission, in cooperation with the department of community, trade, and economic development,

and the state investment board, shall develop and implement a housing finance program that:

(1) Provides subsidized or unsubsidized mortgage financing for single-family home ownership, including a single condominium unit, located in the state of Washington;

(2) Requests the state investment board to make investments, within its policies and investment guidelines, in mortgage-backed securities that are collateralized by loans made within the state of Washington; and

(3) Provides flexible loan underwriting guidelines, including but not limited to provisions that will allow reduced downpayment requirements for the purchaser. [1994 c 235 § 1.]

Severability—1994 c 235: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 235 § 4.]

43.180.230 Housing finance program—Program elements. The housing finance program developed under RCW 43.180.220 shall:

(1) Be limited to borrowers with incomes that do not exceed one hundred fifteen percent of the state or county median family income, whichever is higher, adjusted for family size;

(2) Be limited to first-time home buyers as defined in RCW 43.185A.010;

(3) Be targeted so that priority is given to low-income households as defined in RCW 43.185A.010;

(4) To the extent funds are made available, provide either downpayment or closing costs assistance to households eligible for assistance under chapter 43.185A RCW and this chapter; and

(5) Provide notification to active participants of the state retirement systems managed by the department of retirement systems under chapter 41.50 RCW. [1994 c 235 § 2.]

Severability—1994 c 235: See note following RCW 43.180.220.

43.180.240 Housing finance program—Report to legislature annually—Implementation. (1) The commission shall submit to the legislature in its annual report a summary of the progress of the housing finance program developed under RCW 43.180.220. The report shall include, but not be limited to the number of loans made and location of property financed under RCW 43.180.220 and 43.180.230.

(2) The commission shall take such steps as are necessary to ensure that RCW 43.180.220 and 43.180.230 are implemented on June 9, 1994. [1994 c 235 § 3.]

Severability—1994 c 235: See note following RCW 43.180.220.

NONPROFIT CORPORATION FACILITIES

43.180.300 Definitions. As used in RCW 43.180.310 through 43.180.360, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Construction" or "construct" means construction and acquisition, whether by device, purchase, gift, lease, or otherwise.

(2) "Facilities" means land, rights in land, buildings, structures, equipment, landscaping, utilities, approaches,

roadways and parking, handling and storage areas, and similar ancillary facilities.

(3) "Financing document" means a lease, sublease, installment sale agreement, conditional sale agreement, loan agreement, mortgage, deed of trust guaranty agreement, or other agreement for the purpose of providing funds to pay or secure debt service on revenue bonds.

(4) "Improvement" means reconstruction, remodeling, rehabilitation, extension, and enlargement. "To improve" means to reconstruct, to remodel, to rehabilitate, to extend, and to enlarge.

(5) "Nonprofit corporation" means a nonprofit corporation described under section 501(c)(3) of the Internal Revenue Code, or similar successor provisions.

(6) "Nonprofit facilities" means facilities owned or used by a nonprofit corporation for any nonprofit activity described under section 501(c)(3) of the Internal Revenue Code that qualifies such a corporation for an exemption from federal income taxes under section 501(a) of the Internal Revenue Code, or similar successor provisions provided that facilities which may be funded pursuant to chapter 28B.07, 35.82, 43.180, or 70.37 RCW shall not be included in this definition.

(7) "Project costs" means costs of (a) acquisition, construction, and improvement of any facilities included in a nonprofit facility; (b) architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, and construction of a nonprofit facility, including costs of studies assessing the feasibility of a nonprofit facility; (c) finance costs, including discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any trust agreement; (d) interest during construction and during the six months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves; (e) the refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and (f) other costs incidental to any of the costs listed in this section.

(8) "Revenue bond" means a taxable or tax-exempt nonrecourse revenue bond, nonrecourse revenue note, or other nonrecourse revenue obligation issued for the purpose of providing financing to a nonprofit corporation on an interim or permanent basis.

(9) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and may include a party who transfers the right of use and occupancy to another party by lease, sublease, or otherwise. [1990 c 167 § 2.]

43.180.310 Commission powers. The commission has the following powers with respect to nonprofit facilities together with all powers incidental thereto or necessary for the performance thereof:

(1) To make secured loans to nonprofit corporations for the purpose of providing temporary or permanent financing or refinancing of all or part of the project cost of any nonprofit facility, including the refunding of any outstanding obligations, mortgages, or advances issued, made, or given by any person for the project costs of a nonprofit corporation; and to charge and collect interest on the loans for the loan payments upon such terms and conditions as its

commissioners consider advisable which are not in conflict with this subchapter;

(2) To issue revenue bonds for the purpose of financing all or part of the project cost of any nonprofit facility and to secure the payment of the revenue bonds as provided in this subchapter;

(3) To collect fees or charges from users or prospective users of nonprofit facilities to recover actual or anticipated administrative costs;

(4) To execute financing documents incidental to the powers enumerated in this section;

(5) To accept grants and gifts;

(6) To establish such special funds with any financial institution providing fiduciary services within or without the state as it deems necessary and appropriate and invest money therein. [1990 c 167 § 3.]

43.180.320 Revenue bonds. (1) The proceeds of the revenue bonds of each issue shall be used solely for the purposes set forth in this subchapter and shall be disbursed in such manner and under such restrictions, if any, provided in the resolution authorizing the issuance of the revenue bonds or in the trust agreement securing the bonds. If the proceeds of the revenue bonds of any series issued with respect to the cost of any nonprofit facility exceeds the cost of the nonprofit facility for which issued, the surplus shall be deposited to the credit of the debt service fund for the revenue bonds or used to purchase the revenue bonds in the open market.

(2) The commission may issue interim notes in the manner provided for the issuance of revenue bonds to fund nonprofit facilities prior to issuing other revenue bonds to fund such facilities. The commission may issue revenue bonds to fund nonprofit facilities that are exchangeable for other revenue bonds, when these other revenue bonds are executed and available for delivery.

(3) The principal of and interest on any revenue bonds issued by the commission shall be secured by a pledge of unexpended bond proceeds and the revenues and receipts derived from the nonprofit facilities funded by the revenue bonds pursuant to financing documents. The resolution under which the revenue bonds are authorized to be issued and any financing document may contain agreements and provisions respecting the maintenance or use of the nonprofit facility covered thereby, the fixing and collection of rents, purchase price payments or loan payments, the creation and maintenance of special funds from such revenues or from revenue bond proceeds, the rights and remedies available in the event of default, and other provisions relating to the security for the bonds, all as the commission considers advisable which are not in conflict with this subchapter.

(4) All revenue bonds issued under this subchapter and any interest coupons applicable thereto are negotiable instruments within the meaning of Article 8 of the uniform commercial code, Title 62A RCW, regardless of form or character.

(5) Notwithstanding subsection (1) of this section, such bonds and interim notes may be issued and sold in accordance with chapter 39.46 RCW. [1990 c 167 § 4.]

43.180.330 Revenue refunding bonds. The commission may provide by resolution for the issuance of revenue refunding bonds for the purpose of refunding any obligations issued for a nonprofit facility, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption or maturity of the revenue bonds and, if considered advisable by the commission, for the additional purpose of financing improvements, extensions, or enlargements to the nonprofit facility for another nonprofit facility. The issuance of the revenue refunding bonds, the maturities and other details thereof, the rights of the owners thereof, and the rights, duties, and obligations of the commission in respect to the same shall be governed by this chapter insofar as applicable. [1990 c 167 § 5.]

43.180.340 Trust agreements. Any bonds issued under this subchapter may be secured by a trust agreement between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. The trust agreement may evidence a pledge or assignment of the financing documents and lease, sale, or loan revenues to be received from a lessee or purchaser of or borrower with respect to a nonprofit facility for the payment of principal of and interest and any premium on the bonds as the same shall become due and payable and may provide for creation and maintenance of reserves for these purposes. A trust agreement or resolution providing for the issuance of the revenue bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondowners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties in relation to the acquisition of property and the construction, improvement, maintenance, use, repair, operation, and insurance of the nonprofit facility for which the bonds are authorized, and the custody, safeguarding, and application of all money. Any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of revenue bonds or of revenues may furnish such indemnifying bonds or pledge such securities as may be required by the commission. A trust agreement may set forth the rights and remedies of the bondowners and of the trustee and may restrict the individual right of action by bondowners as is customary in trust agreements or trust indentures securing bonds and debentures of private corporations. In addition, a trust agreement may contain such provisions as the commission considers reasonable and proper for the security of the bondowners which are not in conflict with this subchapter. [1990 c 167 § 6.]

43.180.350 Lessees or assignees. A lessee or contracting party under a sale contract or loan agreement shall not be required to be the eventual user of a nonprofit facility if any sublessee or assignee assumes all of the obligations of the lessee or contracting party under the lease, sale contract, or loan agreement, but the lessee or contracting party or their successors shall remain primarily liable for all of its obligations under the lease, sale contract, or loan agreement and the use of the nonprofit facility shall be consistent with the purposes of this subchapter. [1990 c 167 § 7.]

43.180.360 Default. The proceedings authorizing any revenue bonds under this subchapter or any financing document securing the revenue bonds may provide that if there is a default in the payment of the principal of or the interest on the bonds or in the performance of any agreement contained in the proceedings or financing document, the payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan repayments, and to apply the revenues from the nonprofit facility in accordance with the proceedings or provisions of the financing document. Any financing document entered into under this subchapter may also provide that if there is a default in the payment thereof or a violation of any agreement contained in the financing document, the nonprofit facility may be foreclosed and sold under proceedings in equity or in any other manner now or hereafter permitted by law. Any financing document may also provide that any trustee under the financing document or the holder of any revenue bonds secured thereby may become the purchaser at any foreclosure sale if it is the highest bidder. [1990 c 167 § 8.]

43.180.900 Conflict with federal requirements. If any part of this chapter is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this chapter is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The rules under this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1983 c 161 § 21.]

43.180.901 Liberal construction. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof. [1983 c 161 § 23.]

43.180.902 Captions not part of law. As used in this chapter and RCW 82.04.408, section captions constitute no part of the law. [1983 c 161 § 24.]

43.180.903 Severability—1983 c 161. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 c 161 § 31.]

43.180.904 Effective dates—1983 c 161. (1) Except as provided in subsection (2) of this section, this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

(2) Section 10 of this act shall take effect on January 1, 1984. [1983 c 161 § 32.]

Reviser's note: "Section 10 of this act" consists of the enactment of RCW 43.180.100. With the exception of section 10, the effective date of this act is May 11, 1983.

Chapter 43.185

HOUSING ASSISTANCE PROGRAM

Sections

- 43.185.010 Findings.
- 43.185.015 Housing assistance program.
- 43.185.020 Definitions.
- 43.185.030 Washington housing trust fund.
- 43.185.050 Use of moneys for loans and grant projects to provide housing—Eligible activities.
- 43.185.060 Eligible organizations.
- 43.185.070 Notice of grant and loan application period—Priorities—Criteria for evaluation.
- 43.185.074 Low-income housing grants and loans—Applications.
- 43.185.076 Low-income housing grants and loans—Approval—License education programs.
- 43.185.080 Preconstruction technical assistance.
- 43.185.090 Compliance monitoring.
- 43.185.100 Rule-making authority.
- 43.185.110 Affordable housing advisory board—State housing needs.
- 43.185.120 Protection of state's interest.
- 43.185.900 Severability—1986 c 298.
- 43.185.910 Conflict with federal requirements—1991 c 356.
- 43.185.911 Severability—1991 c 356.

Donations of surplus state property: RCW 43.19.1920.

Funding: RCW 43.79.201 and 79.01.007.

43.185.010 Findings. The legislature finds that current economic conditions, federal housing policies and declining resources at the federal, state, and local level adversely affect the ability of low and very low-income persons to obtain safe, decent, and affordable housing.

The legislature further finds that members of over one hundred twenty thousand households live in housing units which are overcrowded, lack plumbing, are otherwise threatening to health and safety, and have rents and utility payments which exceed thirty percent of their income.

The legislature further finds that minorities, rural households, and migrant farm workers require housing assistance at a rate which significantly exceeds their proportion of the general population.

The legislature further finds that one of the most dramatic housing needs is that of persons needing special housing-related services, such as the mentally ill, recovering alcoholics, frail elderly persons, families with members who have disabilities, and single parents. These services include medical assistance, counseling, chore services, and child care.

The legislature further finds that housing assistance programs in the past have often failed to help those in greatest need.

The legislature declares that it is in the public interest to establish a continuously renewable resource known as the housing trust fund and housing assistance program to assist low and very low-income citizens in meeting their basic housing needs, and that the needs of very low-income citizens should be given priority and that whenever feasible, assistance should be in the form of loans. [1991 c 356 § 1; 1986 c 298 § 1.]

43.185.015 Housing assistance program. There is created within the department the housing assistance program to carry out the purposes of this chapter. [1995 c 399 § 100; 1991 c 356 § 2.]

43.185.020 Definitions. "Department" means the department of community, trade, and economic development. "Director" means the director of the department of community, trade, and economic development. [1995 c 399 § 101; 1986 c 298 § 3.]

43.185.030 Washington housing trust fund. There is hereby created in the state treasury an account to be known as the Washington housing trust fund. The housing trust fund shall include revenue from the sources established by this chapter, appropriations by the legislature, private contributions, repayment of loans, and all other sources. [1991 sp.s. c 13 § 87; 1991 c 356 § 3; 1987 c 513 § 6; 1986 c 298 § 2.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—Severability—1987 c 513: See notes following RCW 18.85.310.

Distribution of interest from real estate brokers' trust accounts: RCW 18.85.310.

43.185.050 Use of moneys for loans and grant projects to provide housing—Eligible activities. (1) The department shall use moneys from the housing trust fund and other legislative appropriations to finance in whole or in part any loans or grant projects that will provide housing for persons and families with special housing needs and with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located. At least thirty percent of these moneys used in any given funding cycle shall be for the benefit of projects located in rural areas of the state as defined by the department. If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department may allocate unused moneys for projects in nonrural areas of the state.

(2) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of low and very low-income housing units;

(b) Rent subsidies;

(c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;

(d) Technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;

(e) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;

(f) Shelters and related services for the homeless;

(g) Mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;

(h) Mortgage insurance guarantee or payments for eligible projects;

(i) Down payment or closing cost assistance for eligible first-time home buyers;

(j) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing; and

(k) Projects making housing more accessible to families with members who have disabilities.

(3) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2) (a), (i), and (j) of this section, and not for the administrative costs of the department.

(4) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the housing assistance program except for activities authorized under subsection (2) (b) and (c) of this section.

(5) Administrative costs of the department shall not exceed four percent of the annual funds available for the housing assistance program. [1994 c 160 § 1; 1991 c 356 § 4; 1986 c 298 § 6.]

43.185.060 Eligible organizations. Organizations that may receive assistance from the department under this chapter are local governments, local housing authorities, regional support networks established under chapter 71.24 RCW, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or state-wide nonprofit housing assistance organizations.

Eligibility for assistance from the department under this chapter also requires compliance with the revenue and taxation laws, as applicable to the recipient, at the time the grant is made. [1994 c 160 § 2; 1991 c 295 § 1; 1986 c 298 § 7.]

43.185.070 Notice of grant and loan application period—Priorities—Criteria for evaluation. (1) During each calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the housing assistance program, the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department. Administrative costs paid out of the housing trust fund may not exceed four percent of annual revenues available for distribution to housing trust fund projects. In awarding funds under this chapter, the department shall provide for a geographic distribution on a state-wide basis.

(2) The department shall give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a

federal agency through a default on the mortgage by the private owner. Such projects and activities shall be evaluated under subsection (3) of this section. Second priority shall be given to activities and projects which utilize existing publicly owned housing stock. All projects and activities shall be evaluated by some or all of the criteria under subsection (3) of this section, and similar projects and activities shall be evaluated under the same criteria.

(3) The department shall give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities shall be evaluated under the same criteria:

(a) The degree of leveraging of other funds that will occur;

(b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;

(c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Local government project contributions in the form of infrastructure improvements, and others;

(e) Projects that encourage ownership, management, and other project-related responsibility opportunities;

(f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least twenty-five years;

(g) The applicant has the demonstrated ability, stability and resources to implement the project;

(h) Projects which demonstrate serving the greatest need;

(i) Projects that provide housing for persons and families with the lowest incomes;

(j) Projects serving special needs populations which are under statutory mandate to develop community housing;

(k) Project location and access to employment centers in the region or area;

(l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in RCW 50.72.020; and

(m) Project location and access to available public transportation services.

(4) The department shall only approve applications for projects for mentally ill persons that are consistent with a regional support network six-year capital and operating plan. [1994 sp.s. c 3 § 9. Prior: 1991 c 356 § 5; 1991 c 295 § 2; 1988 c 286 § 1; 1986 c 298 § 8.]

43.185.074 Low-income housing grants and loans—Applications. The director shall designate grant and loan applications for approval and for funding under the revenue from remittances made pursuant to RCW 18.85.310. These applications shall then be reviewed for final approval by the broker's trust account board created by *RCW 18.85.500.

The director shall submit to the broker's trust account board within any fiscal year only such applications which in their aggregate total funding requirements do not exceed the revenue to the housing trust found from remittances made pursuant to RCW 18.85.310 for the previous fiscal year. [1987 c 513 § 11. Formerly RCW 18.85.505.]

*Reviser's note: RCW 18.85.500 was repealed by 1994 sp.s. c 9 § 857, effective July 1, 1994.

Effective date—Severability—1987 c 513: See notes following RCW 18.85.310.

43.185.076 Low-income housing grants and loans—Approval—License education programs. The broker's trust account board shall review grant and loan applications placed before it by the director for final approval pursuant to RCW 43.185.074.

The decisions of the board shall be subject to the provisions of RCW 43.185.050, 43.185.060, and 43.185.070 with regard to eligible activities, eligible recipients, and criteria for evaluation.

The broker's trust account board shall serve in an advisory capacity to the real estate commission with regard to licensee education programs established pursuant to RCW 18.85.040 and 18.85.220. [1988 c 286 § 3; 1987 c 513 § 10. Formerly RCW 18.85.510.]

Effective date—Severability—1987 c 513: See notes following RCW 18.85.310.

43.185.080 Preconstruction technical assistance. (1) The department may use moneys from the housing trust fund and other legislative appropriations, but not appropriations from capital bond proceeds, to provide preconstruction technical assistance to eligible recipients seeking to construct, rehabilitate, or finance housing-related services for very low and low-income persons. The department shall emphasize providing preconstruction technical assistance services to rural areas and small cities and towns. The department may contract with nonprofit organizations to provide this technical assistance. The department may contract for any of the following services:

- (a) Financial planning and packaging for housing projects, including alternative ownership programs, such as limited equity partnerships and syndications;
- (b) Project design, architectural planning, and siting;
- (c) Compliance with planning requirements;
- (d) Securing matching resources for project development;
- (e) Maximizing local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, locally and state-managed funds, zoning variances, or creative local planning;
- (f) Coordination with local planning, economic development, and environmental, social service, and recreational activities;
- (g) Construction and materials management; and
- (h) Project maintenance and management.

(2) The department shall publish requests for proposals which specify contract performance standards, award criteria, and contractor requirements. In evaluating proposals, the department shall consider the ability of the contractor to provide technical assistance to low and very low-income persons and to persons with special housing needs. [1991 c 356 § 6; 1986 c 298 § 9.]

43.185.090 Compliance monitoring. The director shall monitor the activities of recipients of grants and loans under this chapter to determine compliance with the terms

and conditions set forth in its application or stated by the department in connection with the grant or loan. [1986 c 298 § 10.]

43.185.100 Rule-making authority. The department shall have the authority to promulgate rules pursuant to chapter 34.05 RCW, regarding the grant and loan process, and the substance of eligible projects, consistent with this chapter. The department shall consider the recommendations of cities and counties regarding how the funds shall be used in their geographic areas. [1987 c 513 § 2; 1986 c 298 § 11.]

Effective date—Severability—1987 c 513: See notes following RCW 18.85.310.

43.185.110 Affordable housing advisory board—State housing needs. The affordable housing advisory board established in RCW 43.185B.020 shall advise the director on housing needs in this state, including housing needs for persons who are mentally ill or developmentally disabled or youth who are blind or deaf or otherwise disabled, operational aspects of the grant and loan program or revenue collection programs established by this chapter, and implementation of the policy and goals of this chapter. Such advice shall be consistent with policies and plans developed by regional support networks according to chapter 71.24 RCW for the mentally ill and the developmental disabilities planning council for the developmentally disabled. [1993 c 478 § 15; 1991 c 204 § 4; 1987 c 513 § 3.]

Effective date—Severability—1987 c 513: See notes following RCW 18.85.310.

43.185.120 Protection of state's interest. The department shall adopt policies to ensure that the state's interest will be protected upon either the sale or change of use of projects financed in whole or in part under RCW 43.185.050(2) (a), (i), and (j). These policies may include, but are not limited to: (1) Requiring a share of the appreciation in the project in proportion to the state's contribution to the project; (2) requiring a lump-sum repayment of the loan or grant upon the sale or change of use of the project; or (3) requiring a deferred payment of principal or principal and interest on loans after a specified time period. [1991 c 356 § 7.]

43.185.900 Severability—1986 c 298. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1986 c 298 § 13.]

43.185.910 Conflict with federal requirements—1991 c 356. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements

which are a necessary condition to the receipt of federal funds by the state. [1991 c 356 § 8.]

43.185.911 Severability—1991 c 356. See RCW 43.185A.901.

Chapter 43.185A

AFFORDABLE HOUSING PROGRAM

Sections

- 43.185A.010 Definitions.
- 43.185A.020 Affordable housing program—Purpose—Input.
- 43.185A.030 Activities eligible for assistance.
- 43.185A.040 Eligible organizations.
- 43.185A.050 Grant and loan application process.
- 43.185A.060 Protection of state interest.
- 43.185A.070 Monitor recipient activities.
- 43.185A.080 Rules.
- 43.185A.900 Short title.
- 43.185A.901 Severability—1991 c 356.
- 43.185A.902 Conflict with federal requirements—1991 c 356.

43.185A.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affordable housing" means residential housing for rental or private individual ownership which, as long as the same is occupied by low-income households, requires payment of monthly housing costs, including utilities other than telephone, of no more than thirty percent of the family's income.

(2) "Department" means the department of community, trade, and economic development.

(3) "Director" means the director of the department of community, trade, and economic development.

(4) "First-time home buyer" means an individual or his or her spouse who have not owned a home during the three-year period prior to purchase of a home.

(5) "Low-income household" means a single person, family or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the project is located. [1995 c 399 § 102; 1991 c 356 § 10.]

43.185A.020 Affordable housing program—Purpose—Input. The affordable housing program is created in the department for the purpose of developing and coordinating public and private resources targeted to meet the affordable housing needs of low-income households in the state of Washington. The program shall be developed and administered by the department with advice and input from the affordable housing advisory board established in RCW 43.185B.020. [1995 c 399 § 103; 1993 c 478 § 16; 1991 c 356 § 11.]

43.185A.030 Activities eligible for assistance. (1) Using moneys specifically appropriated for such purpose, the department shall finance in whole or in part projects that will provide housing for low-income households.

(2) Activities eligible for assistance include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of housing for low-income households;

(b) Rent subsidies in new construction or rehabilitated multifamily units;

(c) Down payment or closing costs assistance for first-time home buyers;

(d) Mortgage subsidies for new construction or rehabilitation of eligible multifamily units; and

(e) Mortgage insurance guarantee or payments for eligible projects.

(3) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2) (a), (c), (d), and (e) of this section, and not for the administrative costs of the department.

(4) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the affordable housing program except for activities authorized under subsection (2)(b) of this section.

(5) Administrative costs of the department shall not exceed four percent of the annual funds available for the affordable housing program. [1994 c 160 § 3; 1991 c 356 § 12.]

43.185A.040 Eligible organizations. Organizations that may receive assistance from the department under this chapter are local governments, local housing authorities, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or state-wide nonprofit housing assistance organizations.

Eligibility for assistance from the department under this chapter also requires compliance with the revenue and taxation laws, as applicable to the recipient, at the time the grant is made. [1994 c 160 § 4; 1991 c 356 § 13.]

43.185A.050 Grant and loan application process. (1) During each calendar year in which funds are available for use by the department for the affordable housing program, the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department, not to exceed five percent of moneys appropriated to the affordable housing program.

(2) The department shall develop, with advice and input from the *low-income [housing] assistance advisory committee established in RCW 43.185.110, criteria to evaluate applications for assistance under this chapter. [1991 c 356 § 14.]

*Reviser's note: The "low-income housing assistance advisory committee" has been abolished and its powers, duties, and functions transferred to the affordable housing advisory board.

43.185A.060 Protection of state interest. The department shall adopt policies to ensure that the state's interest will be protected upon either the sale or change of use of projects financed in whole or in part under RCW

43.185A.030(2) (a), (b), (c), (d), and (e). These policies may include, but are not limited to: (1) Requiring a share of the appreciation in the project in proportion to the state's contribution to the project; (2) requiring a lump-sum repayment of the loan or grant upon the sale or change of use of the project; or (3) requiring a deferred payment of principal or principal and interest on loans after a specified time period. [1991 c 356 § 15.]

43.185A.070 Monitor recipient activities. The director shall monitor the activities of recipients of grants and loans under this chapter to determine compliance with the terms and conditions set forth in its application or stated by the department in connection with the grant or loan. [1991 c 356 § 16.]

43.185A.080 Rules. The department shall have the authority to promulgate rules pursuant to chapter 34.05 RCW, regarding the grant and loan process, and the substance of eligible projects, consistent with this chapter. [1991 c 356 § 17.]

43.185A.900 Short title. This chapter may be known and cited as the affordable housing act. [1991 c 356 § 9.]

43.185A.901 Severability—1991 c 356. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 356 § 18.]

43.185A.902 Conflict with federal requirements—1991 c 356. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1991 c 356 § 19.]

Chapter 43.185B

WASHINGTON HOUSING POLICY ACT

Sections

- 43.185B.005 Finding.
- 43.185B.007 Goal.
- 43.185B.009 Objectives.
- 43.185B.010 Definitions.
- 43.185B.020 Affordable housing advisory board—Generally.
- 43.185B.030 Affordable housing advisory board—Duties.
- 43.185B.040 Housing advisory plan—Report to legislature.
- 43.185B.900 Short title.

43.185B.005 Finding. (1) The legislature finds that:
 (a) Housing is of vital state-wide importance to the health, safety, and welfare of the residents of the state;
 (b) Safe, affordable housing is an essential factor in stabilizing communities;

(c) Residents must have a choice of housing opportunities within the community where they choose to live;

(d) Housing markets are linked to a healthy economy and can contribute to the state's economy;

(e) Land supply is a major contributor to the cost of housing;

(f) Housing must be an integral component of any comprehensive community and economic development strategy;

(g) State and local government must continue working cooperatively toward the enhancement of increased housing units by reviewing, updating, and removing conflicting regulatory language;

(h) State and local government should work together in developing creative ways to reduce the shortage of housing;

(i) The lack of a coordinated state housing policy inhibits the effective delivery of housing for some of the state's most vulnerable citizens and those with limited incomes; and

(j) It is in the public interest to adopt a statement of housing policy objectives.

(2) The legislature declares that the purposes of the Washington housing policy act are to:

(a) Provide policy direction to the public and private sectors in their attempt to meet the shelter needs of Washington residents;

(b) Reevaluate housing and housing-related programs and policies in order to ensure proper coordination of those programs and policies to meet the housing needs of Washington residents;

(c) Improve the delivery of state services and assistance to very low-income and low-income households and special needs populations;

(d) Strengthen partnerships among all levels of government, and the public and private sectors, including for-profit and nonprofit organizations, in the production and operation of housing to targeted populations including low-income and moderate-income households;

(e) Increase the supply of housing for persons with special needs;

(f) Encourage collaborative planning with social service providers;

(g) Encourage financial institutions to increase residential mortgage lending; and

(h) Coordinate housing into comprehensive community and economic development strategies at the state and local level. [1993 c 478 § 1.]

Persons with handicaps: RCW 35.63.220, 35A.63.240, 36.70.990, 36.70A.410.

43.185B.007 Goal. It is the goal of the state of Washington to coordinate, encourage, and direct, when necessary, the efforts of the public and private sectors of the state and to cooperate and participate, when necessary, in the attainment of a decent home in a healthy, safe environment for every resident of the state. The legislature declares that attainment of that goal is a state priority. [1993 c 478 § 2.]

43.185B.009 Objectives. The objectives of the Washington housing policy act shall be to attain the state's goal of a decent home in a healthy, safe environment for

every resident of the state by strengthening public and private institutions that are able to:

- (1) Develop an adequate and affordable supply of housing for all economic segments of the population;
- (2) Assist very low-income and special needs households who cannot obtain affordable, safe, and adequate housing in the private market;
- (3) Encourage and maintain home ownership opportunities;
- (4) Reduce life-cycle housing costs while preserving public health and safety;
- (5) Preserve the supply of existing affordable housing;
- (6) Provide housing for special needs populations;
- (7) Ensure fair and equal access to the housing market;
- (8) Increase the availability of mortgage credit at low interest rates; and
- (9) Coordinate and be consistent with the goals, objectives, and required housing element of the comprehensive plan in the state's growth management act in RCW 36.70A.070. [1993 c 478 § 3.]

43.185B.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affordable housing" means residential housing that is rented or owned by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.

(2) "Department" means the department of community, trade, and economic development.

(3) "Director" means the director of community, trade, and economic development.

(4) "Nonprofit organization" means any public or private nonprofit organization that: (a) Is organized under federal, state, or local laws; (b) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and (c) has among its purposes significant activities related to the provision of decent housing that is affordable to very low-income, low-income, or moderate-income households and special needs populations.

(5) "Regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including those embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by the state or local government in connection with its strategy under section 105(b)(4) of the Cranston-Gonzalez national affordable housing act (42 U.S.C. 12701 et seq.).

(6) "Tenant-based organization" means a nonprofit organization whose governing body includes a majority of members who reside in the housing development and are considered low-income households. [1995 c 399 § 104; 1993 c 478 § 4.]

43.185B.020 Affordable housing advisory board—Generally. (1) The department shall establish the affordable housing advisory board to consist of twenty-one members.

(a) The following eighteen members shall be appointed by the governor:

(i) Two representatives of the residential construction industry;

(ii) Two representatives of the home mortgage lending profession;

(iii) One representative of the real estate sales profession;

(iv) One representative of the apartment management and operation industry;

(v) One representative of the for-profit housing development industry;

(vi) One representative of the nonprofit housing development industry;

(vii) One representative of homeless shelter operators;

(viii) One representative of lower-income persons;

(ix) One representative of special needs populations;

(x) One representative of public housing authorities as created under chapter 35.82 RCW;

(xi) Two representatives of the Washington association of counties, one representative shall be from a county that is located east of the crest of the Cascade mountains;

(xii) Two representatives of the association of Washington cities, one representative shall be from a city that is located east of the crest of the Cascade mountains;

(xiii) One representative to serve as chair of the affordable housing advisory board;

(xiv) One representative at large.

(b) The following three members shall serve as ex officio, nonvoting members:

(i) The director or the director's designee;

(ii) The executive director of the Washington state housing finance commission or the executive director's designee; and

(iii) The secretary of social and health services or the secretary's designee.

(2)(a) The members of the affordable housing advisory board appointed by the governor shall be appointed for four-year terms, except that the chair shall be appointed to serve a two-year term. The terms of five of the initial appointees shall be for two years from the date of appointment and the terms of six of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms. The members of the advisory board shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(b) The governor, when making appointments to the affordable housing advisory board, shall make appointments that reflect the cultural diversity of the state of Washington.

(3) The affordable housing advisory board shall serve as the department's principal advisory body on housing and housing-related issues, and replaces the department's existing boards and task forces on housing and housing-related issues.

(4) The affordable housing advisory board shall meet regularly and may appoint technical advisory committees, which may include members of the affordable housing advisory board, as needed to address specific issues and concerns.

(5) The department, in conjunction with the Washington state housing finance commission and the department of social and health services, shall supply such information and assistance as are deemed necessary for the advisory board to carry out its duties under this section.

(6) The department shall provide administrative and clerical assistance to the affordable housing advisory board. [1993 c 478 § 5.]

43.185B.030 Affordable housing advisory board—Duties. The affordable housing advisory board shall:

(1) Analyze those solutions and programs that could begin to address the state's need for housing that is affordable for all economic segments of the state, and special needs populations, including but not limited to programs or proposals which provide for:

(a) Financing for the acquisition, rehabilitation, preservation, or construction of housing;

(b) Use of publicly owned land and buildings as sites for affordable housing;

(c) Coordination of state initiatives with federal initiatives and financing programs that are referenced in the Cranston-Gonzalez national affordable housing act (42 U.S.C. Sec. 12701 et seq.), as amended, and development of an approved housing strategy as required in the Cranston-Gonzalez national affordable housing act (42 U.S.C. Sec. 12701 et seq.), as amended;

(d) Identification and removal, where appropriate and not detrimental to the public health and safety, or environment, of state and local regulatory barriers to the development and placement of affordable housing;

(e) Stimulating public and private sector cooperation in the development of affordable housing; and

(f) Development of solutions and programs affecting housing, including the equitable geographic distribution of housing for all economic segments, as the advisory board deems necessary;

(2) Consider both homeownership and rental housing as viable options for the provision of housing. The advisory board shall give consideration to various types of residential construction and innovative housing options, including but not limited to manufactured housing;

(3) Review, evaluate, and make recommendations regarding existing and proposed housing programs and initiatives including but not limited to tax policies, land use policies, and financing programs. The advisory board shall provide recommendations to the director, along with the department's response in the annual housing report to the legislature required in RCW 43.185B.040; and

(4) Prepare and submit to the director, by each December 1st, beginning December 1, 1993, a report detailing its findings and make specific program, legislative, and funding recommendations and any other recommendations it deems appropriate. [1993 c 478 § 6.]

43.185B.040 Housing advisory plan—Report to legislature. (1) The department shall, in consultation with the affordable housing advisory board created in RCW 43.185B.020, prepare and from time to time amend a five-year housing advisory plan. The purpose of the plan is to document the need for affordable housing in the state and the extent to which that need is being met through public and private sector programs, to facilitate planning to meet the affordable housing needs of the state, and to enable the development of sound strategies and programs for affordable

housing. The information in the five-year housing advisory plan must include:

(a) An assessment of the state's housing market trends;

(b) An assessment of the housing needs for all economic segments of the state and special needs populations;

(c) An inventory of the supply and geographic distribution of affordable housing units made available through public and private sector programs;

(d) A status report on the degree of progress made by the public and private sector toward meeting the housing needs of the state;

(e) An identification of state and local regulatory barriers to affordable housing and proposed regulatory and administrative techniques designed to remove barriers to the development and placement of affordable housing; and

(f) Specific recommendations, policies, or proposals for meeting the affordable housing needs of the state.

(2)(a) The five-year housing advisory plan required under subsection (1) of this section must be submitted to the legislature on or before February 1, 1994, and subsequent plans must be submitted every five years thereafter.

(b) Each February 1st, beginning February 1, 1995, the department shall submit an annual progress report, to the legislature, detailing the extent to which the state's affordable housing needs were met during the preceding year and recommendations for meeting those needs. [1993 c 478 § 12.]

43.185B.900 Short title. This chapter may be known and cited as the "Washington housing policy act." [1993 c 478 § 24.]

Chapter 43.190

LONG-TERM CARE OMBUDSMAN PROGRAM

Sections

- 43.190.010 Findings.
- 43.190.020 "Long-term care facility" defined.
- 43.190.030 Office of state long-term care ombudsman created—Powers and duties.
- 43.190.040 Long-term care ombudsmen.
- 43.190.050 Posting of notice by long-term care facility—Distribution of information to residents.
- 43.190.060 Duties of ombudsman.
- 43.190.070 Referral procedures—Action on complaints.
- 43.190.080 Development of procedures on right of entry to facilities—Access to residents—Preservation of rights.
- 43.190.090 Liability of ombudsman—Discriminatory, disciplinary, or retaliatory actions—Communications privileged—Testimony.
- 43.190.110 Confidentiality of records and files—Disclosures prohibited—Exception.
- 43.190.120 Expenditure of funds on long-term care ombudsman program.
- 43.190.900 Severability—1983 c 290.

43.190.010 Findings. The legislature finds that in order to comply with the federal Older Americans Act and to effectively assist residents, patients, and clients of long-term care facilities in the assertion of their civil and human rights, a long-term care ombudsman program should be instituted. [1983 c 290 § 1.]

43.190.020 "Long-term care facility" defined. As used in this chapter, "long-term care facility" means any of the following:

(1) A facility which:

(a) Maintains and operates twenty-four hour skilled nursing services for the care and treatment of chronically ill or convalescent patients, including mental, emotional, or behavioral problems, mental retardation, or alcoholism;

(b) Provides supportive, restorative, and preventive health services in conjunction with a socially oriented program to its residents, and which maintains and operates twenty-four hour services including board, room, personal care, and intermittent nursing care. "Long-term health care facility" includes nursing homes and nursing facilities, but does not include acute care hospital or other licensed facilities except for that distinct part of the hospital or facility which provides nursing facility services.

(2) Any family home, group care facility, or similar facility determined by the secretary, for twenty-four hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(3) Any swing bed in an acute care facility. [1995 1st sp.s. c 18 § 32; 1991 sp.s. c 8 § 3; 1983 c 290 § 2.]

Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18: See notes following RCW 74.39A.008.

Effective date—1991 sp.s. c 8: See note following RCW 18.51.050.

43.190.030 Office of state long-term care ombudsman created—Powers and duties. There is created the office of the state long-term care ombudsman. The department of community, trade, and economic development shall contract with a private nonprofit organization to provide long-term care ombudsman services as specified under, and consistent with, the federal older Americans act as amended, federal mandates, the goals of the state, and the needs of its citizens. The department of community, trade, and economic development shall ensure that all program and staff support necessary to enable the ombudsman to effectively protect the interests of residents, patients, and clients of all long-term care facilities is provided by the nonprofit organization that contracts to provide long-term care ombudsman services. The long-term care ombudsman program shall have the following powers and duties:

(1) To provide services for coordinating the activities of long-term care ombudsmen throughout the state;

(2) Carry out such other activities as the department of community, trade, and economic development deems appropriate;

(3) Establish procedures consistent with RCW 43.190.110 for appropriate access by long-term care ombudsmen to long-term care facilities and patients' records, including procedures to protect the confidentiality of the records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of the complainant or resident, or upon court order;

(4) Establish a state-wide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the department of social and

health services and to the federal department of health and human services, or its successor agency, on a regular basis; and

(5) Establish procedures to assure that any files maintained by ombudsman programs shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless:

(a) Such complainant or resident, or the complainant's or resident's legal representative, consents in writing to such disclosure; or

(b) Such disclosure is required by court order. [1995 c 399 § 105; 1988 c 119 § 2; 1983 c 290 § 3.]

Effective date—1988 c 119 § 2: "Section 2 of this act shall take effect July 1, 1989." [1988 c 119 § 5.]

Legislative findings—1988 c 119: "The legislature recognizes that the state long-term care ombudsman program and the office of the state long-term care ombudsman, located within the department of social and health services, have brought into serious question the ability of that office to serve as an effective mechanism on the state level for investigating and resolving complaints made by or on behalf of residents of long-term care facilities.

The legislature further finds it necessary to exercise its options under the federal older Americans act and identify an organization, outside of the department of social and health services and independent of any other state agency, to provide, through contract, long-term care ombudsman services." [1988 c 119 § 1.]

Survey—1988 c 119: "The committee on health care of the house of representatives shall conduct a survey and analysis of the appropriate placement outside of state government of the office of the state long-term care ombudsman. The survey shall ascertain how the contracted placement of the office will most effectively allow it to meet its responsibilities under chapter 43.190 RCW. A draft of the findings shall be submitted to the governor and the legislature before the first Friday in November 1988 and the final findings, conclusions, and recommendations shall be submitted in a report to the governor and the legislature no later than December 30, 1988.

The survey required shall include, but is not limited to, a complete assessment of how independently contracting the program outside state government will provide the office with an effective means for resolving complaints and building program accountability and integrity facilitating local involvement and contributing to long-term care policy development. The study shall also clearly identify and describe how this model for administering the duties and responsibilities of the ombudsman will affect the ability of the office to function as mandated under the federal older Americans act, and provide suggestions that will assist the office to coordinate information and assistance, to the fullest degree possible, with citizen groups, the general public, the nursing home industry, and local volunteer programs. The survey shall further specify the operational program details necessary for adopting the proposed independently contracted plan." [1988 c 119 § 3.]

Use of survey findings—1988 c 119: "The survey findings, together with any reports of legislative committees in response to such survey, shall be used by the department of community development in determining the best manner to contract for and provide long-term care ombudsman services." [1988 c 119 § 4.]

43.190.040 Long-term care ombudsmen. (1) Any long-term care ombudsman authorized by this chapter or a local governmental authority shall have training or experience or both in the following areas:

(a) Gerontology, long-term care, or other related social services programs.

(b) The legal system.

(c) Dispute or problem resolution techniques, including investigation, mediation, and negotiation.

(2) A long-term care ombudsman shall not have been employed by any long-term care facility within the past three years.

(3) No long-term care ombudsman or any member of his or her immediate family shall have, or have had within the past three years, any pecuniary interest in the provision of long-term health care facilities. [1983 c 290 § 4.]

43.190.050 Posting of notice by long-term care facility—Distribution of information to residents. Every long-term care facility shall post in a conspicuous location a notice of the nursing home complaint toll-free number and the name, address, and phone number of the office of the appropriate long-term care ombudsman and a brief description of the services provided by the office. The form of the notice shall be approved by the office and the organization responsible for maintaining the nursing home complaint toll-free number. This information shall also be distributed to the residents, family members, and legal guardians upon the resident's admission to the facility. [1983 c 290 § 5.]

43.190.060 Duties of ombudsman. A long-term care ombudsman shall:

(1) Investigate and resolve complaints made by or on behalf of residents of long-term care facilities relating to administrative action which may adversely affect the health, safety, welfare, and rights of these individuals;

(2) Monitor the development and implementation of federal, state, and local laws, rules, regulations, and policies with respect to long-term care facilities in this state;

(3) Provide information as appropriate to public agencies regarding the problems of individuals residing in long-term care facilities; and

(4) Provide for training volunteers and promoting the development of citizen organizations to participate in the ombudsman program. A volunteer long-term care ombudsman shall be able to identify and resolve problems regarding the care of residents in long-term care facilities and to assist such residents in the assertion of their civil and human rights. However, volunteers shall not be used for complaint investigations but may engage in fact-finding activities to determine whether a formal complaint should be submitted to the department. [1995 1st sp.s. c 18 § 33; 1987 c 158 § 3; 1983 c 290 § 6.]

Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18: See notes following RCW 74.39A.008.

43.190.070 Referral procedures—Action on complaints. (1) The office of the state long-term care ombudsman shall develop referral procedures for all long-term care ombudsman programs to refer any complaint to any appropriate state or local government agency. The department of social and health services shall act as quickly as possible on any complaint referred to them by a long-term care ombudsman.

(2) The department of social and health services shall respond to any complaint against a long-term care facility which was referred to it by a long-term care ombudsman and shall forward to that ombudsman a summary of the results of the investigation and action proposed or taken. [1983 c 290 § 7.]

43.190.080 Development of procedures on right of entry to facilities—Access to residents—Preservation of rights. (1) The office of the state long-term care ombudsman shall develop procedures governing the right of entry of all long-term care ombudsmen to long-term care facilities and shall have access to residents with provisions made for privacy for the purpose of hearing, investigating, and resolving complaints of, and rendering advice to, individuals who are patients or residents of the facilities at any time deemed necessary and reasonable by the state ombudsman to effectively carry out the provisions of this chapter.

(2) Nothing in this chapter restricts, limits, or increases any existing right of any organizations or individuals not described in subsection (1) of this section to enter or provide assistance to patients or residents of long-term care facilities.

(3) Nothing in this chapter restricts any right or privilege of any patient or resident of a long-term care facility to receive visitors of his or her choice. [1983 c 290 § 8.]

43.190.090 Liability of ombudsman—Discriminatory, disciplinary, or retaliatory actions—Communications privileged—Testimony. (1) No long-term care ombudsman is liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against any employee of a facility or agency, any patient, resident, or client of a long-term care facility, or any volunteer, for any communication made, or information given or disclosed, to aid the long-term care ombudsman in carrying out its duties and responsibilities, unless the same was done maliciously or without good faith. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

(3) All communications by a long-term care ombudsman, if reasonably related to the requirements of that individual's responsibilities under this chapter and done in good faith, are privileged and that privilege shall serve as a defense to any action in libel or slander.

(4) A representative of the office is exempt from being required to testify in court as to any confidential matters except as the court may deem necessary to enforce this chapter. [1983 c 290 § 9.]

43.190.110 Confidentiality of records and files—Disclosures prohibited—Exception. All records and files of long-term care ombudsmen relating to any complaint or investigation made pursuant to carrying out their duties and the identities of complainants, witnesses, patients, or residents shall remain confidential unless disclosure is authorized by the patient or resident or his or her guardian or legal representative. No disclosures may be made outside the office without the consent of any named witnesses, resident, patient, client, or complainant unless the disclosure is made without the identity of any of these individuals being disclosed. [1983 c 290 § 11.]

43.190.120 Expenditure of funds on long-term care ombudsman program. It is the intent that federal requirements be complied with and the department annually expend at least one percent of the state's allotment of social services

funds from Title III B of the Older Americans Act of 1965, as it exists as of July 24, 1983, or twenty thousand dollars, whichever is greater to establish the state long-term care ombudsman program established by this chapter if funds are appropriated by the legislature. [1983 c 290 § 12.]

43.190.900 Severability—1983 c 290. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 c 290 § 17.]

Chapter 43.200

RADIOACTIVE WASTE ACT

Sections

- 43.200.010 Finding—Purpose.
- 43.200.015 Definitions.
- 43.200.020 Participation authority regarding federal statutes—Federal financial assistance.
- 43.200.030 Cooperation required.
- 43.200.040 Nuclear waste board created—Membership—Compensation and travel expenses.
- 43.200.070 Rules.
- 43.200.080 Additional powers and duties of director—Site closure account—Perpetual surveillance and maintenance account.
- 43.200.170 Waste disposal surcharges and penalty surcharges—Disposition.
- 43.200.180 Implementation of federal low-level radioactive waste policy amendments of 1985.
- 43.200.190 Studies on site closure and perpetual care and maintenance requirements and on adequacy of insurance coverage—Reports.
- 43.200.200 Review of potential damage—Financial assurance—Reports.
- 43.200.210 Immunity of state—Demonstration of financial assurance—Suspension of permit.
- 43.200.220 Site closure fee—Generally.
- 43.200.230 Fees for waste generators.
- 43.200.233 Waste generator surcharge remittance to counties.
- 43.200.235 Disposal of waste generator surcharges.
- 43.200.900 Construction of chapter.
- 43.200.901 Conflict with federal requirements—1983 1st ex.s. c 19.
- 43.200.902 Severability—1983 1st ex.s. c 19.
- 43.200.903 Severability—1984 c 161.
- 43.200.905 Construction—1986 c 191.
- 43.200.906 Severability—1986 c 191.

Nuclear energy and radiation: Chapter 70.98 RCW.

43.200.010 Finding—Purpose. The legislature finds that the safe transporting, handling, storage, or otherwise caring for radioactive wastes is required to protect the health, safety, and welfare of the citizens of the state of Washington. It is the purpose of this chapter to establish authority for the state to exercise appropriate oversight and care for the safe management and disposal of radioactive wastes; to consult with the federal government and other states on interim or permanent storage of these radioactive wastes; and to carry out the state responsibilities under the federal nuclear waste policy act of 1982. [1983 1st ex.s. c 19 § 1.]

43.200.015 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "High-level radioactive waste" means "high-level radioactive waste" as the term is defined in 42 U.S.C. Sec. 10101 (P.L. 97-425).

(2) "Low-level radioactive waste" means waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than one hundred nanocuries of transuranic contaminants per gram of material, nor spent nuclear fuel, nor material classified as either high-level radioactive waste or waste that is unsuited for disposal by near-surface burial under any applicable federal regulations.

(3) "Radioactive waste" means both high-level and low-level radioactive waste.

(4) "Spent nuclear fuel" means spent nuclear fuel as the term is defined in 42 U.S.C. Sec. 10101.

(5) "Department" means the department of ecology. [1989 c 322 § 1; 1985 c 293 § 1; 1984 c 161 § 1.]

43.200.020 Participation authority regarding federal statutes—Federal financial assistance. The department of ecology is designated as the executive branch agency for participation in the federal nuclear waste policy act of 1982 and the federal low-level radioactive waste policy act of 1980, however the legislature retains an autonomous role with respect to participation in all aspects of the federal nuclear waste policy act of 1982. The department may receive federal financial assistance for carrying out radioactive waste management activities, including assistance for expenses, salaries, travel, and monitoring and evaluating the program of repository exploration and siting undertaken by the federal government. [1989 c 322 § 2; 1984 c 161 § 2; 1983 1st ex.s. c 19 § 2.]

43.200.030 Cooperation required. All departments, agencies, and officers of this state and its subdivisions shall cooperate with the department of ecology in the furtherance of any of its activities pursuant to this chapter. [1989 c 322 § 3; 1984 c 161 § 4; 1983 1st ex.s. c 19 § 3.]

43.200.040 Nuclear waste board created—Membership—Compensation and travel expenses.

Reviser's note: RCW 43.200.040 was amended by 1989 1st ex.s. c 9 § 219 without reference to its repeal by 1989 c 322 § 7, effective July 23, 1989. It has been decodified for publication purposes pursuant to RCW 1.12.025.

43.200.070 Rules. The department of ecology shall adopt such rules as are necessary to carry out responsibilities under this chapter. The department of ecology is authorized to adopt such rules as are necessary to carry out its responsibilities under chapter 43.145 RCW. [1989 c 322 § 5; 1986 c 2 § 5; 1984 c 161 § 8; 1983 1st ex.s. c 19 § 7.]

43.200.080 Additional powers and duties of director—Site closure account—Perpetual surveillance and maintenance account. The director of ecology shall, in addition to the powers and duties otherwise imposed by law, have the following special powers and duties:

(1) To fulfill the responsibilities of the state under the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation

near Richland, Washington. The department of ecology may sublease to private or public entities all or a portion of the land for specific purposes or activities which are determined, after public hearing, to be in agreement with the terms of the lease and in the best interests of the citizens of the state consistent with any criteria that may be developed as a requirement by the legislature;

(2) To assume the responsibilities of the state under the perpetual care agreement between the state of Washington and the federal government executed July 29, 1965 and the sublease between the state of Washington and the site operator of the Hanford low-level radioactive waste disposal facility. In order to finance perpetual surveillance and maintenance under the agreement and ensure site closure under the sublease, the department of ecology shall impose and collect fees from parties holding radioactive materials for waste management purposes. The fees shall be established by rule adopted under chapter 34.05 RCW and shall be an amount determined by the department of ecology to be necessary to defray the estimated liability of the state. Such fees shall reflect equity between the disposal facilities of this and other states. A site closure account and a perpetual surveillance and maintenance account is hereby created in the state treasury. The site closure account shall be exclusively available to reimburse, to the extent that moneys are available in the account, the site operator for its costs plus a reasonable profit as agreed by the operator and the state, or to reimburse the state licensing agency and any agencies under contract to the state licensing agency for their costs in final closure and decommissioning of the Hanford low-level radioactive waste disposal facility. If a balance remains in the account after satisfactory performance of closure and decommissioning, this balance shall be transferred to the perpetual surveillance and maintenance account. The perpetual surveillance and maintenance account shall be used exclusively by the state to meet post-closure surveillance and maintenance costs, or for otherwise satisfying surveillance and maintenance obligations. Appropriations are required to permit expenditures and payment of obligations from the site closure account and the perpetual surveillance and maintenance account. All moneys, including earnings from the investment of balances in the site closure and the perpetual surveillance and maintenance account, less the allocation to the state treasurer's service account [fund], pursuant to RCW 43.08.190 accruing under the authority of this section shall be directed to the site closure account until December 31, 1992. Thereafter receipts including earnings from the investment of balances in the site closure and the perpetual surveillance and maintenance account, less the allocation to the state treasurer's service account [fund], pursuant to RCW 43.08.190 shall be directed to the site closure account and the perpetual surveillance and maintenance account as specified by the department. Additional moneys specifically appropriated by the legislature or received from any public or private source may be placed in the site closure account and the perpetual surveillance and maintenance account;

(3) To assure maintenance of such insurance coverage by state licensees, lessees, or sublessees as will adequately, in the opinion of the director, protect the citizens of the state against nuclear accidents or incidents that may occur on privately or state-controlled nuclear facilities;

(4) To institute a user permit system and issue site use permits, consistent with regulatory practices, for generators, packagers, or brokers using the Hanford low-level radioactive waste disposal facility. The costs of administering the user permit system shall be borne by the applicants for site use permits. The site use permit fee shall be set at a level that is sufficient to fund completely the executive and legislative participation in activities related to the Northwest Interstate Compact on Low-Level Radioactive Waste Management;

(5) To make application for or otherwise pursue any federal funds to which the state may be eligible, through the federal resource conservation and recovery act or any other federal programs, for the management, treatment or disposal, and any remedial actions, of wastes that are both radioactive and hazardous at all Hanford low-level radioactive waste disposal facilities; and

(6) To develop contingency plans for duties and options for the department and other state agencies related to the Hanford low-level radioactive waste disposal facility based on various projections of annual levels of waste disposal. These plans shall include an analysis of expected revenue to the state in various taxes and funds related to low-level radioactive waste disposal and the resulting implications that any increase or decrease in revenue may have on state agency duties or responsibilities. The plans shall be updated annually. The department shall report annually on the plans and on the balances in the site closure and perpetual surveillance accounts to the energy and utilities committees of the senate and the house of representatives. [1991 sp.s. c 13 § 60; 1990 c 21 § 6; 1989 c 418 § 2; 1986 c 2 § 1; 1983 1st ex.s. c 19 § 8.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Suspension and reinstatement of site use permits: RCW 70.98.085.

43.200.170 Waste disposal surcharges and penalty surcharges—Disposition. The governor may assess surcharges and penalty surcharges on the disposal of waste at the Hanford low-level radioactive waste disposal facility. The surcharges may be imposed up to the maximum extent permitted by federal law. Ten dollars per cubic foot of the moneys received under this section shall be transmitted monthly to the site closure account established under RCW 43.200.080. The rest of the moneys received under this section shall be deposited in the general fund. [1990 c 21 § 3; 1986 c 2 § 3.]

43.200.180 Implementation of federal low-level radioactive waste policy amendments of 1985. The department of ecology shall be the state agency responsible for implementation of the federal low-level radioactive waste policy amendments act of 1985, including:

(1) Collecting and administering the surcharge assessed by the governor under RCW 43.200.170;

(2) Collecting low-level radioactive waste data from disposal facility operators, generators, intermediate handlers, and the federal department of energy;

(3) Developing and operating a computerized information system to manage low-level radioactive waste data;

(4) Denying and reinstating access to the Hanford low-level radioactive waste disposal facility pursuant to the authority granted under federal law;

(5) Administering and/or monitoring (a) the maximum waste volume levels for the Hanford low-level radioactive waste disposal facility, (b) reactor waste allocations, (c) priority allocations under the Northwest Interstate Compact on Low-Level Radioactive Waste Management, and (d) adherence by other states and compact regions to federal statutory deadlines;

(6) Coordinating the state's low-level radioactive waste disposal program with similar programs in other states; and

(7) Preparing an annual report to the legislature which details the manifested curie content and cubic foot volume of the material received at the Hanford low-level radioactive waste disposal facility in a manner which allows for an assessment of the impact of volume reduction techniques and imposition of any surcharges on the amount of material received. [1986 c 2 § 4.]

43.200.190 Studies on site closure and perpetual care and maintenance requirements and on adequacy of insurance coverage—Reports. (1) The department of ecology shall perform studies, by contract or otherwise, to define site closure and perpetual care and maintenance requirements for the Hanford low-level radioactive waste disposal facility and to assess the adequacy of insurance coverage for general liability, radiological liability, and transportation liability for the facility.

(2) The department shall complete the studies and report its findings to the legislature by December 31, 1987. The department shall make a preliminary progress report to the legislature by December 31, 1986. [1986 c 2 § 6.]

43.200.200 Review of potential damage—Financial assurance—Reports. (1) The director of the department of ecology shall periodically review the potential for bodily injury and property damage arising from the transportation and disposal of commercial low-level radioactive waste under permits issued by the state.

(2) The director may require permit holders to demonstrate financial assurance in an amount that is adequate to protect the state and its citizens from all claims, suits, losses, damages, or expenses on account of injuries to persons and property damage arising or growing out of the transportation or disposal of commercial low-level radioactive waste. The financial assurance may be in the form of insurance, cash deposits, surety bonds, corporate guarantees, and other acceptable instruments or guarantees determined by the director to be acceptable evidence of financial assurance.

(3) In making the determination of the appropriate level of financial assurance, the director shall consider:

(a) The nature and purpose of the activity and its potential for injury and damages to or claims against the state and its citizens;

(b) The current and cumulative manifested volume and radioactivity of waste being packaged, transported, buried, or otherwise handled;

(c) The location where the waste is being packaged, transported, buried, or otherwise handled, including the

proximity to the general public and geographic features such as geology and hydrology, if relevant; and

(d) The legal defense cost, if any, that will be paid from the required financial assurance amount.

(4) The director may establish different levels of required financial assurance for various classes of permit holders.

(5) The director shall establish by rule the instruments or mechanisms by which a permit applicant or holder may demonstrate financial assurance as required by RCW 43.200.210.

(6) The director shall complete a review and determination, and report the results to the legislature by December 1, 1994, and at least every five years thereafter, the director shall conduct a new review and determination and report its results to the legislature. [1992 c 61 § 1; 1990 c 82 § 1; 1986 c 191 § 1.]

43.200.210 Immunity of state—Demonstration of financial assurance—Suspension of permit. (1) The department of ecology shall require that any person who holds or applies for a permit under this chapter indemnify and hold harmless the state from claims, suits, damages, or expenses on account of injuries to or death of persons and property damage, arising or growing out of any operations and activities for which the person holds the permit, and any necessary or incidental operations.

(2) The department of ecology shall refuse to issue or shall suspend the permit of any person required by this section to demonstrate adequate financial assurance who fails to demonstrate compliance with this section. The permit shall not be issued or reinstated until the person demonstrates compliance with this section.

(3) The department of ecology shall require (a) that any person required to demonstrate financial assurance maintain with the agency current copies of any insurance policies, certificates of insurance, or any other documents sufficient to evidence compliance with this section, (b) that the agency be notified of any changes in the instruments of financial assurance or financial condition of the person, and (c) that the state be named as an insured party on any insurance policy used to comply with this section. This subsection shall not apply to any person subject to the same requirements under RCW 70.98.095. [1992 c 61 § 2; 1990 c 82 § 2; 1986 c 191 § 2.]

43.200.220 Site closure fee—Generally. Beginning January 1, 1993, the department of ecology may impose a reasonable site closure fee if necessary to be deposited in the site closure account established under RCW 43.200.080. The department may continue to collect moneys for the site closure account until the account contains an amount sufficient to complete the closure plan, as specified in the radioactive materials license issued by the department of health. [1990 c 21 § 4.]

Rate regulation anticipated—1990 c 21: "State and national policy directs that the management of low-level radioactive waste shall be accomplished by a system of interstate compacts and the development of regional disposal sites. The Northwest regional compact, comprised of the states of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, and Washington, has as its disposal facility the low-level radioactive waste disposal site located near Richland, Washington. This site is expected to be the sole site

for disposal of low-level radioactive waste for compact members effective January 1, 1993. Future closure of this site will require significant financial resources.

Low-level radioactive waste is generated by essential activities and services that benefit the citizens of the state. Washington state's low-level radioactive waste disposal site has been used by the nation and the Northwest compact as a disposal site since 1965. The public has come to rely on access to this site for disposal of low-level radioactive waste, which requires separate handling from other solid and hazardous wastes. The price of disposing of low-level radioactive waste at the Washington state low-level radioactive waste disposal site is anticipated to increase when the federal low-level radioactive waste policy amendments act of 1985 is implemented and waste generated outside the Northwest compact states is excluded. To protect Washington and other Northwest compact states' businesses and services, such as electrical production, medical and university research, and private industries, upon which the public relies, there may be a need to regulate the rates charged by the operator of Washington's low-level radioactive waste disposal site." [1990 c 21 § 1.]

Low-level waste disposal rate regulation study: RCW 81.04.520.

43.200.230 Fees for waste generators. The director of the department of ecology shall require that generators of waste pay a fee for each cubic foot of waste disposed at any facility in the state equal to six dollars and fifty cents. The fee shall be imposed specifically on the generator of the waste and shall not be considered to apply in any way to the low-level site operator's disposal activities. The fee shall be allocated in accordance with RCW 43.200.233 and 43.200.235. This subsection shall be invalidated and the authorization to collect a surcharge removed if the legislature or any administrative agency of the state of Washington prior to January 1, 1993, (1) imposes fees, assessments, or charges other than perpetual care and maintenance, site surveillance, and site closing fees currently applicable to the Hanford commercial low-level waste site operator's activities, (2) imposes any additional fees, assessments, or charges on generators using the Hanford commercial low-level waste site, or (3) increases any existing fees, assessments, or charges. [1991 c 272 § 16.]

Effective dates—1991 c 272: See RCW 81.108.901.

43.200.233 Waste generator surcharge remittal to counties. A portion of the surcharge received under RCW 43.200.230 shall be remitted monthly to the county in which the low-level radioactive waste disposal facility is located in the following manner:

- (1) During 1993, six dollars and fifty cents per cubic foot of waste;
- (2) During 1994, three dollars and twenty-five cents per cubic foot of waste; and
- (3) During 1995 and thereafter, two dollars per cubic foot of waste. [1991 c 272 § 17.]

Effective dates—1991 c 272: See RCW 81.108.901.

43.200.235 Disposal of waste generator surcharges. Except for moneys that may be remitted to a county in which a low-level radioactive waste disposal facility is located, all surcharges authorized under RCW 43.200.230 shall be deposited in the fund created in RCW 43.31.422. [1991 c 272 § 18.]

Effective dates—1991 c 272: See RCW 81.108.901.

43.200.900 Construction of chapter. The rules of strict construction do not apply to this chapter and it shall be

liberally construed in order to carry out the objective for which it is designed, in accordance with the legislative intent to give the board the maximum possible freedom in carrying the provisions of this chapter into effect. [1984 c 161 § 15; 1983 1st ex.s. c 19 § 10.]

43.200.901 Conflict with federal requirements—1983 1st ex.s. c 19. If any part of this act shall be found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, such conflicting part of this act is hereby declared to be inoperative solely to the extent of such conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this act in its application to the agencies concerned. The rules and regulations under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1983 1st ex.s. c 19 § 11.]

43.200.902 Severability—1983 1st ex.s. c 19. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 19 § 12.]

43.200.903 Severability—1984 c 161. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 161 § 17.]

43.200.905 Construction—1986 c 191. The provisions of this act shall not have the effect of reducing the level of liability coverage required under any law, regulation, or contract of the state before December 31, 1987, or the effective date of the first determination made pursuant to RCW 43.200.200, if earlier. [1986 c 191 § 4.]

43.200.906 Severability—1986 c 191. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1986 c 191 § 6.]

Chapter 43.205

HIGH-LEVEL NUCLEAR WASTE REPOSITORY SITING

Sections

- 43.205.010 Findings.
- 43.205.020 Duties relating to the site selection process for a high-level nuclear waste repository.
- 43.205.900 Transmission of copies of act—1986 ex.s. c 1.
- 43.205.901 Referral to electorate—Ballot title—1986 ex.s. c 1.

Nuclear waste site—Election for disapproval: Chapter 29.91 RCW.

43.205.010 Findings. The legislature and the people of the state of Washington find that:

- (1) In order to solve the problem of high-level radioactive waste disposal, congress established a process for

selecting two sites for the safe, permanent, and regionally equitable disposal of such waste.

(2) The process of selecting three sites as final candidates, including the Hanford reservation, for a first high-level nuclear waste repository by the United States department of energy violated the intent and the mandate of congress.

(3) The United States department of energy has prematurely deferred consideration of numerous potential sites and disposal media that its own research indicates are more appropriate, safer, and less expensive.

(4) Placement of a repository at Hanford without methodical and independently verified scientific evaluation will pose a threat to the health and safety of the people and the environment of this state.

(5) The selection process is flawed and not credible because it did not include independent experts in the selection of the sites and in the review of that selection, as recommended by the National Academy of Sciences.

(6) By postponing indefinitely all site specific work for a second repository, the United States department of energy has not complied with the intent of congress expressed in the Nuclear Waste Policy Act, Public Law 97-425, and the fundamental compromise which enabled its enactment. [1986 ex.s. c 1 § 1.]

43.205.020 Duties relating to the site selection process for a high-level nuclear waste repository. In order to achieve complete compliance with federal law and protect the health, safety, and welfare of the people of the state of Washington, the governor, the legislature, other state-wide elected officials, and the nuclear waste board shall use all legal means necessary to:

(1) Suspend the preliminary site selection process for a high-level nuclear waste repository, including the process of site characterization, until there is compliance with the intent of the Nuclear Waste Policy Act;

(2) Reverse the secretary of energy's decision to postpone indefinitely all site specific work on locating and developing a second repository for high-level nuclear waste;

(3) Insist that the United States department of energy's site selection process, when resumed, considers all acceptable geologic media and results in safe, scientifically justified, and regionally and geographically equitable high-level nuclear waste disposal;

(4) Demand that federal budget actions fully and completely follow the intent of the Nuclear Waste Policy Act; and

(5) Continue to pursue alliances with other states and interested parties, particularly with Pacific Northwest governors, legislatures, and other parties, affected by the site selection and transportation of high-level nuclear waste. [1986 ex.s. c 1 § 2.]

43.205.900 Transmission of copies of act—1986 ex.s. c 1. See RCW 29.91.900.

43.205.901 Referral to electorate—Ballot title—1986 ex.s. c 1. See RCW 29.91.901.

Chapter 43.210

SMALL BUSINESS EXPORT FINANCE ASSISTANCE CENTER

(Formerly: Export assistance center)

Sections

- 43.210.010 Findings.
- 43.210.020 Small business export finance assistance center authorized—Purposes.
- 43.210.030 Board of directors—Membership—Terms—Vacancies.
- 43.210.040 Powers and duties.
- 43.210.050 Export assistance services contract with department of community, trade, and economic development.
- 43.210.060 Rule-making authority.
- 43.210.070 Small business export finance assistance center fund.
- 43.210.100 Pacific Northwest export assistance project—Generally.
- 43.210.110 Pacific Northwest export assistance project—Duties of center.
- 43.210.120 Rules.
- 43.210.130 Minority business export outreach program.

Reviser's note—Sunset Act application: The Pacific Northwest export assistance project is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.373. RCW 43.210.070, 43.210.100, 43.210.110, and 43.210.120 are scheduled for future repeal under RCW 43.131.374.

43.210.010 Findings. The legislature finds:

(1) The exporting of goods and services from Washington to international markets is an important economic stimulus to the growth, development, and stability of the state's businesses in both urban and rural areas, and that these economic activities create needed jobs for Washingtonians.

(2) Impediments to the entry of many small and medium-sized businesses into export markets have restricted growth in exports from the state.

(3) Particularly significant impediments for many small and medium-sized businesses are the lack of easily accessible information about export opportunities and financing alternatives.

(4) There is a need for a small business export finance assistance center which will specialize in providing export assistance to small and medium-sized businesses throughout the state in acquiring information about export opportunities and financial alternatives for exporting. [1990 1st ex.s. c 17 § 65; 1985 c 231 § 1; 1983 1st ex.s. c 20 § 1.]

Intent—1990 1st ex.s. c 17: "The legislature finds that the Puget Sound region is experiencing economic prosperity and the challenges associated with rapid growth; much of the rest of the state is not experiencing economic prosperity, and faces challenges associated with slow economic growth. It is the intent of the legislature to encourage economic prosperity and balanced economic growth throughout the state.

In order to accomplish this goal, growth must be managed more effectively in the Puget Sound region, and rural areas must build local capacity to accommodate additional economic activity in their communities. Where possible, rural economies and low-income areas should be linked with prosperous urban economies to share economic growth for the benefit of all areas and the state.

To accomplish this goal it is the intent of the legislature to: (1) Assure equitable opportunities to secure prosperity for distressed areas, rural communities, and disadvantaged populations by promoting urban-rural economic links, and by promoting value-added product development, business networks, and increased exports from rural areas; (2) improve the economic development service delivery system to be better able to serve these areas, communities, and populations; (3) redirect the priorities of the state's economic development programs to focus economic development efforts into areas and sectors of the greatest need; (4) build local capacity so that communities are better able to plan for growth and achieve self-reliance; (5) administer grant programs to promote new feasibility studies

and project development on projects of interest to rural areas or areas outside of the Puget Sound region; and (6) develop a coordinated economic investment strategy involving state economic development programs, businesses, educational and vocational training institutions, local governments and local economic development organizations, ports, and others." [1990 1st ex.s. c 17 § 64.]

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

43.210.020 Small business export finance assistance center authorized—Purposes. A nonprofit corporation, to be known as the small business export finance assistance center, and branches subject to its authority, may be formed under chapter 24.03 RCW for the following public purposes:

(1) To assist small and medium-sized businesses in both urban and rural areas in the financing of export transactions.

(2) To provide, singly or in conjunction with other organizations, information and assistance to these businesses about export opportunities and financing alternatives.

(3) To provide information to and assist those businesses interested in exporting products, including the opportunities available to them in organizing export trading companies under the United States export trading company act of 1982, for the purpose of increasing their comparative sales volume and ability to export their products to foreign markets. [1990 1st ex.s. c 17 § 66; 1985 c 231 § 2; 1983 1st ex.s. c 20 § 2.]

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Transfer of property—1985 c 231: "All reports, documents, surveys, books, records, files, papers, or written material in the possession of the export assistance center shall be delivered to the custody of the small business export finance assistance center. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the export assistance center shall be made available to the small business export finance assistance center. All funds, credits, or other assets held by the export assistance center shall be assigned to the small business export finance assistance center.

Whenever any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned." [1985 c 231 § 7.]

Existing contracts—1985 c 231: "All existing contracts and obligations shall remain in full force and shall be performed by the small business export finance assistance center." [1985 c 231 § 8.]

Savings—1985 c 231: "The transfer of the powers, duties, and functions of the export assistance center shall not affect the validity of any act performed prior to May 10, 1985." [1985 c 231 § 9.]

43.210.030 Board of directors—Membership—Terms—Vacancies. The small business export finance assistance center and its branches shall be governed and managed by a board of nineteen directors appointed by the governor and confirmed by the senate. The directors shall serve terms of six years except that two of the original directors shall serve for two years and two of the original directors shall serve for four years. The directors may provide for the payment of their expenses. The directors shall include a representative of a not-for-profit corporation formed for the purpose of facilitating economic development, at least two representatives of state financial institutions engaged in the financing of export transactions, a representative of a port district, and a representative of organized

labor. Of the remaining board members, there shall be one representative of business from the area west of Puget Sound, one representative of business from the area east of Puget Sound and west of the Cascade range, one representative of business from the area east of the Cascade range and west of the Columbia river, one representative of business from the area east of the Columbia river, the director of the department of community, trade, and economic development, and the director of the department of agriculture. One of the directors shall be a representative of the public selected from the area in the state west of the Cascade mountain range and one director shall be a representative of the public selected from that area of the state east of the Cascade mountain range. One director shall be a representative of the public at large. The directors shall be broadly representative of geographic areas of the state, and the representatives of businesses shall represent at least four different industries in different sized businesses as follows: (a) One representative of a company employing fewer than one hundred persons; (b) one representative of a company employing between one hundred and five hundred persons; (c) one representative of a company employing more than five hundred persons; (d) one representative from an export management company; and (e) one representative from an agricultural or food processing company. Any vacancies on the board due to the expiration of a term or for any other reason shall be filled by appointment by the governor for the unexpired term. [1995 c 399 § 106; 1991 c 314 § 15; 1985 c 231 § 3; 1983 1st ex.s. c 20 § 3.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.210.040 Powers and duties. (1) The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 shall have the powers granted under chapter 24.03 RCW. In exercising such powers, the center may:

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other sources to carry out its purposes;

(b) Make loans to Washington businesses with annual sales of twenty-five million dollars or less for the purpose of financing exports of goods or services by those businesses to buyers in foreign countries. Loans by the small business export finance assistance center under this chapter shall not compete with nor be a substitute for available loans by a bank or other financial institution and shall only be considered upon a financial institution's assurance that such loan is not available;

(c) Provide loan guarantees on loans made by financial institutions to businesses with annual sales of one hundred million dollars or less for the purpose of financing exports of goods or services by those businesses to buyers in foreign countries;

(d) Establish and regulate the terms and conditions of any such loans and loan guarantees and charges for interest and services connected therewith;

(e) Provide export financial counseling to Washington exporters with annual sales of one hundred million dollars or less, provided that such counseling is not available from a

Washington for-profit business. For such counseling, the center may charge such fees as it determines are necessary.

(f) Contract with the federal government and its agencies to become a program administrator for federally provided country risk insurance programs and for the purposes of this chapter; and

(g) Take whatever action may be necessary to accomplish the purposes set forth in this chapter.

(2) The center may not use any Washington state funds or funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(3) The small business export finance assistance center shall make every effort to seek nonstate funds for its continued operation.

(4) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the small business export finance assistance center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [1987 c 505 § 43; 1985 c 231 § 4; 1983 1st ex.s. c 20 § 4.]

43.210.050 Export assistance services contract with department of community, trade, and economic development. The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 shall enter into a contract under this chapter with the department of community, trade, and economic development or its statutory successor. The contract shall require the center to provide export assistance services, consistent with RCW 43.210.070 and 43.210.100 through 43.210.120, shall have a duration of two years, and shall require the center to aggressively seek to fund its continued operation from nonstate funds. The contract shall also require the center to report annually to the department on its success in obtaining nonstate funding. Upon expiration of the contract, any provisions within the contract applicable to the Pacific Northwest export assistance project shall be automatically renewed without change provided the legislature appropriates funds for administration of the small business export assistance center and the Pacific Northwest export assistance project. The provisions of the contract related to the Pacific Northwest export assistance project may be changed at any time if the director of the department of community, trade, and economic development or the president of the small business export finance assistance center present compelling reasons supporting the need for a contract change to the board of directors and a majority of the board of directors agrees to the changes. The department of agriculture shall be included in the contracting negotiations with the department of community, trade, and economic development and the small business export finance assistance center when the Pacific Northwest export assistance project provides export services to industrial sectors

within the administrative domain of the Washington state department of agriculture. The department of community, trade, and economic development, the small business export finance assistance center, and, if appropriate, the department of agriculture, shall report annually, as one group, to the appropriate legislative oversight committees on the progress of the Pacific Northwest export assistance project. [1995 c 399 § 107; 1991 c 314 § 16. Prior: 1985 c 466 § 64; 1985 c 231 § 5; 1983 1st ex.s. c 20 § 5.]

Findings—1991 c 314: See note following RCW 43.31.601.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

43.210.060 Rule-making authority. The department of community, trade, and economic development or its statutory successor shall adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter. [1995 c 399 § 108; 1985 c 466 § 65; 1983 1st ex.s. c 20 § 6.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.125.

43.210.070 Small business export finance assistance center fund. The small business export finance assistance center fund is created in the custody of the state treasurer. Expenditures from the fund may be used only for the purposes of funding the services of the small business export finance assistance center and its projects under this chapter. Only the director of the department of community, trade, and economic development or the director's designee may authorize expenditures from the fund. The director of the department of community, trade, and economic development shall not withhold funds appropriated for the administration of the small business export finance assistance center and its projects, if the small business export finance assistance center complies with the provisions of its contract under RCW 43.210.050 and 43.210.100. Funding appropriated by the state of Washington shall not be used to provide services to other states or provinces. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. [1995 c 399 § 109; 1991 c 314 § 14.]

Sunset Act application: See note following chapter digest.

Findings—1991 c 314: See note following RCW 43.31.601.

43.210.100 Pacific Northwest export assistance project—Generally. (1) The Pacific Northwest export assistance project is hereby created for the following purposes:

(a) To assist manufacturers relatively new to exporting with gross annual revenues less than twenty-five million dollars with comprehensive services for designing and managing introductory export strategies and in securing financing and credit guarantees for export transactions;

(b) To provide, in cooperation with the export promotion services offered by the department of community, trade, and economic development and the Washington state department of agriculture, information and assistance to manufacturers with gross annual revenues less than twenty-five million dollars about the methods and procedures of

structuring company specific export financing and credit guarantee alternatives; or

(c) To provide information to their clients about opportunities in organizing cooperative export networks, foreign sales corporations, or export trading companies under the United States export trading company act of 1982, for the purpose of increasing their comparative sales volume and ability to export their products to foreign markets.

(2) The Pacific Northwest export assistance project is a separate branch of the small business export finance assistance center for accounting and auditing purposes.

(3) The Pacific Northwest export assistance project is subject to the authority of the small business export finance assistance center, under RCW 43.210.020, and shall be governed and managed by the board of directors, under RCW 43.210.030. [1995 c 399 § 110; 1991 c 314 § 11.]

Sunset Act application: See note following chapter digest.

Findings—1991 c 314: See note following RCW 43.31.601.

43.210.110 Pacific Northwest export assistance project—Duties of center. (1) The small business export finance assistance center has the following powers and duties when exercising its authority under RCW 43.210.100(3):

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other public or private sources to carry out its purposes;

(b) Offer comprehensive export assistance and counseling to manufacturers relatively new to exporting with gross annual revenues less than twenty-five million dollars. As close to seventy-five percent as possible of each year's new cadre of clients must have gross annual revenues of less than five million dollars at the time of their initial contract. At least fifty percent of each year's new cadre of clients shall be from rural natural resources impact areas as defined in RCW 43.31.601. Counseling may include, but not be limited to, helping clients obtain debt or equity financing, in constructing competent proposals, and assessing federal guarantee and/or insurance programs that underwrite exporting risk; assisting clients in evaluating their international marketplace by developing marketing materials, assessing and selecting targeted markets; assisting firms in finding foreign customers by conducting foreign market research, evaluating distribution systems, selecting and assisting in identification of and/or negotiations with foreign agents, distributors, retailers, and by promoting products through attending trade shows abroad; advising companies on their products, guarantees, and after sales service requirements necessary to compete effectively in a foreign market; designing a competitive strategy for a firm's products in targeted markets and methods of minimizing their commercial and political risks; securing for clients specific assistance as needed, outside the center's field of expertise, by referrals to other public or private organizations. The Pacific Northwest export assistance project shall focus its efforts on facilitating export transactions for its clients, and in doing so, provide such technical services as are appropriate to accomplish its mission either with staff or outside consultants;

(c) Sign three-year counseling agreements with its clients that provide for termination if adequate funding for the Pacific Northwest export assistance project is not

provided in future appropriations. Counseling agreements shall not be renewed unless there are compelling reasons to do so, and under no circumstances shall they be renewed for more than two additional years. A counseling agreement may not be renewed more than once. The counseling agreements shall have mutual performance clauses, that if not met, will be grounds for releasing each party, without penalty, from the provisions of the agreement. Clients shall be immediately released from a counseling agreement with the Pacific Northwest export assistance project, without penalty, if a client wishes to switch to a private export management service and produces a valid contract signed with a private export management service, or if the president of the small business export finance assistance center determines there are compelling reasons to release a client from the provisions of the counseling agreement;

(d) May contract with private or public international trade education services to provide Pacific Northwest export assistance project clients with training in international business. The president and board of directors shall decide the amount of funding allocated for educational services based on the availability of resources in the operating budget of the Pacific Northwest export assistance project;

(e) May contract with the Washington state international trade fair to provide services for Pacific Northwest export assistance project clients to participate in one trade show annually. The president and board of directors shall decide the amount of funding allocated for trade fair assistance based on the availability of resources in the operating budget of the Pacific Northwest export assistance project;

(f) Provide biennial assessments of its performance. Project personnel shall work with the department of revenue and employment security department to confidentially track the performance of the project's clients in increasing tax revenues to the state, increasing gross sales revenues and volume of products destined to foreign clients, and in creating new jobs for Washington citizens. A biennial report shall be prepared for the governor and legislature to assess the costs and benefits to the state from creating the project. The president of the small business export finance assistance center shall design an appropriate methodology for biennial assessments in consultation with the director of community, trade, and economic development and the director of the Washington state department of agriculture. The department of revenue and the employment security department shall provide data necessary to complete this biennial evaluation, if the data being requested is available from existing data bases. Client-specific information generated from the files of the department of revenue and the employment security department for the purposes of this evaluation shall be kept strictly confidential by each department and the small business export finance assistance center;

(g) Take whatever action may be necessary to accomplish the purposes set forth in RCW 43.210.070 and 43.210.100 through 43.210.120; and

(h) Limit its assistance to promoting the exportation of value-added manufactured goods. The project shall not provide counseling or assistance, under any circumstances, for the importation of foreign made goods into the United States.

(2) The Pacific Northwest export assistance project shall not, under any circumstances, assume ownership or take title to the goods of its clients.

(3) The Pacific Northwest export assistance project may not use any Washington state funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(4) The Pacific Northwest export assistance project shall make every effort to seek nonstate funds to supplement its operations. The small business export finance assistance center and the project are authorized to charge reasonable fees for services and products provided and to expend the proceeds for the particular purposes for which they were collected.

(5) The small business export finance assistance center and its Pacific Northwest export assistance project shall take whatever steps are necessary to provide its services, if requested, to the states of Oregon, Idaho, Montana, Alaska, and the Canadian provinces of British Columbia and Alberta. Interstate services shall not be provided by the Pacific Northwest export assistance project during its first biennium of operation. The provision of services may be temporary and subject to the payment of fees, or each state may request permanent services contingent upon a level of permanent funding adequate for services provided. Temporary services and fees may be negotiated by the small business export finance assistance center's president subject to approval of the board of directors. The president of the small business export finance assistance center may enter into negotiations with neighboring states to contract for delivery of the project's services. Final contracts for providing the project's counseling and services outside of the state of Washington on a permanent basis shall be subject to approval of the governor, appropriate legislative oversight committees, and the small business export finance assistance center's board of directors.

(6) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the Pacific Northwest export assistance project and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

(7) The president of the small business export finance assistance center, in consultation with the board of directors, may use the following formula in determining the number of clients that can be reasonably served by the Pacific Northwest export assistance project relative to its appropriation. Divide the amount appropriated for administration of the Pacific Northwest export assistance project by the marginal cost of adding each additional Pacific Northwest export assistance project client. For the purposes of this calculation, and only for the first biennium of operation, the biennial marginal cost of adding each additional Pacific Northwest export assistance project client shall be fifty-seven

thousand ninety-five dollars. The biennial marginal cost of adding each additional client after the first biennium of operation shall be established from the actual operating experience of the Pacific Northwest export assistance project. [1995 c 226 § 29; 1994 c 284 § 7. Prior: 1993 sp.s. c 24 § 922; 1993 c 366 § 1; 1993 c 280 § 57; 1991 c 314 § 12.]

Sunset Act application: See note following chapter digest.

Severability—Conflict with federal requirements—Effective date—1995 c 226: See notes following RCW 43.31.601.

Severability—Effective date—1994 c 284: See RCW 43.63B.900 and 43.63B.901.

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

43.210.120 Rules. The department of community, trade, and economic development shall adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of RCW 43.210.070 and 43.210.100 through 43.210.120. [1995 c 399 § 111; 1991 c 314 § 13.]

Sunset Act application: See note following chapter digest.

Findings—1991 c 314: See note following RCW 43.31.601.

43.210.130 Minority business export outreach program. The small business export finance assistance center shall develop a minority business export outreach program. The program shall provide outreach services to minority-owned businesses in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters. [1993 c 512 § 5.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Office of minority and women's business enterprises: Chapter 39.19 RCW.
Small business bonding assistance program: Chapter 43.172 RCW.

Chapter 43.220

WASHINGTON CONSERVATION CORPS

Sections

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- 43.220.902 Severability—1985 c 230.
- 43.220.903 Severability—1987 c 367.

Reviser's note—Sunset Act application: The Washington conservation corps is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.383. RCW 43.220.010 through 43.220.250 are scheduled for future repeal under RCW 43.131.384.

43.220.010 Legislative declaration. The legislature declares that:

(1) A central element in the development of the state's young is the provision of meaningful work experience to teach the value of labor and membership in a productive society;

(2) It is important to provide an opportunity for group-oriented public service experiences for the state's young persons;

(3) The state is still benefiting from the wide range of public works accomplished by the conservation corps many years ago and that a similar program will likewise benefit future generations; and

(4) Values of hard work, public spiritedness, group achievement and cooperation, resource conservation, and environmental appreciation can and should be transmitted to society's youth through a conservation corps program. [1983 1st ex.s. c 40 § 2.]

Sunset Act application: See note following chapter digest.

43.220.020 Conservation corps created. The Washington conservation corps is hereby created, to be implemented by the following state departments: The employment security department, the department of ecology, the department of fish and wildlife, the department of natural resources, the department of agriculture, and the state parks and recreation commission. [1994 c 264 § 32; 1988 c 36 § 23; 1983 1st ex.s. c 40 § 1.]

Sunset Act application: See note following chapter digest.

43.220.030 Program goals. Program goals of the Washington conservation corps include:

(1) Conservation, rehabilitation, and enhancement of the state's natural, historic, environmental, and recreational resources with emphasis given to projects which address the following state-wide priorities:

- (a) Timber, fish and wildlife management plan;
- (b) Watershed management plan;
- (c) 1989 centennial celebration and tourism;
- (d) Puget Sound water quality;
- (e) United States-Canada fisheries treaty;
- (f) Public access to and environmental education about natural resources through recreational facilities;

- (g) Recreational trails;
- (2) Development of the state's youth resources through meaningful work experiences;
- (3) Making outdoor and historic resources of the state available for public enjoyment;
- (4) Teaching of the workings of natural, environmental, and biological systems, as well as basic employment skills;
- (5) Assisting agencies in carrying out statutory assignments with limited funding resources; and
- (6) Providing needed public services in both urban and rural settings. [1987 c 367 § 1; 1983 1st ex.s. c 40 § 3.]

Sunset Act application: See note following chapter digest.

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

(1) "Public lands" means any lands or waters, or interests therein, owned or administered by any agency or instrumentality of the state, federal, or local government.

(2) "Corps" means the Washington conservation corps.

(3) "Corps member" means an individual enrolled in the Washington conservation corps.

(4) "Corps member leaders" or "specialists" means members of the corps who serve in leadership or training capacities or who provide specialized services other than or in addition to the types of work and services that are performed by the corps members in general.

(5) "Council" means the Washington conservation corps coordinating council. [1987 c 367 § 2; 1983 1st ex.s. c 40 § 4.]

Sunset Act application: See note following chapter digest.

43.220.050 Coordination by youth employment exchange—Powers and duties. (1) The *youth employment exchange as established in RCW 50.65.030 shall be the overall coordinator of the Washington conservation corps and have such powers as are provided by this chapter for the purposes of recruitment. The *youth employment exchange shall develop guidelines for work performance standards for the conservation corps programs of the agencies listed in RCW 43.220.020.

(2) The *youth employment exchange shall be the sole recipient of federal funds for youth employment and conservation corps programs. [1983 1st ex.s. c 40 § 5.]

Sunset Act application: See note following chapter digest.

***Reviser's note:** The youth employment exchange was redesignated the Washington service corps by 1987 c 167.

43.220.060 Powers and duties—Effect on employed workers—Facilities, supplies, instruments, and tools. (1) Each state department identified in RCW 43.220.020 shall have the following powers and duties to carry out its functions relative to the Washington conservation corps:

(a) Recruiting and employing staff and corps member leaders and specialists;

(b) Adopting criteria for the selection of applicants to the program from among the enrollees of the *youth employment exchange program;

(c) Executing agreements for furnishing the services of the employment conservation program to carry out conservation corps programs to any federal, state, or local public

agency, any local organization as specified in this chapter in concern with the overall objectives of the conservation corps;

(d) Applying for and accepting grants or contributions of funds from any private source;

(e) Determining a preference for those projects which will provide long-term benefits to the public, will provide productive training and work experiences to the members involved, will be labor-intensive, may result in payments to the state for services performed, and can be promptly completed; and

(f) Entering into agreements with community colleges within the state's **community college system and other educational institutions or independent nonprofit agencies to provide special education in basic skills, including reading, writing, and mathematics for those conservation corps members who may benefit by participation in such classes. Classes shall be scheduled after corps working hours. Participation by members is not mandatory but shall be strongly encouraged. The participation shall be a primary factor in determining whether the opportunity for corps membership beyond one year shall be offered. Instruction related to the specific role of the department in resource conservation shall also be offered, either in a classroom setting or as is otherwise appropriate.

(2) The assignment of corps members shall not result in the displacement of currently employed workers, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits. Supervising agencies that participate in the program may not terminate, lay-off, or reduce the working hours of any employee for the purpose of using a corps member with available funds. In circumstances where substantial efficiencies or a public purpose may result, supervising agencies may use corps members to carry out essential agency work or contractual functions without displacing current employees.

(3) Facilities, supplies, instruments, and tools of the supervising agency shall be made available for use by the conservation corps to the extent that such use does not conflict with the normal duties of the agency. The agency may purchase, rent, or otherwise acquire other necessary tools, facilities, supplies, and instruments. [1987 c 505 § 44; 1983 1st ex.s. c 40 § 6.]

Sunset Act application: See note following chapter digest.

Reviser's note: *(1) The youth employment exchange was redesignated the Washington service corps by 1987 c 167.

** (2) The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

43.220.070 Corps membership—Eligibility, terms, etc. (1) Conservation corps members shall be unemployed residents of the state between eighteen and twenty-five years of age at the time of enrollment who are citizens or lawful permanent residents of the United States. The age requirements may be waived for corps leaders and specialists with special leadership or occupational skills; such members shall be given special responsibility for providing leadership, character development, and sense of community responsibility to the corps members, groups, and work crews to which they are assigned. The upper age requirement may be waived for residents who have a sensory or mental handicap. Special effort shall be made to recruit minority and disad-

vantaged youth who meet selection criteria of the conservation corps. Preference shall be given to youths residing in areas, both urban and rural, in which there exists substantial unemployment exceeding the state average unemployment rate.

(2) The legislature finds that people with developmental disabilities would benefit from experiencing a meaningful work experience, and learning the value of labor and of membership in a productive society.

The legislature urges state agencies that are participating in the Washington conservation corps program to consider for enrollment in the program people who have developmental disabilities, as defined in RCW 71A.10.020.

If an agency chooses to enroll people with developmental disabilities in its Washington conservation corps program, the agency may apply to the United States department of labor, employment standards administration for a special subminimum wage certificate in order to be allowed to pay enrollees with developmental disabilities according to their individual levels of productivity.

(3) Corps members shall not be considered state employees. Other provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, state retirement plans, and vacation leave do not apply to the Washington conservation corps except for the crew leaders, who shall be project employees, and the administrative and supervisory personnel.

(4) Enrollment shall be for a period of six months which may be extended for an additional six months by mutual agreement of the corps and the corps member. Corps members shall be reimbursed at the minimum wage rate established by state or federal law, whichever is higher: PROVIDED, That if agencies elect to run a residential program, the appropriate costs for room and board shall be deducted from the corps member's paycheck as provided in chapter 43.220 RCW.

(5) Corps members are to be available at all times for emergency response services coordinated through the department of community, trade, and economic development or other public agency. Duties may include sandbagging and flood cleanup, search and rescue, and other functions in response to emergencies. [1995 c 399 § 112; 1990 c 71 § 2; 1988 c 78 § 1; 1986 c 266 § 48. Prior: 1985 c 230 § 7; 1985 c 7 § 110; 1983 1st ex.s. c 40 § 7.]

Sunset Act application: See note following chapter digest.

Legislative finding—1990 c 71: See note following RCW 43.220.230.

Severability—1986 c 266: See note following RCW 38.52.005.

43.220.080 Selection of corps members—Development of corps program. Conservation corps members shall be selected based on their orientation towards public service, development of job skills and productive work habits, and character development. Special effort shall be made at the time of initial screening to explain rigorous productivity standards and special expectations and obligations of corps membership. An employment agreement shall be entered into by the corps member, indicating the member's understanding of, and willingness to abide by, such standards.

In the development of the corps program, consideration shall be given to providing corps members with a beneficial and meaningful work experience. Standards of productivity, behavior, and punctuality shall be developed and observed. Consideration shall be given to the development of a program that deserves the respect of the public, both in terms of service provided and personal development of corps members. [1983 1st ex.s. c 40 § 8.]

Sunset Act application: See note following chapter digest.

43.220.090 Conservation corps established in department of ecology—Work project areas. (1) There is established a conservation corps within the department of ecology.

(2) Specific work project areas of the ecology conservation corps may include the following:

(a) Litter pickup as a supplement to the role of the litter patrol established by the waste reduction, recycling, and model litter control act, chapter 70.93 RCW;

(b) Stream rehabilitation, including trash removal, in-stream debris removal, and clearance of log jams and silt accumulation, to the extent that such projects do not conflict with similar tasks undertaken by the department of fish and wildlife;

(c) Minimum flow field work and stream gauging;

(d) Identification of indiscriminate solid waste dump sites;

(e) Laboratory and office assistance;

(f) General maintenance and custodial work at sewage treatment plants;

(g) Irrigation district assistance, including ditch cleaning and supervised work in surveying and engineering;

(h) Streambank erosion control; and

(i) Other projects as the director may determine. If a project requires certain levels of academic training, the director may assign corps members to categories of work projects according to educational background. If appropriate facilities are available, the director may authorize carrying out projects which involve overnight stays. [1994 c 264 § 33; 1983 1st ex.s. c 40 § 9.]

Sunset Act application: See note following chapter digest.

43.220.120 Conservation corps established in department of fish and wildlife—Work project areas. (1) There is established a conservation corps within the department of fish and wildlife.

(2) Specific work project areas of the game conservation corps may include the following:

(a) Habitat development;

(b) Land clearing;

(c) Construction projects;

(d) Noxious weed control;

(e) Brush cutting;

(f) Reader board construction;

(g) Painting;

(h) Cleaning and repair of rearing ponds;

(i) Fishtrap construction;

(j) Brush clearance;

(k) Spawning channel restoration;

(l) Log removal;

(m) Nest box maintenance and cleaning;

(n) Fence building;

(o) Winter game feeding and herding;

(p) Stream rehabilitation;

(q) Fish hatchery operation and maintenance;

(r) Fish tagging; and

(s) Such other projects as the director of fish and wildlife may determine. If appropriate facilities are available, the director of fish and wildlife may authorize carrying out projects which involve overnight stays. [1994 c 264 § 34; 1988 c 36 § 24; 1983 1st ex.s. c 40 § 12.]

Sunset Act application: See note following chapter digest.

43.220.130 Conservation corps established in department of natural resources—Work project areas.

(1) There is established a conservation corps within the department of natural resources.

(2) Specific work project areas of the natural resources conservation corps may include the following:

(a) Research assistance;

(b) Recreation projects;

(c) Slash disposal;

(d) Pit site reclamation;

(e) Road deactivation;

(f) Animal damage control;

(g) Reforestation;

(h) Wood cutting;

(i) Firewood systems development;

(j) Noxious weed control;

(k) Fence construction and maintenance;

(l) Wood products manufacturing;

(m) Riparian area cleaning;

(n) Spring development for grazing;

(o) Erosion control;

(p) Control of fires; and

(q) Such other projects as the commissioner of public lands may determine. If appropriate facilities are available, the commissioner of public lands may authorize carrying out projects which involve overnight stays. [1983 1st ex.s. c 40 § 13.]

Sunset Act application: See note following chapter digest.

43.220.150 Conservation corps established in department of agriculture—Work project areas. (1)

There is established a conservation corps within the department of agriculture.

(2) Specific work project areas of the agriculture conservation corps may include the following:

(a) Insect detection and control;

(b) Noxious weed removal;

(c) Irrigation district canal maintenance; and

(d) Such other projects as the director of agriculture may determine. If appropriate facilities are available, the director of agriculture may authorize carrying out projects which involve overnight stays. [1983 1st ex.s. c 40 § 15.]

Sunset Act application: See note following chapter digest.

43.220.160 Conservation corps established in state parks and recreation commission—Work project areas.

(1) There is established a conservation corps within the state parks and recreation commission.

(2) Specific work project areas of the state parks and recreation conservation corps may include the following:

- (a) Restoration or development of park facilities;
- (b) Trail construction and maintenance;
- (c) Litter control;
- (d) Park and land rehabilitation;
- (e) Fire suppression;
- (f) Road repair; and

(g) Other projects as the state parks and recreation commission may determine. If appropriation facilities are available, the state parks and recreation commission may authorize carrying out projects which involve overnight stays. [1983 1st ex.s. c 40 § 16.]

Sunset Act application: See note following chapter digest.

43.220.170 Exemption from unemployment compensation coverage. The services of corps members placed with agencies listed in RCW 43.220.020 are exempt from unemployment compensation coverage under RCW 50.44.040(5) and the enrollees shall be so advised by the department. [1983 1st ex.s. c 40 § 17.]

Sunset Act application: See note following chapter digest.

43.220.180 Identification of historic properties and sites in need of rehabilitation or renovation—Use of corps members. The state historic preservation officer shall review the state and national registers of historic places to identify publicly owned historic properties and sites within the state which are in need of rehabilitation or renovation and which could utilize parks and recreation conservation corps members in such rehabilitation or renovation. Any such tasks shall be performed in such a way as not to conflict with the historic character of the structure as determined by the state historic preservation officer.

Conservation corps members shall be made available for tasks identified by the state historic preservation officer in the rehabilitation and renovation of historic sites within the state. [1983 1st ex.s. c 40 § 18.]

Sunset Act application: See note following chapter digest.

43.220.190 Coordinating council. The agencies listed in RCW 43.220.020 shall convene a conservation corps coordinating council to meet as needed to establish consistent work standards and placement and evaluation procedures of corps programs. The coordinating council shall be composed of administrative personnel of the agencies. The coordinating council shall serve to reconcile problems that arise in the implementation of the corps programs and develop coordination procedures for emergency responses of corps members. [1987 c 367 § 3; 1983 1st ex.s. c 40 § 20.]

Sunset Act application: See note following chapter digest.

43.220.210 Selection, review, approval, and evaluation of projects—Recruitment, job training and placement services. The Washington conservation corps coordinating council shall select, review, approve, and evaluate the success of projects under this chapter.

Up to fifteen percent of funds spent for recruitment, job training and placement services shall, wherever possible, be contracted through local educational institutions and/or nonprofit corporations.

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Such contracts may include, but not be limited to, general education development testing, preparation of resumes and job search skills.

All contracts or agreements entered into by agencies listed in RCW 43.220.020 shall be reviewed by the council for compliance with legislative intent as set forth in this section. [1987 c 367 § 4; 1985 c 230 § 1.]

Sunset Act application: See note following chapter digest.

43.220.220 Use of funds for enrollees and members from distressed areas—Youth employment exchange—Evaluation of projects—Training plan. Sixty percent of the general funds available to the *youth employment exchange as prescribed in chapter 50.65 RCW, and the Washington conservation corps shall be for enrollees and members from distressed areas and for projects in distressed areas. A distressed area shall mean: (1) A county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years; (2) a community which has experienced sudden and severe loss of employment; or (3) an area within a county which area: (a) Is composed of contiguous census tracts; (b) has a minimum population of five thousand persons; (c) the median household income is at least thirty-five percent below the county's median household income, as determined from data collected for the previous United States ten-year census; and (d) has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

The department of employment security shall evaluate projects on the basis of average cost per enrollee, public benefit of the proposed project, opportunity for placement of enrollees and corps members, degree of public and private support, and coordination of projects with other agencies. A training plan shall be developed for each corps member and enrollee. Preference shall be given to persons not less than eighteen years of age, and not older than twenty-three years of age. The department of employment security shall ensure the availability of corps members to respond to emergency projects and needs as they arise.

Agencies which do not develop projects which meet the department's requirements in the biennium, and result in unexpended funds, shall have those unexpended funds go to other distressed areas to encourage the recruitment of disadvantaged unemployed youth. [1985 c 230 § 2.]

Sunset Act application: See note following chapter digest.

***Reviser's note:** See note following RCW 43.220.050.

43.220.230 Limitation on use of funds. (1) Not more than fifteen percent of the funds available for the Washington conservation corps and the Washington service corps prescribed in chapter 50.65 RCW shall be expended for the cost of administration. For the purpose of this chapter, administrative costs are defined as including, but not limited to, program planning and evaluation, budget development and monitoring, personnel management, contract administration, payroll, development of program reports, normal

recruitment and placement procedures, standard office space, and costs and utilities.

(2) The fifteen percent limitation does not include costs for any of the following: Program support activities such as direct supervision of enrollees, counseling, job training, equipment, and extraordinary recruitment procedures necessary to fill project positions.

(3) The total costs for all items included under subsection (1) of this section and excluded from the fifteen percent lid under subsection (2) of this section shall not: (a) Exceed thirty percent of the appropriated funds available during a fiscal biennium for the Washington conservation corps and the Washington service corps programs; or (b) result in the average cost per enrollee exceeding the level established by the following formula: Corps member basic hourly wage multiplied by two thousand eighty. The tests included in items (a) and (b) of this subsection are in the alternative and it is only required that one of these tests be satisfied. For purposes of this section, the term administrative costs does not include those extraordinary placement costs of the department of employment security for which the department is eligible for reimbursement under RCW 43.220.240. The provisions of this section apply separately to each corps agency listed in RCW 43.220.020. [1990 c 71 § 3; 1985 c 230 § 3.]

Sunset Act application: See note following chapter digest.

Legislative finding—1990 c 71: "The legislature finds that the Washington conservation corps has proven to be an effective method to provide meaningful work experience for many of the state's young persons. Because of recent, and possible future, increases in the minimum wage laws, it is necessary to make an adjustment in the limitation that applies to corps member reimbursements." [1990 c 71 § 1.]

43.220.240 Staff support—Administration. Staff support to the department of employment security shall be provided by the Washington conservation corps coordinating council as established in RCW 43.220.190. The employment security department shall be the central administrative authority for data on projects, project requests, applicants and reports to the legislature. The department shall be reimbursed by the Washington conservation corps agencies specified in RCW 43.220.020. Reimbursement shall be for reasonable administrative costs associated with the department's role as the central administrative authority and for extraordinary placement costs incurred for the corps agencies. The Washington conservation corps coordinating council is to develop the most cost-effective administrative system to provide training, payroll, and purchasing services to the conservation corps agencies and present the system to the department for approval. The department shall select the administrative system which best meets the purposes of this chapter, and is cost-efficient. [1985 c 230 § 4.]

Sunset Act application: See note following chapter digest.

43.220.250 Reimbursement of nonprofit corporations for certain services. A nonprofit corporation which contracts with an agency listed in RCW 43.220.020 to provide a specific service, appropriate for the administration of this chapter which the agency cannot otherwise provide, may be reimbursed at the discretion of the agency for the reasonable costs the agency would absorb for providing those services. [1985 c 230 § 5.]

Sunset Act application: See note following chapter digest.

43.220.901 Severability—1983 1st ex.s. c 40. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 40 § 24.]

43.220.902 Severability—1985 c 230. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 230 § 9.]

43.220.903 Severability—1987 c 367. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 367 § 6.]

Chapter 43.250

INVESTMENT OF LOCAL GOVERNMENT FUNDS

Sections

- 43.250.010 Purpose.
- 43.250.020 Definitions.
- 43.250.030 Public funds investment account.
- 43.250.040 Authority of official to place funds in the public funds investment account—Investment of funds by state treasurer—Degree of judgment and care required.
- 43.250.050 Employment of personnel.
- 43.250.060 Investment pool—Generally.
- 43.250.070 Investment pool—Separate accounts for participants—Monthly status report.
- 43.250.080 Annual summary of activity.
- 43.250.090 Administration of chapter—Rules.

Investment accounting: RCW 43.33A.180.

43.250.010 Purpose. The purpose of this chapter is to enable political subdivisions, community and technical college districts, and the state board for community and technical colleges as established in chapter 28B.50 RCW to participate with the state in providing maximum opportunities for the investment of surplus public funds consistent with the safety and protection of such funds. The legislature finds and declares that the public interest is found in providing maximum prudent investment of surplus funds, thereby reducing the need for additional taxation. The legislature also recognizes that not all political subdivisions are able to maximize the return on their temporary surplus funds. The legislature therefore provides in this chapter a mechanism whereby political subdivisions, community and technical colleges, and the state board for community and technical colleges may, at their option, utilize the resources of the state treasurer's office to maximize the potential of surplus funds while ensuring the safety of public funds. [1996 c 268 § 1; 1986 c 294 § 1.]

43.250.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Public funds investment account" or "investment pool" means the aggregate of all funds as defined in subsection (5) of this section that are placed in the custody of the state treasurer for investment and reinvestment.

(2) "Political subdivision" means any county, city, town, municipal corporation, political subdivision, or special purpose taxing district in the state.

(3) "Local government official" means any officer or employee of a political subdivision who has been designated by statute or by local charter, ordinance, or resolution as the officer having the authority to invest the funds of the political subdivision. However, the county treasurer shall be deemed the only local government official for all political subdivisions for which the county treasurer has exclusive statutory authority to invest the funds thereof.

(4) "Financial officer" means the board-appointed treasurer of a community or technical college district or the state board for community and technical colleges.

(5) "Funds" means:

(a) Public funds under the control of or in the custody of any local government official or local funds, as defined by the office of financial management publication "Policies, Regulations and Procedures," under the control of or in the custody of a financial officer by virtue of the official's authority that are not immediately required to meet current demands;

(b) State funds deposited in the investment pool by the state treasurer that are the proceeds of bonds, notes, or other evidences of indebtedness authorized by the state finance committee under chapter 39.42 RCW or payments pursuant to financing contracts under chapter 39.94 RCW, when the investments are made in order to comply with the Internal Revenue Code of 1986, as amended. [1996 c 268 § 2; 1990 c 106 § 1; 1986 c 294 § 2.]

43.250.030 Public funds investment account. There is created a trust fund to be known as the public funds investment account. The account is to be separately accounted for and invested by the state treasurer. All moneys remitted under this chapter shall be deposited in this account. All earnings on any balances in the public funds investment account, less moneys for administration pursuant to RCW 43.250.060, shall be credited to the public funds investment account. [1991 sp.s. c 13 § 86; 1990 c 106 § 2; 1986 c 294 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

43.250.040 Authority of official to place funds in the public funds investment account—Investment of funds by state treasurer—Degree of judgment and care required. If authorized by statute, local ordinance, or resolution, a local government official or financial officer may place funds into the public funds investment account for investment and reinvestment by the state treasurer in those securities and investments set forth in RCW 43.84.080 and chapter 39.58 RCW. The state treasurer shall invest the funds in such manner as to effectively maximize the yield to the investment pool. In investing and reinvesting moneys in the public funds investment account and in acquiring, retaining, managing, and disposing of investments of the

investment pool, there shall be exercised the judgment and care under the circumstances then prevailing which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of the funds considering the probable income as well as the probable safety of the capital. [1996 c 268 § 3; 1986 c 294 § 4.]

43.250.050 Employment of personnel. The state treasurer's office is authorized to employ such personnel as are necessary to administer the public funds investment account. The bond of the state treasurer as required by law shall be made to include the faithful performance of all functions relating to the investment pool. [1986 c 294 § 5.]

43.250.060 Investment pool—Generally. The state treasurer shall by rule prescribe the time periods for investments in the investment pool and the procedure for withdrawal of funds from the investment pool. The state treasurer shall promulgate such other rules as are deemed necessary for the efficient operation of the investment pool. The rules shall also provide for the administrative expenses of the investment pool, including repayment of the initial administrative costs financed out of the appropriation included in chapter 294, Laws of 1986, to be paid from the pool's earnings and for the interest earnings in excess of the expenses to be credited or paid to participants in the pool. The state treasurer may deduct the amounts necessary to reimburse the treasurer's office for the actual expenses the office incurs and to repay any funds appropriated and expended for the initial administrative costs of the pool. Any credits or payments to the participants shall be calculated and made in a manner which equitably reflects the differing amounts of the participants' respective deposits in the investment pool fund and the differing periods of time for which the amounts were placed in the investment pool. [1990 c 106 § 3; 1986 c 294 § 6.]

43.250.070 Investment pool—Separate accounts for participants—Monthly status report. The state treasurer shall keep a separate account for each participant having funds in the investment pool. Each separate account shall record the individual amounts deposited in the investment pool, the date of withdrawals, and the earnings credited or paid. The state treasurer shall report monthly the status of the respective account to each participant having funds in the pool during the previous month. [1990 c 106 § 4; 1986 c 294 § 7.]

43.250.080 Annual summary of activity. At the end of each fiscal year, the state treasurer shall submit to the governor, the state auditor, and the joint legislative audit and review committee a summary of the activity of the investment pool. The summary shall indicate the quantity of funds deposited; the earnings of the pool; the investments purchased, sold, or exchanged; the administrative expenses of the investment pool; and such other information as the state treasurer deems relevant. [1996 c 288 § 48; 1986 c 294 § 8.]

43.250.090 Administration of chapter—Rules. The state finance committee shall administer this chapter and adopt appropriate rules. [1986 c 294 § 9.]

Chapter 43.270

COMMUNITY MOBILIZATION AGAINST SUBSTANCE ABUSE

Sections

- 43.270.010 Intent.
- 43.270.020 Grant program—Activities funded.
- 43.270.030 Content of application.
- 43.270.040 Coordinated strategies.
- 43.270.050 Application requirements.
- 43.270.060 Criteria for making awards.
- 43.270.070 Community suggestions.
- 43.270.080 Gifts, grants, and endowments.
- 43.270.900 Severability—1989 c 271.

43.270.010 Intent. The legislature recognizes that state-wide efforts aimed at reducing the incidence of substance abuse must be increased. The legislature further recognizes that the most effective strategy for reducing the impact of alcohol and other drug abuse is through the collaborative efforts of educators, law enforcement, local government officials, local treatment providers, and concerned community and citizens' groups.

The legislature intends to support the development and activities of community mobilization strategies against substance abuse through the following efforts:

- (1) Provide funding support for prevention, treatment, and enforcement activities identified by communities that have brought together education, treatment, local government, law enforcement, and other key elements of the community;
- (2) Provide technical assistance and support to help communities develop and carry out effective activities; and
- (3) Provide communities with opportunities to share suggestions for state program operations and budget priorities. [1989 c 271 § 315.]

43.270.020 Grant program—Activities funded. There is established in the office of the governor a grant program to provide incentive for and support for communities to develop targeted and coordinated strategies to reduce the incidence and impact of substance abuse.

Activities which may be funded through this grant program include those which:

- (1) Prevent substance abuse through educational and self-esteem efforts, development of positive alternatives, intervention with high-risk groups, and other prevention strategies;
- (2) Support effective treatment by increasing access to and availability of treatment opportunities, particularly for underserved or highly impacted populations, developing aftercare and support mechanisms, and other strategies to increase the availability and effectiveness of treatment;
- (3) Provide meaningful consequences for participation in illegal activity and promote safe and healthy communities through support of law enforcement strategies;
- (4) Create or build on efforts by existing community programs, coordinate their efforts, and develop cooperative

efforts or other initiatives to make most effective use of resources to carry out the community's strategy against substance abuse; and

(5) Other activities which demonstrate both feasibility and a rationale for how the activity will achieve measurable results in the strategy against substance abuse. [1989 c 271 § 316.]

Report to legislature—1989 c 271 § 316: "The governor shall report to the legislature by January 1, 1991, regarding the operations of the grant program authorized in section 316 of this act. At a minimum, the report shall include the following:

- (1) Number of grants awarded and the amount of each grant;
- (2) Recipients of grants, including the communities in which they are based;
- (3) Purposes for which the grants were awarded;
- (4) Success of the projects in achieving their stated goals and objectives;
- (5) An assessment of the effect that the activities of *this act had on encouraging and supporting coordinated community action against substance abuse;
- (6) Recommendations for further funding by the state; and
- (7) Recommendations regarding future operations of the program, including criteria for awarding grants." [1989 c 271 § 324.] For codification of "this act" [1989 c 271], see Codification Tables, Volume 0.

43.270.030 Content of application. Applications for funding under this chapter must:

- (1) Demonstrate that the community has developed and is committed to carrying out a coordinated strategy of prevention, treatment, and law enforcement activities; and
- (2) Contain evidence of active participation of the community and specific commitments to implementing the community-wide agenda by leadership from at least education, law enforcement, local government, tribal government, and treatment entities in the community, and the opportunity for meaningful involvement from others such as neighborhood and citizen groups, businesses, human service, health and job training organizations, and other key elements of the community, particularly those whose responsibilities in law enforcement, treatment, prevention, or other community efforts provide direct, ongoing contact with substance abusers. [1989 c 271 § 317.]

43.270.040 Coordinated strategies. This grant program will be available to communities of any geographic size but will encourage and reward communities which develop coordinated or complimentary strategies within geographic areas such as county areas or groups of county areas which correspond to units of government with significant responsibilities in the area of substance abuse, existing coalitions, or other entities important to the success of a community's strategy against substance abuse. [1989 c 271 § 318.]

43.270.050 Application requirements. At a minimum, grant applications must include the following:

- (1) Definition of geographic area;
- (2) A description of the extent and impact of substance abuse in the community, including an explanation of those who are most severely impacted and those most at risk of substance abuse;
- (3) An explanation of the community-wide strategy for prevention, treatment, and law enforcement activities related to substance abuse with particular attention to those who are

most severely impacted and those most at risk of substance abuse;

(4) Explanation of who was involved in development of the strategy and what specific commitments have been made to carrying it out;

(5) Identification of existing prevention, treatment, and law enforcement resources committed by the community, including financial and other support, and an explanation of how the community's strategy involves and builds on the efforts of existing organizations or coalitions that have been carrying out community efforts against substance abuse;

(6) Identification of activities that address specific objectives in the strategy for which additional resources are needed;

(7) Identification of additional local resources, including public or private funds, donated goods or services, and other measurable commitments, that have been committed to the activities identified in subsection (6) of this section;

(8) Identification of activities which address specific objectives in the strategy for which funding is requested. Activities should be presented in priority order;

(9) Each activity for which funding is requested must be explained in sufficient detail to demonstrate:

(a) Feasibility through deliberative design, specific objectives, and realistic plan for implementation;

(b) A rationale for how this activity will achieve measurable results and how it will be evaluated;

(c) That funds requested are necessary and appropriate to effectively carry out the activity; and

(10) Identification of a fiscal agent meeting state requirements for each activity proposed for funding. [1989 c 271 § 319.]

43.270.060 Criteria for making awards. The governor shall make awards, subject to funds appropriated by the legislature, under the following terms:

(1) In order to be eligible for consideration, applications must demonstrate, at a minimum:

(a) That proposals submitted for funding are based on and address specific objectives contained in a coordinated strategy of prevention, treatment, and law enforcement against substance abuse;

(b) Evidence of active participation in preparation of the proposal and specific commitments to implementing the community-wide agenda by leadership from at least education, law enforcement, local government, tribal government, and treatment entities in the community, and the opportunity for meaningful involvement from others such as neighborhood and citizen groups, businesses, human service, health and job training organizations, and other key elements of the community, particularly those whose responsibilities in law enforcement, treatment, prevention, or other community efforts provide direct, ongoing contact with substance abusers, or those at risk for substance abuse;

(c) That they have met the requirements listed in RCW 43.270.050;

(d) Evidence of additional local resources committed to its strategy totaling at least twenty-five percent of funds awarded under this section. These resources may consist of public or private funds, donated goods or services, and other measurable commitments, including in-kind contributions

such as volunteer services, materials, supplies, physical facilities or a combination thereof; and

(e) That the funds applied for, if received, will not be used to replace funding for existing activities.

(2) In order to encourage and reward communities which develop coordinated or complementary strategies within geographic areas which correspond to units of government with significant responsibilities in the area of substance abuse, up to fifty percent of funds appropriated for the purposes of this chapter may be awarded on a per capita basis to eligible applications reflecting coordinated strategy from a county area or group of county areas. The governor may establish minimum allotments per eligible county areas up to fifteen thousand dollars; and

(3) No less than fifty percent of funds appropriated under this chapter shall be awarded on a competitive basis for activities by communities not participating in a county-wide strategy and activities identified by county-wide strategies but not funded through per capita grants. Eligible applications will be assessed and compared by a peer review committee whose members have experience in prevention, treatment, law enforcement, and other community efforts against substance abuse using the following criteria:

(a) The extent and impact of substance abuse;

(b) The extent to which key elements of the community are involved in and committed to the coordinated strategy;

(c) The extent of commitments of local resources to the coordinated strategy;

(d) The extent to which any activities in a community's strategy offer an innovative approach to a chronic, wide-spread problem.

The peer review committee will advise the governor on the extent to which each eligible applicant has met these criteria. The governor will distribute available funds based on this information.

(4) The governor shall distribute fifty percent of the initial appropriation for the purposes of this chapter no later than October 1, 1989, and the remainder no later than July 1, 1990.

(5) Activities funded under this section may be considered for funding in future years, but will be considered under the same terms and criteria of new activities. Funding under this section shall not constitute an obligation by the state of Washington to provide ongoing funding. [1989 c 271 § 320.]

43.270.070 Community suggestions. The governor shall ask communities for suggestions on state practices, policies, and priorities that would help communities implement their strategies against substance abuse. The governor or appropriate agency officials shall review and respond to those suggestions making necessary changes where feasible, making recommendations to the legislature where appropriate, and providing an explanation as to why suggested changes cannot be accomplished, if the suggestions cannot be acted upon. [1989 c 271 § 321.]

43.270.080 Gifts, grants, and endowments. The governor may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the

purposes of RCW 43.270.010 through 43.270.080 and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [1989 c 271 § 322.]

43.270.900 Severability—1989 c 271. See note following RCW 9.94A.310.

Chapter 43.280

COMMUNITY TREATMENT SERVICES FOR VICTIMS OF SEX OFFENDERS

Sections

- 43.280.010 Intent.
- 43.280.011 Intent, approval of committee recommendations, distribution of services—1996 c 123.
- 43.280.020 Grant program—Funding.
- 43.280.030 Applications.
- 43.280.040 Organizations eligible.
- 43.280.050 Applications—Minimum requirements.
- 43.280.060 Awarding of grants—Peer review committee.
- 43.280.070 Gifts, grants, and endowments.
- 43.280.080 Office of crime victims advocacy.
- 43.280.081 Office of crime victims advocacy—Reports on penalty assessments collection and use of funds for assistance to victims and witnesses of crime.
- 43.280.090 Office of crime victims advocacy—Ad hoc advisory committees.
- 43.280.900 Index, part headings not law—1990 c 3.
- 43.280.901 Severability—1990 c 3.
- 43.280.902 Effective dates—Application—1990 c 3.

43.280.010 Intent. The legislature recognizes the need to increase the services available to the victims of sex offenders. The legislature also recognizes that these services are most effectively planned and provided at the local level through the combined efforts of concerned community and citizens groups, treatment providers, and local government officials. The legislature further recognizes that adequate treatment for victims is not only a matter of justice for the victim, but also a method by which additional abuse can be prevented.

The legislature intends to enhance the community-based treatment services available to the victims of sex offenders by:

- (1) Providing consolidated funding support for local treatment programs which provide services to victims of sex offenders;
- (2) Providing technical assistance and support to help communities plan for and provide treatment services;
- (3) Providing sexual assault services with a victim-focused mission, and consistent standards, policies, and contracting and reporting requirements; and
- (4) Providing communities and local treatment providers with opportunities to share information about successful prevention and treatment programs. [1996 c 123 § 2; 1990 c 3 § 1201.]

Effective date—1996 c 123: "This act shall take effect July 1, 1996." [1996 c 123 § 11.]

43.280.011 Intent, approval of committee recommendations, distribution of services—1996 c 123. The Washington state sexual assault services advisory committee issued a report to the department of community, trade, and

(1996 Ed.)

economic development and the department of social and health services in June of 1995. The committee made several recommendations to improve the delivery of services to victims of sexual abuse and assault: (1) Consolidate the administration and funding of sexual assault and abuse services in one agency instead of splitting those functions between the department of social and health services and the department of community, trade, and economic development; (2) adopt a funding allocation plan to pool all funds for sexual assault services and to distribute them across the state to ensure the delivery of core and specialized services; (3) establish service, data collection, and management standards and outcome measurements for recipients of grants; and (4) create a data collection system to gather pertinent data concerning the delivery of sexual assault services to victims.

The legislature approves the recommendations of the advisory committee and consolidates the functions and funding for sexual assault services in the department of community, trade, and economic development to implement the advisory committee's recommendations.

The legislature does not intend to effect a reduction in service levels within available funding by transferring department of social and health services' powers and duties to the department of community, trade, and economic development. At a minimum, the department of community, trade, and economic development shall distribute the same percentage of the services it provides victims of sexual assault and abuse, pursuant to RCW 43.280.020, 70.125.080, and 74.14B.060, to children as were distributed to children through these programs in fiscal year 1996. [1996 c 123 § 1.]

Effective date—1996 c 123: See note following RCW 43.280.010.

43.280.020 Grant program—Funding. There is established in the department of community, trade, and economic development a grant program to enhance the funding for treating the victims of sex offenders. Activities that can be funded through this grant program are limited to those that:

- (1) Provide effective treatment to victims of sex offenders;
- (2) Increase access to and availability of treatment for victims of sex offenders, particularly if from underserved populations; and
- (3) Create or build on efforts by existing community programs, coordinate those efforts, or develop cooperative efforts or other initiatives to make the most effective use of resources to provide treatment services to these victims.

Funding shall be given to those applicants that emphasize providing stable, victim-focused sexual abuse services and possess the qualifications to provide core services, as defined in RCW 70.125.030. Funds for specialized services, as defined in RCW 70.125.030, shall be disbursed through the request for proposal or request for qualifications process. [1996 c 123 § 3; 1995 c 399 § 113; 1990 c 3 § 1203.]

Effective date—1996 c 123: See note following RCW 43.280.010.

43.280.030 Applications. Applications for funding under this chapter must:

(1) Present evidence demonstrating how the criteria in RCW 43.280.010 will be met and demonstrating the effectiveness of the proposal.

(2) Contain evidence of active participation of the community and its commitment to providing an effective treatment service for victims of sex offenders through the participation of local governments, tribal governments, human service and health organizations, and treatment entities and through meaningful involvement from others, including citizen groups. [1990 c 3 § 1204.]

43.280.040 Organizations eligible. Local governments, nonprofit community groups, and nonprofit treatment providers including organizations which provide services, such as emergency housing, counseling, and crisis intervention shall, among others, be eligible for grants under the program established in RCW 43.280.020. [1990 c 3 § 1205.]

43.280.050 Applications—Minimum requirements. At a minimum, grant applications must include the following:

(1) The geographic area from which the victims to be served are expected to come;

(2) A description of the extent and effect of the needs of these victims within the relevant geographic area;

(3) An explanation of how the funds will be used, their relationship to existing services available within the community, and the need that they will fulfill;

(4) An explanation of what organizations were involved in the development of the proposal;

(5) Documentation of capacity to provide core and specialized services, as defined in RCW 70.125.030, provided by the applicant, how the applicant intends to comply with service, data collection, and management standards established by the department; and

(6) An evaluation methodology. [1996 c 123 § 4; 1990 c 3 § 1206.]

Effective date—1996 c 123: See note following RCW 43.280.010.

43.280.060 Awarding of grants—Peer review committee. (1) Subject to funds appropriated by the legislature, the department of community, trade, and economic development shall make awards under the grant program established by RCW 43.280.020.

(2) To aid the department of community, trade, and economic development in making its funding determinations, the department shall form a peer review committee comprised of individuals who are knowledgeable or experienced in the management or delivery of treatment services to victims of sex offenders. The peer review committee shall advise the department on the extent to which each eligible applicant meets the treatment and management standards, as developed by the department. The department shall consider this advice in making awards.

(3) Activities funded under this section may be considered for funding in future years, but shall be considered under the same terms and criteria as new activities. Funding under this chapter shall not constitute an obligation by the state of Washington to provide ongoing funding. [1996 c 123 § 5; 1995 c 399 § 114; 1990 c 3 § 1207.]

Effective date—1996 c 123: See note following RCW 43.280.010.

43.280.070 Gifts, grants, and endowments. The department of community, trade, and economic development may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of this chapter and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [1995 c 399 § 115; 1990 c 3 § 1208.]

43.280.080 Office of crime victims advocacy. The office of crime victims advocacy is established in the department of community, trade, and economic development. The office shall assist communities in planning and implementing services for crime victims, advocate on behalf of crime victims in obtaining needed services and resources, and advise local and state governments on practices, policies, and priorities that impact crime victims. In addition, the office shall administer grant programs for sexual assault treatment and prevention services, as authorized in this chapter. [1995 c 241 § 1.]

43.280.081 Office of crime victims advocacy—Reports on penalty assessments collection and use of funds for assistance to victims and witnesses of crime. The office of crime victims advocacy shall report to the legislature on December 31, 1999, December 31, 2002, and December 31, 2005, regarding the collection of penalty assessments under chapter 122, Laws of 1996 and the use of collected funds to provide assistance to victims and witnesses of crime. [1996 c 122 § 3.]

43.280.090 Office of crime victims advocacy—Ad hoc advisory committees. The director of the department of community, trade, and economic development may establish ad hoc advisory committees, as necessary, to obtain advice and guidance regarding the office of crime victims advocacy program. [1995 c 269 § 2102.]

Reviser's note: 1995 c 269 directed that this section be added to chapter 43.63A RCW. This section has been codified in chapter 43.280 RCW, which relates more directly to the office of crime victims advocacy.

Effective date—1995 c 269: See note following RCW 13.40.025.

Part headings not law—Severability—1995 c 269: See notes following RCW 13.40.005.

43.280.900 Index, part headings not law—1990 c 3. See RCW 18.155.900.

43.280.901 Severability—1990 c 3. See RCW 18.155.901.

43.280.902 Effective dates—Application—1990 c 3. See RCW 18.155.902.

Chapter 43.290

OFFICE OF INTERNATIONAL RELATIONS AND
PROTOCOL

Sections

- 43.290.005 Finding—Purpose.
 43.290.010 Office created.
 43.290.020 Authority of office.
 43.290.900 Effective date—1991 c 24.

43.290.005 Finding—Purpose. The legislature finds that it is in the public interest to create an office of international relations and protocol in order to: Make international relations and protocol a broad-based, focused, and functional part of state government; develop and promote state policies that increase international literacy and cross-cultural understanding among Washington state's citizens; expand Washington state's international cooperation role in such areas as the environment, education, science, culture, and sports; establish coordinated methods for responding to the increasing number of inquiries by foreign governments and institutions seeking cooperative activities within Washington state; provide leadership in state government on international relations and assistance to the legislature and state elected officials on international issues affecting the state; assist with multistate international efforts; and coordinate and improve communication and resource sharing among various state offices, agencies, and educational institutions with international programs.

It is the purpose of this chapter to bring these functions together in a new office under the office of the governor in order to establish a visible, coordinated, and comprehensive approach to international relations and protocol. [1991 c 24 § 1.]

Transfer of authority—1991 c 24: "All powers, duties, and functions of the office of international relations and protocol in the department of trade and economic development are transferred to the office of international relations and protocol under the office of the governor." [1991 c 24 § 8.]

43.290.010 Office created. The office of international relations and protocol is created under the office of the governor. The office shall serve as the state's official liaison and protocol office with foreign governments. The governor shall appoint a director of the office of international relations and protocol, who shall serve at the pleasure of the governor. Because of the diplomatic character of this office, the director and staff will be exempt from the provisions of chapter 41.06 RCW. The director will be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The director may hire such personnel as may be necessary for the general administration of the office. To the extent permitted by law, state agencies may temporarily loan staff to the office of international relations and protocol to assist in carrying out the office's duties and responsibilities under this chapter. An arrangement to temporarily loan staff must have the approval of the staff members to be loaned and the directors of the office and the agencies involved in the loan. [1991 c 24 § 2.]

43.290.020 Authority of office. The office of international relations and protocol may:

(1) Create temporary advisory committees as necessary to deal with specific international issues. Advisory committee representation may include external organizations such as the Seattle consular corps, world affairs councils, public ports, world trade organizations, private nonprofit organizations dealing with international education or international environmental issues, organizations concerned with international understanding, businesses with experience in international relations, or other organizations deemed appropriate by the director.

(2) Accept or request grants or gifts from citizens and other private sources to be used to defray the costs of appropriate hosting of foreign dignitaries, including appropriate gift-giving and reciprocal gift-giving, or other activities of the office. The office shall open and maintain a bank account into which it shall deposit all money received under this subsection. Such money and the interest accruing thereon shall not constitute public funds, shall be kept segregated and apart from funds of the state, and shall not be subject to appropriation or allotment by the state or subject to chapter 43.88 RCW. [1991 c 24 § 4.]

43.290.900 Effective date—1991 c 24. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991. [1991 c 24 § 15.]

Chapter 43.292

INTERNATIONAL TRADING PARTNERS
PROGRAM

Sections

- 43.292.005 Findings.
 43.292.010 Pilot project to furnish technical assistance, training, and expertise—Procedures—Appointment of director and staff.
 43.292.020 Pilot project—Enrollment of volunteers.
 43.292.030 Volunteers' expenses—Arrangements for spouses—State indemnified.
 43.292.040 Funding for volunteer activities.

43.292.005 Findings. (Expires December 31, 2000.) The legislature believes that Washington state has hundreds of residents with expertise that they are willing to share with developing international trade partners on a volunteer basis. The legislature believes that by sharing their knowledge and skills, these volunteers could enrich the lives of all Washingtonians by promoting friendship and understanding between cultures, providing trained manpower improving the lives of their friends overseas, and creating a positive international image of Washington state. [1996 c 253 § 201.]

Findings—Purpose—1996 c 253: "(1) The legislature finds that:

(a) Educational, cultural, and business exchange programs are important in developing mutually beneficial relationships between Washington state and other countries;

(b) Enhanced international trade, cultural, and educational opportunities are developed when cities, counties, ports, and others establish sister relationships with their counterparts in other countries;

(c) It is important to the economic future of the state to promote international awareness and understanding; and

(d) The state's economy and economic well-being depend heavily on foreign trade and international exchanges.

(2) The legislature declares that the purpose of chapter 253, Laws of 1996 is to:

(a) Enhance Washington state's ability to develop relationships and contacts throughout the world enabling us to expand international education and trade opportunities for all citizens of the state;

(b) Develop and maintain an international data base of contacts in international trade markets;

(c) Encourage outstanding international students who reside in countries with existing trade relationships to attend Washington state's institutions of higher education; and

(d) Encourage Washington students to attend institutions of higher education located in countries with existing trading relationships with Washington state." [1996 c 253 § 1.]

Expiration date—1996 c 253 §§ 201-205 and 301: "Sections 201 through 205 and 301 of this act shall expire December 31, 2000." [1996 c 253 § 502.]

Severability—1996 c 253: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 253 § 504.]

Part headings not law—1996 c 253: "Part headings as used in this act constitute no part of the law." [1996 c 253 § 505.]

43.292.010 Pilot project to furnish technical assistance, training, and expertise—Procedures—Appointment of director and staff. (Expires December 31, 2000.) The secretary of state may develop a pilot project to furnish developing international trading partners with technical assistance, training, and expertise through services provided by volunteers. The secretary of state shall establish appropriate procedures to carry out the project. The secretary of state may appoint a director of the project who serves at the pleasure of the secretary of state, and appropriate staff as funding allows, however, the secretary of state is responsible for the continuous supervision and general direction of the project. [1996 c 253 § 202.]

Expiration date—1996 c 253 §§ 201-205 and 301: See note following RCW 43.292.005.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 43.292.005.

43.292.020 Pilot project—Enrollment of volunteers. (Expires December 31, 2000.) (1) The secretary of state may enroll residents of Washington state in the project. These residents, referred to in this chapter as volunteers, shall be selected based on their skills, expertise, and language proficiency, the technical, educational, or training needs of the participating country, and other considerations deemed relevant by the secretary of state to furthering the goals and purposes of the project. The secretary of state shall consider for participation in the program retired persons, students, and persons whose skills and backgrounds will contribute to the success of the program. In carrying out this subsection, there shall be no discrimination against any person based on race, gender, creed, or color.

(2) Volunteers shall not be deemed officers or employees of the state of Washington or otherwise in the service or employment of, or holding office under, the state of Washington.

(3) The terms and conditions of the enrollment, training, compensation, hours of work, benefits, leave, termination, and all other conditions of service of volunteers shall be exclusively those set forth by the terms of the project. Service as a volunteer may be terminated at any time at the pleasure of the secretary of state. [1996 c 253 § 203.]

Expiration date—1996 c 253 §§ 201-205 and 301: See note following RCW 43.292.005.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 43.292.005.

43.292.030 Volunteers' expenses—Arrangements for spouses—State indemnified. (Expires December 31, 2000.)

(1) If funding is available, volunteers may be provided with living, travel, and leave allowances, and such housing, transportation, supplies, and equipment as the secretary of state may deem necessary for their maintenance and to ensure their health and their capacity to serve effectively. Transportation may be provided to volunteers for travel to and from the country of service.

(2) The secretary of state may establish policies regarding arrangements for spouses and children of volunteers to accompany the volunteers abroad.

(3) The secretary of state shall indemnify the state for claims relating to the project. [1996 c 253 § 204.]

Expiration date—1996 c 253 §§ 201-205 and 301: See note following RCW 43.292.005.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 43.292.005.

43.292.040 Funding for volunteer activities. (Expires December 31, 2000.) Funding for the volunteer activities shall come from legislative appropriations, federal funds, private support funds, grant money available to implement technical assistance programs overseas, and such other funds as the secretary of state may receive. [1996 c 253 § 205.]

Expiration date—1996 c 253 §§ 201-205 and 301: See note following RCW 43.292.005.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 43.292.005.

Chapter 43.300

DEPARTMENT OF FISH AND WILDLIFE

Sections

43.300.005 Purpose.

43.300.010 Department created—Transfer of powers, duties, and functions.

43.300.020 Definitions.

43.300.040 Director's duties.

43.300.050 Exempt positions.

43.300.060 Enforcement in accordance with RCW 43.05.100 and 43.05.110.

43.300.900 Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79.

43.300.901 Severability—1993 sp.s. c 2.

43.300.005 Purpose. Perpetuation of fish and wildlife in Washington requires clear, efficient, streamlined, scientific, management from a single state fish and wildlife agency. Such a consolidation will focus existing funds for the greatest protection of species and stocks. It will bring combined resources to bear on securing, managing, and enhancing habitats. It will simplify licensing, amplify research, increase field staff, avoid duplication, and magnify enforcement of laws and rules. It will provide all fishers, hunters, and observers of fish and wildlife with a single source of consistent policies, procedures, and access. [1993 sp.s. c 2 § 1.]

43.300.010 Department created—Transfer of powers, duties, and functions. There is hereby created a department of state government to be known as the department of fish and wildlife. The department shall be vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law. All powers, duties, and functions of the department of fisheries and the department of wildlife are transferred to the department of fish and wildlife. All references in the Revised Code of Washington to the director or the department of fisheries or the director or department of wildlife shall be construed to mean the director or department of fish and wildlife. [1993 sp.s. c 2 § 2.]

43.300.020 Definitions. As used in this chapter, unless the context indicates otherwise:

- (1) "Department" means the department of fish and wildlife.
- (2) "Director" means the director of fish and wildlife.
- (3) "Commission" means the fish and wildlife commission. [1993 sp.s. c 2 § 3.]

43.300.040 Director's duties. In addition to other powers and duties granted or transferred to the director, the commission may delegate to the director any of the powers and duties vested in the commission. [1996 c 267 § 33; 1993 sp.s. c 2 § 5.]

Intent—Effective date—1996 c 267: See notes following RCW 75.08.011.

43.300.050 Exempt positions. The director shall appoint such deputy directors, assistant directors, and up to seven special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW. [1993 sp.s. c 2 § 6.]

43.300.060 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the director or the department shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 627.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Part headings not law—Severability—1995 c 403: See RCW 43.05.903 and 43.05.904.

43.300.900 Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79. Sections 1 through 6, 8 through 59, and 61 through 79, chapter 2, Laws of 1993 sp. sess. shall take effect March 1, 1994. [1994 c 6 § 4; 1993 sp.s. c 2 § 102.]

43.300.901 Severability—1993 sp.s. c 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 sp.s. c 2 § 106.]

Chapter 43.310 YOUTH GANGS

Sections

- 43.310.005 Finding.
- 43.310.007 Intent—Prevention and intervention pilot programs.
- 43.310.010 Definitions.
- 43.310.020 Gang risk prevention and intervention pilot programs—Request for proposals.
- 43.310.030 Gang risk prevention and intervention pilot programs—Scope.
- 43.310.040 Cultural awareness retreats.

43.310.005 Finding. The legislature finds and declares that:

(1) The number of youth who are members and associates of gangs and commit gang violence has significantly increased throughout the entire greater Puget Sound, Spokane, and other areas of the state;

(2) Youth gang violence has caused a tremendous strain on the progress of the communities impacted. The loss of life, property, and positive opportunity for growth caused by youth gang violence has reached intolerable levels. Increased youth gang activity has seriously strained the budgets of many local jurisdictions, as well as threatened the ability of the educational system to educate our youth;

(3) Among youth gang members the high school dropout rate is significantly higher than among nongang members. Since the economic future of our state depends on a highly educated and skilled work force, this high school drop-out rate threatens the economic welfare of our future work force, as well as the future economic growth of our state;

(4) The unemployment rate among youth gang members is higher than that among the general youth population. The unusual unemployment rate, lack of education and skills, and the increased criminal activity could significantly impact our future prison population;

(5) Most youth gangs are subcultural. This implies that gangs provide the nurturing, discipline, and guidance to gang youth and potential gang youth that is generally provided by communities and other social systems. The subcultural designation means that youth gang participation and violence can be effectively reduced in Washington communities and schools through the involvement of community, educational, criminal justice, and employment systems working in a unified manner with parents and individuals who have a firsthand knowledge of youth gangs and at-risk youth; and

(6) A strong unified effort among parents and community, educational, criminal justice, and employment systems would facilitate: (a) The learning process; (b) the control and reduction of gang violence; (c) the prevention of youth joining negative gangs; and (d) the intervention into youth gangs. [1993 c 497 § 1.]

43.310.007 Intent—Prevention and intervention pilot programs. It is the intent of the legislature to cause the development of positive prevention and intervention pilot programs for elementary and secondary age youth through cooperation between individual schools, local organizations, and government. It is also the intent of the legislature that if the prevention and intervention pilot programs are determined to be effective in reducing problems associated with

youth gang violence, that other counties in the state be eligible to receive special state funding to establish similar positive prevention and intervention programs. [1993 c 497 § 2.]

43.310.010 Definitions. Unless the context otherwise requires, the following definitions shall apply throughout RCW 43.310.005 through 43.310.040 and *sections 5 and 7 through 10, chapter 497, Laws of 1993:

(1) "School" means any public school within a school district any portion of which is in a county with a population of over one hundred ninety thousand.

(2) "Community organization" means any organization recognized by a city or county as such, as well as private, nonprofit organizations registered with the secretary of state.

(3) "Gang risk prevention and intervention pilot program" means a community-based positive prevention and intervention program for gang members, potential gang members, at-risk youth, and elementary through high school-aged youth directed at all of the following:

(a) Reducing the probability of youth involvement in gang activities and consequent violence.

(b) Establishing ties, at an early age, between youth and community organizations.

(c) Committing local business and community resources to positive programming for youth.

(d) Committing state resources to assist in creating the gang risk prevention and intervention pilot programs.

(4) "Cultural awareness retreat" means a program that temporarily relocates at-risk youth or gang members and their parents from their usual social environment to a different social environment, with the specific purpose of having them performing activities which will enhance or increase their positive behavior and potential life successes. [1993 c 497 § 3.]

***Reviser's note:** Sections 5 and 7 through 10, chapter 497, Laws of 1993 were vetoed by the governor.

43.310.020 Gang risk prevention and intervention pilot programs—Request for proposals. (1) The department of community, trade, and economic development may recommend existing programs or contract with either school districts or community organizations, or both, through a request for proposal process for the development, administration, and implementation in the county of community-based gang risk prevention and intervention pilot programs.

(2) Proposals by the school district for gang risk prevention and intervention pilot program grant funding shall begin with school years no sooner than the 1994-95 session, and last for a duration of two years.

(3) The school district or community organization proposal shall include:

(a) A description of the program goals, activities, and curriculum. The description of the program goals shall include a list of measurable objectives for the purpose of evaluation by the department of community, trade, and economic development. To the extent possible, proposals shall contain empirical data on current problems, such as drop-out rates and occurrences of violence on and off campus by school-age individuals.

(b) A description of the individual school or schools and the geographic area to be affected by the program.

(c) A demonstration of broad-based support for the program from business and community organizations.

(d) A clear description of the experience, expertise, and other qualifications of the community organizations to conduct an effective prevention and intervention program in cooperation with a school or a group of schools.

(e) A proposed budget for expenditure of the grant.

(4) Grants awarded under this section may not be used for the administrative costs of the school district or the individual school. [1995 c 399 § 116; 1993 c 497 § 4.]

43.310.030 Gang risk prevention and intervention pilot programs—Scope. Gang risk prevention and intervention pilot programs shall include, but are not limited to:

(1) Counseling for targeted at-risk students, parents, and families, individually and collectively.

(2) Exposure to positive sports and cultural activities, promoting affiliations between youth and the local community.

(3) Job training, which may include apprentice programs in coordination with local businesses, job skills development at the school, or information about vocational opportunities in the community.

(4) Positive interaction with local law enforcement personnel.

(5) The use of local organizations to provide job search training skills.

(6) Cultural awareness retreats.

(7) The use of specified state resources, as requested.

(8) Full service schools under *section 9 of this act.

(9) Community service such as volunteerism and citizenship. [1993 c 497 § 6.]

***Reviser's note:** Section 9, chapter 497, Laws of 1993 was vetoed by the governor.

43.310.040 Cultural awareness retreats. Cultural awareness retreats shall include but are not limited to the following programs:

(1) To develop positive attitudes and self-esteem.

(2) To develop youth decision-making ability.

(3) To assist with career development and educational development.

(4) To help develop respect for the community, and ethnic origin. [1993 c 497 § 11.]

Chapter 43.320

DEPARTMENT OF FINANCIAL INSTITUTIONS

Sections

43.320.005 Finding.

43.320.007 Regulatory reform—Findings—Construction—1994 c 256.

43.320.010 Department created.

43.320.011 Department of general administration and department of licensing powers and duties transferred.

43.320.012 Department of general administration and department of licensing equipment, records, funds transferred.

43.320.013 Department of general administration and department of licensing civil service employees transferred.

43.320.014 Department of general administration or department of licensing rules, business, contracts, and obligations continued.

- 43.320.015 Department of general administration and department of licensing—Validity of acts.
- 43.320.016 Apportionment of budgeted funds.
- 43.320.017 Collective bargaining agreements.
- 43.320.020 Director—Salary—Powers and duties—Examiners, assistants, personnel.
- 43.320.030 Director—Qualifications—Conflicts of interest.
- 43.320.040 Director's authority to adopt rules.
- 43.320.050 Assistant directors—Divisions—"FDIC" defined.
- 43.320.060 Deputization of assistant to exercise powers and duties of director.
- 43.320.070 Oath of examiners—Liability for acts performed in good faith.
- 43.320.080 Director to maintain office in Olympia—Record of receipts and disbursements—Deposit of funds.
- 43.320.090 Borrowing money by director, deputy, or employee—Penalty.
- 43.320.100 Annual report—Contents.
- 43.320.110 Banking examination fund.
- 43.320.120 Credit unions examination fund.
- 43.320.125 Fees authorized—Division of credit unions.
- 43.320.130 Securities regulation fund.
- 43.320.900 Effective date—1993 c 472.
- 43.320.901 Implementation—1993 c 472.

43.320.005 Finding. The legislature finds that, given the overlap of powers and products in the companies regulated, the consolidation of the agencies regulating financial institutions and securities into one department will better serve the public interest through more effective use of staff expertise. Therefore, for the convenience of administration and the centralization of control and the more effective use of state resources and expertise, the state desires to combine the regulation of financial institutions and securities into one department. [1993 c 472 § 1.]

43.320.007 Regulatory reform—Findings—Construction—1994 c 256. (1) The legislature finds that the financial services industry is experiencing a period of rapid change with the development and delivery of new products and services and advances in technology.

(2) The legislature further finds it in the public interest to strengthen the regulation, supervision, and examination of business entities furnishing financial services to the people of this state and that this can be accomplished by streamlining and focusing regulation to reduce costs, increase effectiveness, and foster efficiency by eliminating requirements that are not necessary for the protection of the public.

(3) The provisions of chapter 256, Laws of 1994 should not be construed to limit the ability of the director of financial institutions to implement prudent regulation, prevent unsafe, unsound, and fraudulent practices, and undertake necessary enforcement actions to protect the public and promote the public interest. [1994 c 256 § 1.]

43.320.010 Department created. A state department of financial institutions, headed by the director of financial institutions, is created. The department shall be organized and operated in a manner that to the fullest extent permissible under applicable law protects the public interest, protects the safety and soundness of depository institutions and entities under the jurisdiction of the department, ensures access to the regulatory process for all concerned parties, and protects the interests of investors. The department of financial institutions shall be structured to reflect the unique

differences in the types of institutions and areas it regulates. [1993 c 472 § 2.]

43.320.011 Department of general administration and department of licensing powers and duties transferred. (1) All powers, duties, and functions of the department of general administration under Titles 30, 31, 32, 33, and 43 RCW and any other title pertaining to duties relating to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, trust companies and departments, and other similar institutions are transferred to the department of financial institutions. All references to the director of general administration, supervisor of banking, or the supervisor of savings and loan associations in the Revised Code of Washington are construed to mean the director of the department of financial institutions when referring to the functions transferred in this section. All references to the department of general administration in the Revised Code of Washington are construed to mean the department of financial institutions when referring to the functions transferred in this subsection.

(2) All powers, duties, and functions of the department of licensing under chapters 18.44, 19.100, 19.110, 21.20, 21.30, and 48.18A RCW and any other statute pertaining to the regulation under the chapters listed in this subsection of escrow agents, securities, franchises, business opportunities, commodities, and any other speculative investments are transferred to the department of financial institutions. All references to the director or department of licensing in the Revised Code of Washington are construed to mean the director or department of financial institutions when referring to the functions transferred in this subsection. [1995 c 238 § 6; 1993 c 472 § 6.]

Effective date—1995 c 238: See note following RCW 18.44.010.

43.320.012 Department of general administration and department of licensing equipment, records, funds transferred. All reports, documents, surveys, books, records, files, papers, or other written or electronically stored material in the possession of the department of general administration or the department of licensing and pertaining to the powers, functions, and duties transferred by RCW 43.320.011 shall be delivered to the custody of the department of financial institutions. All cabinets, furniture, office equipment, motor vehicles, and other tangible property purchased by the division of banking and the division of savings and loan in carrying out the powers, functions, and duties transferred by RCW 43.320.011 shall be transferred to the department of financial institutions. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of licensing in carrying out the powers, functions, and duties transferred by RCW 43.320.011 shall be made available to the department of financial institutions. All funds, credits, or other assets held by the department of general administration or the department of licensing in connection with the powers, functions, and duties transferred by RCW 43.320.011 shall be assigned to the department of financial institutions.

Any appropriations made to the department of general administration or the department of licensing for carrying out

the powers, functions, and duties transferred by RCW 43.320.011 shall, on October 1, 1993, be transferred and credited to the department of financial institutions.

If a dispute arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned. [1993 c 472 § 7.]

43.320.013 Department of general administration and department of licensing civil service employees transferred. All employees classified under chapter 41.06 RCW, the state civil service law, who are employees of the department of general administration or the department of licensing engaged in performing the powers, functions, and duties transferred by RCW 43.320.011, except those under chapter 18.44 RCW, are transferred to the department of financial institutions. All such employees are assigned to the department of financial institutions to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service. [1995 c 238 § 7; 1993 c 472 § 9.]

Effective date—1995 c 238: See note following RCW 18.44.010.

43.320.014 Department of general administration or department of licensing rules, business, contracts, and obligations continued. All rules and all pending business before the department of general administration or the department of licensing pertaining to the powers, functions, and duties transferred by RCW 43.320.011 shall be continued and acted upon by the department of financial institutions. All existing contracts and obligations shall remain in full force and shall be performed by the department of financial institutions. [1993 c 472 § 10.]

43.320.015 Department of general administration and department of licensing—Validity of acts. The transfer of the powers, duties, functions, and personnel of the department of general administration or the department of licensing under RCW 43.320.011 through 43.320.014 does not affect the validity of any act performed by such an employee before October 1, 1993. [1993 c 472 § 11.]

43.320.016 Apportionment of budgeted funds. If apportionments of budgeted funds are required because of the transfers directed by RCW 43.320.011 through 43.320.015, the director of financial management shall certify the apportionments to the agencies affected, to the state auditor, and to the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification. [1993 c 472 § 12.]

43.320.017 Collective bargaining agreements. Nothing contained in RCW 43.320.011 through 43.320.015 may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining

agreement until the expiration date of the current agreement or until the bargaining unit has been modified by action of the *personnel board as provided by law. [1993 c 472 § 13.]

***Reviser's note:** Powers, duties, and functions of the higher education personnel board and the state personnel board were transferred to the Washington personnel resources board by 1993 c 281, effective July 1, 1994.

43.320.020 Director—Salary—Powers and duties—Examiners, assistants, personnel. The director of financial institutions shall be appointed by the governor and shall exercise all powers and perform all of the duties and functions transferred under RCW 43.320.011, and such other powers and duties as may be authorized by law. The director may deputize, appoint, and employ examiners and other such assistants and personnel as may be necessary to carry on the work of the department. The director of financial institutions shall receive a salary in an amount fixed by the governor. [1993 c 472 § 3.]

43.320.030 Director—Qualifications—Conflicts of interest. A person is not eligible for appointment as director of financial institutions unless he or she is, and for the last two years before his or her appointment has been, a citizen of the United States. A person is not eligible for appointment as director of financial institutions if he or she has an interest at the time of appointment, as a director, trustee, officer, or stockholder in any bank, savings bank, savings and loan association, credit union, consumer loan company, trust company, securities broker-dealer or investment advisor, or other institution regulated by the department. [1993 c 472 § 4.]

43.320.040 Director's authority to adopt rules. The director of financial institutions may adopt any rules, under chapter 34.05 RCW, necessary to implement the powers and duties of the director under this chapter. [1993 c 472 § 5.]

43.320.050 Assistant directors—Divisions—"FDIC" defined. The director of financial institutions may appoint assistant directors for each of the divisions of the department and delegate to them the power to perform any act or duty conferred upon the director. The director is responsible for the official acts of these assistant directors.

The department of financial institutions shall consist of at least the following four divisions: The division of FDIC insured institutions, with regulatory authority over all state-chartered FDIC insured institutions; the division of credit unions, with regulatory authority over all state-chartered credit unions; the division of consumer affairs, with regulatory authority over state-licensed nondepository lending institutions and other regulated entities; and the division of securities, with regulatory authority over securities, franchises, business opportunities, and commodities. The director of financial institutions is granted broad administrative authority to add additional responsibilities to these divisions as necessary and consistent with applicable law.

For purposes of this section, "FDIC" means the Federal Deposit Insurance Corporation. [1993 c 472 § 8.]

43.320.060 Deputization of assistant to exercise powers and duties of director. The director of financial institutions shall appoint, deputize, and employ examiners and such other assistants and personnel as may be necessary to carry on the work of the department of financial institutions.

In the event of the director's absence the director shall have the power to deputize one of the assistants of the director to exercise all the powers and perform all the duties prescribed by law with respect to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, trust companies and departments, securities, franchises, business opportunities, commodities, escrow agents, and other similar institutions or areas that are performed by the director so long as the director is absent: PROVIDED, That such deputized assistant shall not have the power to approve or disapprove new charters, licenses, branches, and satellite facilities, unless such action has received the prior written approval of the director. Any person so deputized shall possess the same qualifications as those set out in this section for the director. [1995 c 238 § 8; 1993 c 472 § 20; 1977 ex.s. c 185 § 1; 1965 c 8 § 43.19.020. Prior: 1955 c 285 § 5; prior: (i) 1919 c 209 § 2; 1917 c 80 § 2; RRS § 3209. (ii) 1945 c 123 § 1; 1935 c 176 § 12; Rem. Supp. 1945 § 10786-11. Formerly RCW 43.19.020.]

Effective date—1995 c 238: See note following RCW 18.44.010.

43.320.070 Oath of examiners—Liability for acts performed in good faith. Before entering office each examiner shall take and subscribe an oath faithfully to discharge the duties of the office.

Oaths shall be filed with the secretary of state.

Neither the director of financial institutions, any deputized assistant of the director, nor any examiner or employee shall be personally liable for any act done in good faith in the performance of his or her duties. [1993 c 472 § 21; 1977 ex.s. c 270 § 8; 1975 c 40 § 7; 1965 c 8 § 43.19.030. Prior: 1943 c 217 § 1; 1919 c 209 § 3; 1917 c 80 § 3; Rem. Supp. 1943 § 3210. Formerly RCW 43.19.030.]

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

Powers and duties of director of general administration as to official bonds:
RCW 43.19.540.

43.320.080 Director to maintain office in Olympia—Record of receipts and disbursements—Deposit of funds. The director of financial institutions shall maintain an office at the state capitol, but may with the consent of the governor also maintain branch offices at other convenient business centers in this state. The director shall keep books of record of all moneys received or disbursed by the director into or from the banking examination fund, the credit union examination fund, the securities regulation fund, and any other accounts maintained by the department of financial institutions. [1993 c 472 § 22; 1965 c 8 § 43.19.050. Prior: 1917 c 80 § 4; RRS § 3211. Formerly RCW 43.19.050.]

43.320.090 Borrowing money by director, deputy, or employee—Penalty. (1) It shall be unlawful for the director of financial institutions, any deputized assistant of

the director, or any employee of the department of financial institutions to borrow money from any bank, consumer loan company, credit union, foreign bank branch, savings bank, savings and loan association, or trust company or department, securities broker-dealer or investment advisor, or similar lending institution under the department's direct jurisdiction unless the extension of credit:

(a) Is made on substantially the same terms (including interest rates and collateral) as, and following credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the financial institution with other persons that are not employed by either the department or the institution; and

(b) Does not involve more than the normal risk of repayment or present other unfavorable features.

(2) The director of the office of financial management shall adopt rules, policies, and procedures interpreting and implementing this section.

(3) Every person who knowingly violates this section shall forfeit his or her office or employment and be guilty of a gross misdemeanor. [1993 c 472 § 23; 1965 c 8 § 43.19.080. Prior: 1917 c 80 § 11; RRS § 3218. Formerly RCW 43.19.080.]

43.320.100 Annual report—Contents. The director of financial institutions shall file in his or her office all reports required to be made to the director, prepare and furnish to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, and trust companies and departments blank forms for such reports as are required of them, and each year make a report to the governor showing:

(1) A summary of the conditions of the banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, and trust companies and departments at the date of their last report; and

(2) A list of those organized or closed during the year.

The director may publish such other statements, reports, and pamphlets as he or she deems advisable. [1993 c 472 § 24; 1977 c 75 § 43; 1965 c 8 § 43.19.090. Prior: 1917 c 80 § 13; RRS § 3220. Formerly RCW 43.19.090.]

43.320.110 Banking examination fund. There is created a local fund known as the "banking examination fund" which shall consist of all moneys received by the department of financial institutions from banks, savings banks, foreign bank branches, savings and loan associations, consumer loan companies, check cashers and sellers, trust companies and departments, and escrow agents, and which shall be used for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the proper regulation of these companies. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations

from the fund. [1995 c 238 § 9; 1993 c 472 § 25; 1981 c 241 § 1. Formerly RCW 43.19.095.]

Effective date—1995 c 238: See note following RCW 18.44.010.

Effective date—1981 c 241: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 241 § 4.]

43.320.120 Credit unions examination fund. There is created a local fund known as the "credit unions examination fund" which shall consist of all moneys received by the department of financial institutions from credit unions and which shall be used for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the regulation of these institutions. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund. [1993 c 472 § 26; 1981 c 241 § 2. Formerly RCW 43.19.112.]

Effective date—1981 c 241: See note following RCW 43.19.095.

43.320.125 Fees authorized—Division of credit unions. The director of financial institutions is authorized to charge fees to credit unions and other persons subject to regulation of the department of financial institutions under chapters 31.12, *31.12A, and 31.13 RCW in order to cover the costs of the operation of the department's division of credit unions and to establish a reasonable reserve for the division. The fees shall be set by the director so that the projected revenue to the department's dedicated nonappropriated credit unions examination fund in fiscal year 1997 does not exceed \$1,120,500, plus a one-time special assessment of \$184,000. [1996 c 274 § 1.]

***Reviser's note:** Chapter 31.12A RCW was repealed by 1996 c 5 § 7, effective December 31, 2000.

43.320.130 Securities regulation fund. There is created in the state treasury a fund known as the "securities regulation fund" that shall consist of thirteen percent of all moneys received by the division of securities of the department of financial institutions. Expenditures from the account may be used only for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the regulation of securities, franchises, business opportunities, commodities, and other similar areas regulated by the division. Moneys in the account may be spent only after appropriation. [1993 c 472 § 27.]

43.320.900 Effective date—1993 c 472. This act takes effect October 1, 1993. [1993 c 472 § 31.]

43.320.901 Implementation—1993 c 472. The directors of the department of general administration and the department of licensing shall take such steps as are necessary

to ensure that this act is implemented on October 1, 1993. [1993 c 472 § 32.]

Chapter 43.330

DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Sections

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43.330.005 Intent. The legislature finds that the long-term economic health of the state and its citizens depends upon the strength and vitality of its communities and businesses. It is the intent of this chapter to create a merged department of community, trade, and economic development that fosters new partnerships for strong and sustainable communities. The consolidation of the department of trade and economic development and the department of community development into one department will: Streamline access to services by providing a simpler point of entry for state programs; provide focused and flexible responses to changing economic conditions; generate greater local capacity to respond to both economic growth and environmental challenges; and increase accountability to the public, the executive branch, and the legislature.

A new department can bring together a focused effort to: Manage growth and achieve sustainable development;

diversify the state's economy and export goods and services; provide greater access to economic opportunity; stimulate private sector investment and entrepreneurship; provide stable family-wage jobs and meet the diverse needs of families; provide affordable housing and housing services; construct public infrastructure; protect our cultural heritage; and promote the health and safety of the state's citizens.

The legislature further finds that as a result of the rapid pace of global social and economic change, the state and local communities will require coordinated and creative responses by every segment of the community. The state can play a role in assisting such local efforts by reorganizing state assistance efforts to promote such partnerships. The department has a primary responsibility to provide financial and technical assistance to the communities of the state, to assist in improving the delivery of federal, state, and local programs, and to provide communities with opportunities for productive and coordinated development beneficial to the well-being of communities and their residents. It is the intent of the legislature in this consolidation to maximize the use of local expertise and resources in the delivery of community and economic development services. [1993 c 280 § 1.]

43.330.007 Management responsibility. The purpose of this chapter is to establish the broad outline of the structure of the department of community, trade, and economic development, leaving specific details of its internal organization and management to those charged with its administration. This chapter identifies the broad functions and responsibilities of the new department and is intended to provide flexibility to the director to reorganize these functions and to make recommendations for changes through the implementation plan required in section 8, chapter 280, Laws of 1993. [1993 c 280 § 2.]

Implementation plan—1994 c 5; 1993 c 280: "(1) The director of the department of trade and economic development and the director of the department of community development shall, by November 15, 1993, jointly submit a plan to the governor for the consolidation and smooth transition of the department of trade and economic development and the department of community development into the department of community, trade, and economic development so that the department will operate as a single entity on March 1, 1994.

(2) The plan shall include, but is not limited to, the following elements:

(a) Strategies for combining the existing functions and responsibilities of both agencies into a coordinated and unified department including a strategic plan for each major program area that includes implementation steps, evaluation measures, and methods for collaboration among programs;

(b) Recommendations for any changes in existing programs and functions of both agencies, including new initiatives and possible transfer of programs and functions to and from other departments;

(c) Implementation steps necessary to bring about operation of the combined department as a single entity;

(d) Benchmarks by which to measure progress and to evaluate the performance and effectiveness of the department's efforts; and

(e) Strategies for coordinating and maximizing federal, state, local, international, and private sector support for community and economic development efforts within the state.

(3) In developing this plan, the directors shall establish an advisory committee of representatives of groups using services and programs of both departments. The advisory committee shall include representatives of cities, counties, port districts, small and large businesses, labor unions, associate development organizations, low-income housing interests, housing industry, Indian tribes, community action programs, public safety groups, nonprofit community and development organizations, international trade organizations, minority and women business organizations, and any other organizations the

directors determine should have input to the plan." [1994 c 5 § 1; 1993 c 280 § 8.]

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

(1) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.

(2) "Department" means the department of community, trade, and economic development.

(3) "Director" means the director of the department of community, trade, and economic development. [1993 c 280 § 3.]

43.330.020 Department created. A department of community, trade, and economic development is created. The department shall be vested with all powers and duties established or transferred to it under this chapter and such other powers and duties as may be authorized by law. Unless otherwise specifically provided in chapter 280, Laws of 1993, the existing responsibilities and functions of the agency programs will continue to be administered in accordance with their implementing legislation. [1993 c 280 § 4.]

43.330.030 Director—Appointment—Salary. The executive head of the department shall be the director. The director shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. [1993 c 280 § 5.]

43.330.040 Director powers and duties. (1) The director shall supervise and administer the activities of the department and shall advise the governor and the legislature with respect to community and economic development matters affecting the state.

(2) In addition to other powers and duties granted to the director, the director shall have the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the purposes of this chapter;

(b) Act for the state in the initiation of or participation in any multigovernmental program relative to the purpose of this chapter;

(c) Accept and expend gifts and grants, whether such grants be of federal or other funds;

(d) Appoint such deputy directors, assistant directors, and up to seven special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW;

(e) Prepare and submit budgets for the department for executive and legislative action;

(f) Submit recommendations for legislative actions as are deemed necessary to further the purposes of this chapter;

(g) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(h) Delegate powers, duties, and functions as the director deems necessary for efficient administration, but the

director shall be responsible for the official acts of the officers and employees of the department; and

(i) Perform other duties as are necessary and consistent with law.

(3) When federal or other funds are received by the department, they shall be promptly transferred to the state treasurer and thereafter expended only upon the approval of the director.

(4) The director may request information and assistance from all other agencies, departments, and officials of the state, and may reimburse such agencies, departments, or officials if such a request imposes any additional expenses upon any such agency, department, or official.

(5) The director shall, in carrying out the responsibilities of office, consult with governmental officials, private groups, and individuals and with officials of other states. All state agencies and their officials and the officials of any political subdivision of the state shall cooperate with and give such assistance to the department, including the submission of requested information, to allow the department to carry out its purposes under this chapter.

(6) The director may establish additional advisory or coordinating groups with the legislature, within state government, with state and other governmental units, with the private sector and nonprofit entities or in specialized subject areas as may be necessary to carry out the purposes of this chapter.

(7) The internal affairs of the department shall be under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director shall have complete charge and supervisory powers over the department. The director may create such administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ such personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law. [1993 c 280 § 6.]

43.330.050 Community and economic development responsibilities. The department shall be responsible for promoting community and economic development within the state by assisting the state's communities to increase the quality of life of their citizens and their economic vitality, and by assisting the state's businesses to maintain and increase their economic competitiveness, while maintaining a healthy environment. Community and economic development efforts shall include: Efforts to increase economic opportunity; local planning to manage growth; the promotion and provision of affordable housing and housing-related services; providing public infrastructure; business and trade development; assisting firms and industrial sectors to increase their competitiveness; fostering the development of minority and women-owned businesses; facilitating technology development, transfer, and diffusion; community services and advocacy for low-income persons; and public safety efforts. The department shall have the following general functions and responsibilities:

(1) Provide advisory assistance to the governor, other state agencies, and the legislature on community and economic development matters and issues;

(2) Assist the governor in coordinating the activities of state agencies that have an impact on local government and communities;

(3) Cooperate with the legislature and the governor in the development and implementation of strategic plans for the state's community and economic development efforts;

(4) Solicit private and federal grants for economic and community development programs and administer such programs in conjunction with other programs assigned to the department by the governor or the legislature;

(5) Cooperate with and provide technical and financial assistance to local governments, businesses, and community-based organizations serving the communities of the state for the purpose of aiding and encouraging orderly, productive, and coordinated development of the state, and, unless stipulated otherwise, give additional consideration to local communities and individuals with the greatest relative need and the fewest resources;

(6) Participate with other states or subdivisions thereof in interstate programs and assist cities, counties, municipal corporations, governmental conferences or councils, and regional planning commissions to participate with other states and provinces or their subdivisions;

(7) Hold public hearings and meetings to carry out the purposes of this chapter;

(8) Conduct research and analysis in furtherance of the state's economic and community development efforts including maintenance of current information on market, demographic, and economic trends as they affect different industrial sectors, geographic regions, and communities with special economic and social problems in the state; and

(9) Develop a schedule of fees for services where appropriate. [1993 c 280 § 7.]

43.330.060 Trade and business responsibilities. (1)

The department shall assist in expanding the state's role as an international center of trade, culture, and finance. The department shall promote and market the state's products and services internationally in close cooperation with other private and public international trade efforts and act as a centralized location for the assimilation and distribution of trade information.

(2) The department shall identify and work with Washington businesses that can use local, state, and federal assistance to increase domestic and foreign exports of goods and services.

(3) The department shall work generally with small businesses and other employers to facilitate resolution of siting, regulatory, expansion, and retention problems. This assistance shall include but not be limited to assisting in work force training and infrastructure needs, identifying and locating suitable business sites, and resolving problems with government licensing and regulatory requirements. The department shall identify gaps in needed services and develop steps to address them including private sector support and purchase of these services.

(4) The department shall work to increase the availability of capital to small businesses by developing new and flexible investment tools and by assisting in targeting and improving the efficiency of existing investment mechanisms.

(5) The department shall assist women and minority-owned businesses in overcoming barriers to increased investment and employment and becoming full participants in Washington's traded sector economy. [1993 c 280 § 9.]

Tacoma world trade center—1993 c 134: "The legislature recognizes that export opportunities for small and medium-sized businesses stimulates economic growth. Within current resources, the department of trade and economic development shall work with the Tacoma world trade center, to assist small and medium-sized businesses with export opportunities." [1993 c 134 § 1.]

43.330.065 Identification of countries of strategic importance for international trade relations. The department of community, trade, and economic development, in consultation with the office of protocol, the office of the secretary of state, the department of agriculture, and the employment security department shall identify up to fifteen countries that are of strategic importance to the development of Washington's international trade relations. [1996 c 253 § 303.]

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 43.292.005.

43.330.070 Local development capacity—Training and technical assistance. (1) The department shall work closely with local communities to increase their capacity to respond to economic, environmental, and social problems and challenges. The department shall coordinate the delivery of development services and technical assistance to local communities or regional areas. It shall promote partnerships between the public and private sectors and between state and local officials to encourage appropriate economic growth and opportunity in communities throughout the state. The department shall promote appropriate local development by: Supporting the ability of communities to develop and implement strategic development plans; assisting businesses to start up, maintain, or expand their operations; encouraging public infrastructure investment and private and public capital investment in local communities; supporting efforts to manage growth and provide affordable housing and housing services; providing for the identification and preservation of the state's historical and cultural resources; and expanding employment opportunities.

(2) The department shall define a set of services including training and technical assistance that it will make available to local communities, community-based nonprofit organizations, regional areas, or businesses. The department shall simplify access to these programs by providing more centralized and user-friendly information and referral. The department shall coordinate community and economic development efforts to minimize program redundancy and maximize accessibility. The department shall develop a set of criteria for targeting services to local communities.

(3) The department shall develop a coordinated and systematic approach to providing training to community-based nonprofit organizations, local communities, and businesses. The approach shall be designed to increase the economic and community development skills available in local communities by providing training and funding for training for local citizens, nonprofit organizations, and businesses. The department shall emphasize providing

training in those communities most in need of state assistance. [1993 c 280 § 10.]

43.330.075 Local government regulation and policy handouts—Technical assistance. The department shall provide technical assistance in the compilation of and support in the production of the handouts to be published and kept current by counties and cities under RCW 36.70B.220. [1996 c 206 § 11.]

Findings—1996 c 206: See note following RCW 43.05.030.

43.330.080 Coordination of community and economic development services—Contracts with associate development organizations—Targeted sectors. (1) The department may contract with associate development organizations or other local organizations to increase the support for and coordination of community and economic development services in communities or regional areas. The organizations contracted with in each community or regional area shall be broadly representative of community and economic interests. The organization shall be capable of identifying key economic and community development problems, developing appropriate solutions, and mobilizing broad support for recommended initiatives. The contracting organization shall work with and include local governments, local chambers of commerce, private industry councils, port districts, labor groups, institutions of higher education, community action programs, and other appropriate private, public, or nonprofit community and economic development groups. The department shall be responsible for determining the scope of services delivered under these contracts.

(2) Associate development organizations or other local development organizations contracted with shall promote and coordinate, through local service agreements with local governments, small business development centers, port districts, community and technical colleges, private industry councils, and other development organizations, for the efficient delivery of community and economic development services in their areas.

(3) The department shall consult with associate development organizations, port districts, local governments, and other local development organizations in the establishment of service delivery regions throughout the state. The legislature encourages local associate development organizations to form partnerships with other associate development organizations in their region to combine resources for better access to available services, to encourage regional delivery of state services, and to build the local capacity of communities in the region more effectively.

(4) The department shall contract on a regional basis for surveys of key sectors of the regional economy and the coordination of technical assistance to businesses and employees within the key sectors. The department's selection of contracting organizations or consortiums shall be based on the sufficiency of the organization's or consortium's proposal to examine key sectors of the local economy within its region adequately and its ability to coordinate the delivery of services required by businesses within the targeted sectors. Organizations contracting with the department shall work closely with the department to examine the local economy and to develop strategies to

focus on developing key sectors that show potential for long-term sustainable growth. The contracting organization shall survey businesses and employees in targeted sectors on a periodic basis to gather information on the sector's business needs, expansion plans, relocation decisions, training needs, potential layoffs, financing needs, availability of financing, and other appropriate information about economic trends and specific employer and employee needs in the region.

(5) The contracting organization shall participate with the work force training and education coordinating board as created in chapter 28C.18 RCW, and any regional entities designated by that board, in providing for the coordination of job skills training within its region. [1993 c 280 § 11.]

43.330.090 Economic diversification strategies—Tourism expansion—Targeted sectors. (1) The department shall work with private sector organizations, local governments, local economic development organizations, and higher education and training institutions to assist in the development of strategies to diversify the economy, facilitate technology transfer and diffusion, and increase value-added production by focusing on targeted sectors. The targeted sectors may include, but are not limited to, software, forest products, biotechnology, environmental industries, recycling markets and waste reduction, aerospace, food processing, tourism, film and video, microelectronics, new materials, robotics, and machine tools. The department shall, on a continuing basis, evaluate the potential return to the state from devoting additional resources to a targeted sector's approach to economic development and including additional sectors in its efforts. The department shall use information gathered in each service delivery region in formulating its sectoral strategies and in designating new targeted sectors.

(2) The department shall ensure that the state continues to pursue a coordinated program to expand the tourism industry throughout the state in cooperation with the public and private tourism development organizations. The department shall work to provide a balance of tourism activities throughout the state and during different seasons of the year. In addition, the department shall promote, market, and encourage growth in the production of films and videos, as well as television commercials within the state; to this end the department is directed to assist in the location of a film and video production studio within the state.

(3) In assisting in the development of a targeted sector, the department's activities may include, but are not limited to:

(a) Conducting focus group discussions, facilitating meetings, and conducting studies to identify members of the sector, appraise the current state of the sector, and identify issues of common concern within the sector;

(b) Supporting the formation of industry associations, publications of association directories, and related efforts to create or expand the activities or industry associations;

(c) Assisting in the formation of flexible networks by providing (i) agency employees or private sector consultants trained to act as flexible network brokers and (ii) funding for potential flexible network participants for the purpose of organizing or implementing a flexible network;

(d) Helping establish research consortia;

(e) Facilitating joint training and education programs;

(f) Promoting cooperative market development activities;

(g) Analyzing the need, feasibility, and cost of establishing product certification and testing facilities and services; and

(h) Providing for methods of electronic communication and information dissemination among firms and groups of firms to facilitate network activity.

By January 10th of each year, the department shall report in writing on its targeted sector programs to the appropriate legislative economic development committees. The department's report shall include an appraisal of the sector, activities the department has undertaken to assist in the development of each sector, and recommendations to the legislature regarding activities that the state should implement but are currently beyond the scope of the department's program or resources. [1994 c 144 § 1; 1993 c 280 § 12.]

Effective date—1994 c 144: "This act shall take effect July 1, 1994." [1994 c 144 § 3.]

43.330.100 Local infrastructure and public facilities—Grants and loans. (1) The department shall support the development and maintenance of local infrastructure and public facilities and provide local communities with flexible sources of funding. The department shall coordinate grant and loan programs that provide infrastructure and investment in local communities. This shall include coordinating funding for eligible projects with other federal, state, local, private, and nonprofit funding sources.

(2) At a minimum, the department shall provide coordinated procedures for applying for and tracking grants and loans among and between the community economic revitalization board, the public works trust fund, and community development block grants. [1993 c 280 § 13.]

43.330.110 Housing—Energy assistance. (1) The department shall maintain an active effort to help communities, families, and individuals build and maintain capacity to meet housing needs in Washington state. The department shall facilitate partnerships among the many entities related to housing issues and leverage a variety of resources and services to produce comprehensive, cost-effective, and innovative housing solutions.

(2) The department shall assist in the production, development, rehabilitation, and operation of owner-occupied or rental housing for very low, low, and moderate-income persons; operate programs to assist home ownership, offer housing services, and provide emergency, transitional, and special needs housing services; and qualify as a participating state agency for all programs of the federal department of housing and urban development or its successor. The department shall develop or assist local governments in developing housing plans required by the state or federal government.

(3) The department shall coordinate and administer energy assistance and residential energy conservation and rehabilitation programs of the federal and state government through nonprofit organizations, local governments, and housing authorities. [1993 c 280 § 14.]

43.330.120 Growth management. (1) The department shall serve as the central coordinator for state govern-

ment in the implementation of the growth management act, chapter 36.70A RCW. The department shall work closely with all Washington communities planning for future growth and responding to the pressures of urban sprawl. The department shall ensure coordinated implementation of the growth management act by state agencies.

(2) The department shall offer technical and financial assistance to cities and counties planning under the growth management act. The department shall help local officials interpret and implement the different requirements of the act through workshops, model ordinances, and information materials.

(3) The department shall provide alternative dispute resolution to jurisdictions and organizations to mediate disputes and to facilitate consistent implementation of the growth management act. The department shall review local governments compliance with the requirements of the growth management act and make recommendations to the governor. [1993 c 280 § 15.]

43.330.125 Department shall provide assistance to counties and cities. The department of community, trade, and economic development shall provide training and technical assistance to counties and cities to assist them in fulfilling the requirements of chapter 36.70B RCW. [1995 c 347 § 430.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

43.330.130 Services to poor and disadvantaged persons—Preschool children—Substance abuse—Family services—Fire protection and emergency management. (1) The department shall coordinate services to communities that are directed to the poor and disadvantaged through private and public nonprofit organizations and units of general purpose local governments. The department shall coordinate these programs using, to the extent possible, integrated case management methods, with other community and economic development efforts that promote self-sufficiency.

(2) These services may include, but not be limited to, comprehensive education services to preschool children from low-income families, providing for human service needs and advocacy, promoting volunteerism and citizen service as a means for accomplishing local community and economic development goals, coordinating and providing emergency food assistance to distribution centers and needy individuals, and providing for human service needs through community-based organizations.

(3) The department shall provide local communities and at-risk individuals with programs that provide community protection and assist in developing strategies to reduce substance abuse. The department shall administer programs that develop collaborative approaches to prevention, intervention, and interdiction programs. The department shall administer programs that support crime victims, address youth and domestic violence problems, provide indigent defense for low-income persons, border town disputes, and administer family services and programs to promote the state's policy as provided in RCW 74.14A.025.

(4) The department shall provide fire protection and emergency management services to support and strengthen local capacity for controlling risk to life, property, and community vitality that may result from fires, emergencies, and disasters. [1993 c 280 § 16.]

43.330.135 Court-appointed special advocate programs—Funds—Eligibility. (1) The department of community, trade, and economic development shall distribute such funds as are appropriated for the state-wide technical support, development, and enhancement of court-appointed special advocate programs.

(2) In order to receive money under subsection (1) of this section, an organization providing state-wide technical support, development, and enhancement of court-appointed special advocate programs must meet all of the following requirements:

(a) The organization must provide state-wide support, development, and enhancement of court-appointed special advocate programs that offer guardian ad litem services as provided in RCW 26.12.175, 26.44.053, and 13.34.100;

(b) All guardians ad litem working under court-appointed special advocate programs supported, developed, or enhanced by the organization must be volunteers and may not receive payment for services rendered pursuant to the program. The organization may include paid positions that are exclusively administrative in nature, in keeping with the scope and purpose of this section; and

(c) The organization providing state-wide technical support, development, and enhancement of court-appointed special advocate programs must be a public benefit nonprofit corporation as defined in RCW 24.03.490.

(3) If more than one organization is eligible to receive money under this section, the department shall develop criteria for allocation of appropriated money among the eligible organizations. [1995 c 13 § 1.]

43.330.140 Washington quality award council—Organization—Duties—Expiration. The Washington quality award council shall be organized as a part of the private, nonprofit corporation quality for Washington state foundation, with the assistance of the department, in accordance with chapter 24.03 RCW and this section.

(1) The council shall oversee the governor's Washington state quality achievement award program. The purpose of the program is to improve the overall competitiveness of the state's economy by stimulating Washington state industries, business, and organizations to bring about measurable success through setting standards of organizational excellence, encouraging organizational self-assessment, identifying successful organizations as role models, and providing a valuable mechanism for promoting and strengthening a commitment to continuous quality improvement in all sectors of the state's economy. The program shall annually recognize organizations that improve the quality of their products and services and are noteworthy examples of high-performing work organizations.

(2) The council shall consist of the governor and the director, as chair and vice-chair, respectively, and recognized professionals who shall have backgrounds in or experience with effective quality improvement techniques, employee

involvement quality of work life initiatives, and development of innovative labor-management relations. The initial membership of the board beyond the chair and vice-chair shall be appointed by the governor from a list of nominees submitted by the quality for Washington state foundation. The list of nominees shall include representatives from the governor's small business improvement council, the Washington state efficiency commission, the Washington state productivity board, the Washington state service quality network, the association for quality and participation, the American society for quality control, business and labor associations, educational institutions, elected officials, and representatives from former recipients of international, national, or state quality awards.

(3) The council shall establish a board of examiners, a recognition committee, and such other subcouncil groups as it deems appropriate to carry out its responsibilities. Subcouncil groups established by the council may be composed of noncouncilmembers.

(4) The council shall receive its administrative support and operational expenses from the quality for Washington state foundation.

(5) The council shall, in conjunction with the quality for Washington state foundation, compile a list of resources available for organizations interested in productivity improvement, quality techniques, effective methods of work organization, and upgrading work force skills as a part of the quality for Washington state foundation's ongoing educational programs. The council shall make the list of resources available to the general public, including labor, business, nonprofit and public agencies, and the department.

(6) The council, in conjunction with the quality for Washington state foundation, may conduct such public information, research, education, and assistance programs as it deems appropriate to further quality improvement in organizations operating in the state of Washington.

(7) The council shall:

(a) Approve and announce achievement award recipients;

(b) Approve guidelines to examine applicant organizations;

(c) Approve appointment of judges and examiners;

(d) Arrange appropriate annual awards and recognition for recipients, in conjunction with the quality for Washington state foundation;

(e) Formulate recommendations for change in the nomination form or award categories, in cooperation with the quality for Washington state foundation; and

(f) Review related education, training, technology transfer, and research initiatives proposed by the quality for Washington state foundation.

(8) By January 1st of each even-numbered year, the council shall report to the governor and the appropriate committees of the legislature on its activities in the proceeding two years and on any recommendations in state policies or programs that could encourage quality improvement and the development of high-performance work organizations.

(9) The council shall cease to exist on July 1, 2004, unless otherwise extended by law. [1994 c 306 § 1.]

43.330.150 Fees—Conferences, workshops, training. The department is authorized to charge reasonable fees to cover costs for conferences, workshops, and training purposes and to expend those fees for the purposes for which they were collected. [1994 c 284 § 1.]

Severability—Effective date—1994 c 284: See RCW 43.63B.900 and 43.63B.901.

43.330.152 Fees—Service and product delivery areas. In order to extend its services and programs, the department may charge reasonable fees for services and products provided in the areas of financial assistance, housing, international trade, community assistance, economic development, and other service delivery areas, except as otherwise provided. These fees are not intended to exceed the costs of providing the service or preparing and distributing the product. [1994 c 284 § 2.]

Severability—Effective date—1994 c 284: See RCW 43.63B.900 and 43.63B.901.

43.330.155 Community and economic development fee account. The community and economic development fee account is created in the state treasury. The department may create subaccounts as necessary. The account consists of all receipts from fees charged by the department under RCW 43.330.150, 43.330.152, and 43.210.110. Expenditures from the account may be used only for the purposes of this chapter. Only the director or the director's designee may authorize expenditures from the account. Expenditures from the account may be spent only after appropriation. [1994 c 284 § 4.]

Severability—Effective date—1994 c 284: See RCW 43.63B.900 and 43.63B.901.

43.330.156 Fees—Adoption by rule. The fees authorized under RCW 43.330.150, 43.330.152, *70.95H.040, and 43.210.110 shall be adopted by rule pursuant to chapter 34.05 RCW. [1994 c 284 § 8.]

***Reviser's note:** The governor vetoed 1994 c 284 § 5, the amendment to RCW 70.95H.040 that provided for fees.

Severability—Effective date—1994 c 284: See RCW 43.63B.900 and 43.63B.901.

43.330.900 References to director and department.

(1) All references to the director or department of community development in the Revised Code of Washington shall be construed to mean the director of community, trade, and economic development or the department of community, trade, and economic development.

(2) All references to the director or department of trade and economic development in the Revised Code of Washington shall be construed to mean the director of community, trade, and economic development or the department of community, trade, and economic development. [1993 c 280 § 79.]

43.330.901 Captions. Captions used in this chapter do not constitute part of the law. [1993 c 280 § 83.]

43.330.902 Effective date—1993 c 280. Sections 1 through 7, 9 through 79, 82, and 83 of this act shall take effect March 1, 1994. [1994 c 5 § 2; 1993 c 280 § 86.]

43.330.9021 Effective date—1994 c 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect March 1, 1994. [1994 c 5 § 3.]

43.330.903 Severability—1993 c 280. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 280 § 87.]

43.330.904 Transfer of certain state energy office powers, duties, and functions—References to director—Appointment of assistant director. (1) All powers, duties, and functions of the state energy office relating to energy resource policy and planning and energy facility siting are transferred to the department of community, trade, and economic development. All references to the director or the state energy office in the Revised Code of Washington shall be construed to mean the director or the department of community, trade, and economic development when referring to the functions transferred in this section.

The director shall appoint an assistant director for energy policy, and energy policy staff shall have no additional responsibilities beyond activities concerning energy policy.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the state energy office pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of community, trade, and economic development. All cabinets, furniture, office equipment, software, data base, motor vehicles, and other tangible property employed by the state energy office in carrying out the powers, functions, and duties transferred shall be made available to the department of community, trade, and economic development.

(b) Any appropriations made to the state energy office for carrying out the powers, functions, and duties transferred shall, on July 1, 1996, be transferred and credited to the department of community, trade, and economic development.

(c) Whenever any question arises as to the transfer of any funds, books, documents, records, papers, files, software, data base, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the state energy office engaged in performing the powers, functions, and duties pertaining to the energy facility site evaluation council are transferred to the jurisdiction of the department of community, trade, and economic development. All employees engaged in energy facility site evaluation council duties classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of community, trade, and economic development to perform their usual duties upon the same terms as

formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the state energy office pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of community, trade, and economic development. All existing contracts and obligations shall remain in full force and shall be performed by the department of community, trade, and economic development.

(5) The transfer of the powers, duties, and functions of the state energy office does not affect the validity of any act performed before July 1, 1996.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of the office of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation.

(7) The department of community, trade, and economic development shall direct the closure of the financial records of the state energy office.

(8) Responsibility for implementing energy education, applied research, and technology transfer programs rests with Washington State University. The department of community, trade, and economic development shall provide Washington State University available existing and future oil overcharge restitution and federal energy block funding for a minimum period of five years to carry out energy programs under an interagency agreement with the department of community, trade, and economic development. The interagency agreement shall also outline the working relationship between the department of community, trade, and economic development and Washington State University as it pertains to the relationship between energy policy development and public outreach. Nothing in chapter 186, Laws of 1996 prohibits Washington State University from seeking grant, contract, or fee-for-service funding for energy or related programs directly from other entities. [1996 c 186 § 101.]

Findings—Intent—1996 c 186: "The legislature finds responsibilities of state government need to be limited to core services in support of public safety and welfare. Services provided by the Washington state energy office are primarily advisory and can be eliminated. The legislature further finds a need to redefine the state's role in energy-related regulatory functions. The state may be better served by allowing regulatory functions to be performed by other appropriate entities, simplifying state government while maintaining core services. Further, it is the intent of the legislature that the state continue to receive oil overcharge restitution funds for our citizens while every effort is being made to maximize federal funds available for energy conservation purposes." [1996 c 186 § 1.]

State energy office—Services for employees affected by elimination of office—1996 c 186: "The state shall offer the following services to state employees affected by the elimination of the Washington state energy office:

- (1) Placement in the reduction in force transition pool;
- (2) Payment of one hundred fifty dollars per month per employee for health benefits purchased under the federal consolidated omnibus budget reconciliation act (COBRA) for a period not to exceed one year;
- (3) Placement in the Washington management services clearinghouse register for employees in the Washington management service;
- (4) Career transition services through the department of personnel;
- (5) Up to thirty weeks of unemployment benefits for qualifying employees; and
- (6) Dislocated worker training for employees in positions unique to the energy industry." [1996 c 186 § 601.]

Part headings not law—1996 c 186: "Part headings used in this act do not constitute part of the law." [1996 c 186 § 602.]

Effective date—1996 c 186: "This act shall take effect July 1, 1996." [1996 c 186 § 603.]

Chapter 43.332

OFFICE OF THE WASHINGTON STATE TRADE REPRESENTATIVE

Sections

43.332.005 Findings.

43.332.010 Office created—Finances.

43.332.005 Findings. (1) The legislature finds that:

(a) The expansion of international trade is vital to the overall growth of Washington's economy;

(b) On a per capita basis, Washington state is the most international trade dependent state in the nation;

(c) The North American free trade agreement (NAFTA) and the general agreement on tariffs and trade (GATT) highlight the increased importance of international trade opportunities to the United States and the state of Washington;

(d) The passage of NAFTA and GATT will have a major impact on the state's agriculture, aerospace, computer software, and textiles and apparel sectors;

(e) There is a need to strengthen and coordinate the state's activities in promoting and developing its agricultural, manufacturing, and service industries overseas, especially for small and medium-sized businesses, and minority and women-owned business enterprises; and

(f) The importance of having a coherent vision for advancing Washington state's interest in the global economy has rarely been so consequential as it is now.

(2) The legislature declares that the purpose of the office of the Washington state trade representative is to strengthen and expand the state's activities in marketing its goods and services overseas. [1995 c 350 § 1.]

43.332.010 Office created—Finances. The office of the Washington state trade representative is created under the office of the governor. The office shall serve as the state's official liaison with foreign governments on trade matters.

The office of the Washington state trade representative may accept or request grants or gifts from citizens and other private sources to be used to defray the costs of appropriate hosting of foreign dignitaries, including appropriate gift-giving and reciprocal gift-giving, or other activities of the office. The office shall open and maintain a bank account into which it shall deposit all money received under this section. Such money and the interest accruing thereon shall not constitute public funds, shall be kept segregated and apart from funds of the state, and shall not be subject to appropriation or allotment by the state or subject to chapter 43.88 RCW. [1995 c 350 § 2.]

Chapter 43.950 CONSTRUCTION

Sections

43.950.010 Continuation of existing law.

43.950.020 Title, chapter, section headings not part of law.

43.950.030 Invalidity of part of title not to affect remainder.

43.950.040 Repeals and saving.

43.950.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. Nothing in this 1965 reenactment of this title shall be construed as authorizing any new bond issues or new or additional appropriations of moneys but the bond issue authorizations herein contained shall be construed only as continuations of bond issues authorized by prior laws herein repealed and reenacted, and the appropriations of moneys herein contained are continued herein for historical purposes only and this act shall not be construed as a reappropriation thereof and no appropriation contained herein shall be deemed to be extended or revived hereby and such appropriation shall lapse or shall have lapsed in accordance with the original enactment. [1965 c 8 § 43.198.010. Formerly RCW 43.198.010.]

43.950.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1965 c 8 § 43.198.020. Formerly RCW 43.198.020.]

43.950.030 Invalidity of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected. [1965 c 8 § 43.198.030. Formerly RCW 43.198.030.]

43.950.040 Repeals and saving. See 1965 c 8 § 43.198.040. Formerly RCW 43.198.040.

Title 44

STATE GOVERNMENT—LEGISLATIVE

Chapters

- 44.04** General provisions.
- 44.05** Washington State Redistricting Act.
- 44.07C** Legislative districts and apportionment.
- 44.16** Legislative inquiry.
- 44.20** Session laws.
- 44.28** Joint legislative audit and review committee.
- 44.39** Joint committee on energy and utilities.
- 44.40** Legislative transportation committee—Senate and house transportation committees.
- 44.44** Office of state actuary—Joint committee on pension policy.
- 44.48** Legislative evaluation and accountability program committee.
- 44.52** Legislative committee on economic development.
- 44.68** Joint legislative systems committee.

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Annual and special sessions: State Constitution Art. 2 § 12.

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Attorney general, legal adviser for legislature: RCW 43.10.030.

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drafting service maintained by code reviser: RCW 1.08.027.

origin and amendment: State Constitution Art. 2 § 20.

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Census, to provide for: State Constitution Art. 2 § 3.

Commission on uniform legislation: Chapter 43.56 RCW.

Compelling attendance: State Constitution Art. 2 § 8.

Compensation of members

amount of: RCW 43.03.010.

appointees to office of state legislator: RCW 43.03.015.

extra compensation prohibited: State Constitution Art. 2 § 25.

how determined: State Constitution Art. 28 § 1.

Compensation of state officers, legislature to determine: State Constitution Art. 28 § 1.

Composition: State Constitution Art. 2 § 2.

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Contempt of legislature, how punished: State Constitution Art. 2 § 9.

Contested elections of state elective officers, legislature to decide: State Constitution Art. 3 § 4.

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Council for the prevention of child abuse and neglect, legislators as ex officio members: RCW 43.121.020.

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Crimes relating to legislature: Chapter 9.55 RCW.

Elections

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registration laws, legislature to enact: State Constitution Art. 6 § 7.

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Governor-elect, appropriation for office and staff: RCW 43.06.055.

Governor's message to legislature: State Constitution Art. 3 § 6.

Harbor line commission, legislature shall provide for: State Constitution Art. 15 § 1.

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Homestead and other property exemptions of families, legislature to protect: State Constitution Art. 19 § 1.

Hospitalization and medical aid for public employees and dependents—Premiums, governmental contributions authorized: RCW 41.04.180, 41.04.190.

Immunity of members from arrest: State Constitution Art. 2 § 16.

Impeachment: State Constitution Art. 5 §§ 1, 2.

Initiative and referendum: State Constitution Art. 2 § 1; chapter 29.79 RCW.

Journals

distribution of copies: RCW 40.04.090.

each house to keep: State Constitution Art. 2 § 11.

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public printer to print and bind: RCW 43.78.030.

secretary of state as custodian: RCW 43.07.040.

Judiciary

inferior courts, legislature to prescribe jurisdiction and powers of: State Constitution Art. 4 § 12.

justices of the peace, number, powers, duties and jurisdiction to be fixed by legislature: State Constitution Art. 4 § 10.

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supreme court judges, legislature may increase number: State Constitution Art. 4 § 2.

Legislation

effective date: State Constitution Art. 2 § 41.

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limitation of amendments: State Constitution Art. 2 § 38.

secretary of state custodian of acts, resolutions and journals: RCW 43.07.040.

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special legislation prohibited: State Constitution Art. 2 § 28.

time limitation for introduction: State Constitution Art. 2 § 36.

veto: State Constitution Art. 3 § 12.

Legislative district chair: RCW 29.42.070.

Legislators as retired state employees for insurance purposes: RCW 41.05.080.

Legislature

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Local government redistricting: Chapter 29.70 RCW.

Medicine and surgery, legislature to enact laws to regulate: State Constitution Art. 20 § 2.

Microfilming of records to provide continuity of civil government: Chapter 40.10 RCW.

Mileage: State Constitution Art. 2 § 23; RCW 43.03.010.

Militia, legislature to provide for: State Constitution Art. 10 § 2.

Misconduct of public officers: Chapter 42.20 RCW.

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combined city and county, legislature to provide for: State Constitution Art. 11 § 16.

incorporation, provisions for to be provided by legislature: State Constitution Art. 11 § 10.

limitation on power of legislature to levy taxes upon: State Constitution Art. 11 § 12.

local improvement by special assessments, legislature may provide: State Constitution Art. 7 § 9.

Navigable waters, right to lease land for wharves, docks, etc., legislature to provide laws for: State Constitution Art. 15 § 2.

Private interest of legislator in bill: State Constitution Art. 2 § 30.

Privilege from arrest: State Constitution Art. 2 § 16.

Qualifications of legislators: State Constitution Art. 2 § 7.

Quorum: State Constitution Art. 2 § 8.

Reapportionment: State Constitution Art. 2 § 3.

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Records of legislature kept by secretary of state: State Constitution Art. 3 § 17.

Reprieves, commutations, and pardons, governor to report to legislature: State Constitution, Art. 3 § 11.

Revised Code of Washington, legislators to receive copies of: RCW 1.08.070.

Salaries: RCW 43.03.010.

Salaries for public officials in appropriations act: RCW 43.03.045.

Schools, legislature to provide for: State Constitution Art. 9 § 2.

Session laws

delivery of copies for use of legislature: RCW 40.04.040.

public printer to print and bind: RCW 43.78.030.

secretary of state as custodian of acts and resolutions: RCW 43.07.040.

Sessions, time for meeting, duration: State Constitution Art. 2 § 12.

Soldiers' home, legislature to provide for: State Constitution Art. 10 § 3.

Special sessions convened by legislature or governor: State Constitution Art. 2 § 12, Art. 3 § 7.

State participation within student exchange compact programs—Board to advise legislature: RCW 28B.80.170.

State scholars' program, participation in: RCW 28A.600.100 through 28A.600.150.

Statute law committee, legislative membership on: RCW 1.08.001.

Tax advisory council, legislative membership: RCW 43.38.010.

Taxation

deficiencies, legislature may provide for tax to pay: State Constitution Art. 7 § 8.

limitation on legislature to tax municipal corporations: State Constitution Art. 11 § 12.

limitations on state expenditures: Chapter 43.135 RCW.

Transportation, department of, study reports available to legislators upon request: RCW 47.01.145.

Vacancies

acceptance of federal office vacates seat: State Constitution Art. 2 § 14. how filled: State Constitution Art. 2 § 15.

term of person elected to fill: RCW 42.12.030.

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Chapter 44.04

GENERAL PROVISIONS

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- 44.04.010 Date of regular sessions.
- 44.04.015 Term limits.
- 44.04.021 Commencement of terms of office.
- 44.04.040 Vouchers for pay and mileage of members—Warrants.
- 44.04.041 Warrants for pay and mileage of members—Payment of.
- 44.04.050 Vouchers for pay of employees—Warrants.
- 44.04.051 Warrants for pay of employees—Payment of.
- 44.04.060 Vouchers for incidental expenses—Warrants.
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- 44.04.100 Contest of election—Depositions.
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Development of definitions, criteria, and procedures for the operating cost of instruction—Educational cost study: RCW 28B.15.070.

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Emoluments of office for appointees to office of state legislator: RCW 43.03.015.

Reports to legislature—Disturbances at state penal facilities—Contingency plans for—Report of failure to support: RCW 72.02.170.

Studies and adoption of classifications for school district budgets—Publication: RCW 28A.300.060.

44.04.010 Date of regular sessions. Regular sessions of the legislature shall be held annually, commencing on the second Monday of January. [1980 c 87 § 27; 1979 ex.s. c 48 § 1; 1891 c 20 § 1; RRS § 8177.]

Effective date—1979 ex.s. c 48: "This 1979 act shall take effect on January 1, 1980, if the proposed amendment to Article II, section 12 of the state Constitution by Substitute Senate Joint Resolution No. 110, providing for annual sessions of the legislature, is validly submitted and is approved and ratified by the voters at a general election held in November, 1979. If the proposed amendment is not so approved and ratified, this 1979 act shall be null and void in its entirety." [1979 ex.s. c 48 § 2.] "This 1979 act" refers to the amendment to RCW 44.04.010 by 1979 ex.s. c 48. Substitute Senate Joint Resolution No. 110 was approved and ratified by the people at the November 6, 1979, general election.

Regular and special sessions: State Constitution, Art. 2 § 12.

44.04.015 Term limits. (1) No person is eligible to appear on the ballot or file a declaration of candidacy for the house of representatives of the legislature who, by the end of the then current term of office will have served, or but for resignation would have served, as a member of the house of representatives of the legislature during six of the previous twelve years.

(2) No person is eligible to appear on the ballot or file a declaration of candidacy for the senate of the legislature who, by the end of the then current term of office will have served, or but for resignation would have served, as a member of the senate of the legislature during eight of the previous fourteen years.

(3) No person is eligible to appear on the ballot or file a declaration of candidacy for the legislature who has served as a member of the legislature for fourteen of the previous twenty years. [1993 c 1 § 3 (Initiative Measure No. 573, approved November 3, 1992).]

Preamble—Severability—1993 c 1 (Initiative Measure No. 573): See notes following RCW 43.01.015.

44.04.021 Commencement of terms of office. The regular term of office of each senator and representative shall commence on the second Monday in January following the date of election. [1987 c 13 § 1; 1981 c 288 § 68. Formerly RCW 44.07B.870.]

44.04.040 Vouchers for pay and mileage of members—Warrants. The chief clerk of the house of representatives and the secretary of the senate are hereby directed to prepare vouchers for the state treasurer for the mileage and daily pay of members of the legislature on presentation of certificates showing amounts due for miles traveled and services rendered to dates specified. The certificates shall be signed by the speaker or president, and countersigned by the chief clerk or secretary, respectively, of the body to which the members belong. The state treasurer shall issue warrants which shall be in favor of and payable to the order of the persons named in said certificates. [1973 c 106 § 17; 1890 p 6 § 1; RRS § 8150.]

Annual salary: RCW 43.03.010.

Mileage allowance: State Constitution Art. 2 § 23; RCW 43.03.010.

44.04.041 Warrants for pay and mileage of members—Payment of. Upon presentation of a warrant drawn as provided for in RCW 44.04.040, to the state treasurer, that officer shall pay the same out of any money in the treasury of the state appropriated for the expenses of the legislature of the state of Washington: PROVIDED, That should there be no money in the state treasury covered by such appropriation, the state treasurer shall indorse such fact on the warrant presented, and said warrant shall draw interest from the date of such presentation and indorsement, and shall be payable thereafter in the manner provided by existing law and custom. [1890 p 6 § 2; RRS § 8151. Formerly RCW 44.04.070, part.]

44.04.050 Vouchers for pay of employees—Warrants. The chief clerk of the house of representatives and the secretary of the senate shall prepare vouchers for the state treasurer for sums covering amounts due officers and

employees of the legislature on presentation of certificates signed by the speaker or president, and countersigned by the chief clerk or secretary of the body in which the service of the officer or employee is rendered, and showing amounts due to dates specified. The state treasurer shall issue warrants which shall be drawn in favor and be made payable to the order of the officer or employee named in each certificate. [1973 c 106 § 18; 1890 p 3 § 1; RRS § 8148.]

44.04.051 Warrants for pay of employees—Payment of. Upon presentation to the state treasurer of a warrant drawn as provided for in RCW 44.04.050, that officer shall pay the same from any money in the state treasury appropriated for the expenses of the legislature of the state of Washington: PROVIDED, That should there be no money in the treasury of the state covered by such appropriation, the state treasurer shall indorse such fact on the warrant presented, and said warrant shall draw interest from date of such indorsement and shall be payable thereafter as is provided by law and custom. [1890 p 3 § 2; RRS § 8149. Formerly RCW 44.04.070, part.]

44.04.060 Vouchers for incidental expenses—Warrants. The chief clerk of the house of representatives and the secretary of the senate are hereby directed to prepare vouchers for the state treasurer for the incidental expenses of the legislature, on presentation of certificates showing amounts due for material furnished and services rendered to dates specified. The certificates shall be signed by the speaker or president, and countersigned by the sergeant-at-arms, respectively, of the body ordering the expenditures. The state treasurer shall issue warrants which shall be in favor of and payable to the order of the persons named in said certificates. [1973 c 106 § 19; 1890 p 10 § 1; RRS § 8152.]

44.04.070 Warrants for incidental expenses—Payment of. Upon presentation of a warrant, drawn as provided for in RCW 44.04.060, to the state treasurer, that officer shall pay the same out of any money in the treasury of the state appropriated for the expenses of the legislature of the state of Washington: PROVIDED, That should there be no money in the state treasury covered by such appropriation, the state treasurer shall indorse such fact on the warrant presented, and said warrant shall draw interest from the date of such presentation and indorsement, and shall be payable thereafter in the manner provided by existing law and custom. [1890 p 10 § 2; RRS § 8153. FORMER PARTS OF SECTION: (i) 1890 p 3 § 2, now codified as RCW 44.04.051. (ii) 1890 p 6 § 2, now codified as RCW 44.04.041.]

44.04.090 Warrants for subsistence and lodging. The state treasurer shall issue warrants for said reimbursement supported by affidavits that the reimbursement is claimed for expenses of subsistence and lodging actually incurred without itemization and without receipts. Such warrants shall be immediately paid from any funds appropriated for the purpose. [1973 c 106 § 20; 1941 c 173 § 2; Rem. Supp. 1941 § 8153-2.]

44.04.100 Contest of election—Depositions. Any person desiring to contest the election of any member of the legislature, may, at any time after the presumptive election of such member and before the convening of the ensuing regular session of the legislature, have the testimony of witnesses, to be used in support of such contest, taken and perpetuated, by serving not less than three days' written notice upon the member whose election he desires to contest, of his intention to institute such contest and that he desires to take the testimony of certain witnesses named in such notice, at a time and place named therein, before a notary public duly commissioned and qualified and residing in the county where the presumptive member resides, giving the name of such notary public, which deposition shall be taken in the manner provided by law for the taking of depositions in civil actions in the superior court. The presumptive member of the legislature, whose election is to be contested, shall have the right to appear, in person or by counsel, at the time and place named in the notice, and cross examine any witness produced and have such cross examination made a part of such deposition, and to produce witnesses and have their depositions taken for the purpose of sustaining his election. The notary public before whom such deposition is taken shall transmit such depositions to the presiding officer of the senate, or house of representatives, as the case may be, in which said contest is to be instituted, in the care of the secretary of state, at the state capitol, by registered mail, and it shall be the duty of the secretary of state upon the convening of the legislature to transmit said depositions, unopened, to the presiding officer of the senate, or the house of representatives, as the case may be, to whom it is addressed, and in case such contest is instituted said depositions may be opened and read in evidence in the manner provided by law for the opening and introduction of depositions in civil actions in the superior court. [1927 c 205 § 1; RRS § 8162-1. Prior: Code 1881 §§ 3125-3139.]

Contest of elections: Chapter 29.65 RCW.

Depositions: Rules of court: CR 26 through 37.

Legislature to judge election and qualifications of members: State Constitution Art. 2 § 8.

Recall: State Constitution Art. 1 §§ 33, 34, chapter 29.82 RCW.

44.04.120 Members' allowances when engaged in legislative business. Each member of the senate or house of representatives when serving on official legislative business shall be entitled to receive, in lieu of per diem or any other payment, for each day or major portion thereof in which he is actually engaged in legislative business or business of the committee, commission, or council, notwithstanding any laws to the contrary, an allowance in an amount fixed by the secretary of the senate and chief clerk of the house, respectively, in accordance with applicable rules and resolutions of each body. Such allowance shall be reasonably calculated to reimburse expenses, exclusive of mileage, which are ordinary and necessary in the conduct of legislative business, recognizing cost variances which are encountered in different locales. The allowance authorized shall not exceed the greater of forty-four dollars per day or the maximum daily amount determined under RCW 43.03.050, as now or hereafter amended. In addition, a mileage allowance shall be paid at the rate per mile provided

for in RCW 43.03.060, as now or hereafter amended, when authorized by the house, committee, commission, or council of which he is a member and on the business of which he is engaged. [1985 c 3 § 1; 1979 ex.s. c 255 § 3; 1974 ex.s. c 157 § 2; 1973 1st ex.s. c 197 § 5; 1967 ex.s. c 112 § 4; 1963 ex.s. c 7 § 1; 1959 ex.s. c 10 § 1.]

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

44.04.125 Allowances of members-elect when attending meetings. Each member-elect of the senate or house of representatives who attends any meeting of the legislature or any of its committees, upon the invitation of the committee on rules of his or her respective house, shall be entitled to receive per diem, mileage, and incidental expense allowances at the rates prescribed in chapter 44.04 RCW, as now or hereafter amended. [1975 1st ex.s. c 185 § 1.]

44.04.130 Accidental death and dismemberment coverage during aircraft flights for members of legislature. See RCW 43.01.120.

44.04.140 Security and protection of legislature—Duty of state patrol to provide. See RCW 43.43.037.

44.04.170 Associations of municipal corporations or municipal officers to furnish information to legislature and governor. It shall be the duty of each association of municipal corporations or municipal officers, which is recognized by law and utilized as an official agency for the coordination of the policies and/or administrative programs of municipal corporations, to submit biennially, or oftener as necessary, to the governor and to the legislature the joint recommendations of such participating municipalities regarding changes which would affect the efficiency of such municipal corporations. Such associations shall include but shall not be limited to the Washington state association of fire commissioners, the Washington state association of water districts, the Washington state association of sewer districts, and the Washington state school directors' association. [1970 ex.s. c 69 § 2.]

Purpose—1970 ex.s. c 69: "It is the purpose of this act to assist the legislature in obtaining adequate information as to the needs of its municipal corporations and other public agencies and their recommendations for improvements." [1970 ex.s. c 69 § 1.]

Intent—Construction—1970 ex.s. c 69: "The intent of this act is to clarify and implement the powers of the public agencies to which it relates and nothing herein shall be construed to impair or limit the existing powers of any municipal corporation or association." [1970 ex.s. c 69 § 3.]

44.04.180 Legislative records—Preservation. See RCW 40.14.100 through 40.14.180.

44.04.190 Fiscal impact of proposed legislation on political subdivisions—Fiscal notes. See chapter 43.132 RCW.

44.04.200 References to regular session of the legislature. After June 12, 1980, all references in the Revised Code of Washington to a regular session of the

legislature mean a regular session during an odd- or even-numbered year unless the context clearly requires otherwise. [1980 c 87 § 1.]

44.04.210 Statutes, memorials, and resolutions to be in gender-neutral terms—Exception—Effect of noncompliance. (1) All statutes, memorials, and resolutions enacted, adopted, or amended by the legislature after July 1, 1983, shall be written in gender-neutral terms unless a specification of gender is intended.

(2) No statute, memorial, or resolution is invalid because it does not comply with this section. [1983 c 20 § 3.]

Intent—1983 c 20: See note following RCW 43.01.160.

Number and gender in statutes: RCW 1.12.050.

44.04.220 Legislative children’s oversight committee. (1) There is created the legislative children’s oversight committee for the purpose of monitoring and ensuring compliance with administrative acts, relevant statutes, rules, and policies pertaining to family and children services and the placement, supervision, and treatment of children in the state’s care or in state-licensed facilities or residences. The committee shall consist of three senators and three representatives from the legislature. The senate members of the committee shall be appointed by the president of the senate. The house members of the committee shall be appointed by the speaker of the house. Not more than two members from each chamber shall be from the same political party. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year.

(2) The committee shall have the following powers:

- (a) Selection of its officers and adopt rules for orderly procedure;
- (b) Request investigations by the ombudsman of administrative acts;
- (c) Receive reports of the ombudsman;
- (d)(i) Obtain access to all relevant records in the possession of the ombudsman, except as prohibited by law; and (ii) make recommendations to all branches of government;
- (e) Request legislation;
- (f) Conduct hearings into such matters as it deems necessary.

(3) Upon receipt of records from the ombudsman, the committee is subject to the same confidentiality restrictions as the ombudsman under RCW 43.06A.050. [1996 c 131 § 1.]

Effective date—1996 c 131 §§ 1-3: "Sections 1 through 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 21, 1996]." [1996 c 131 § 7.]

Chapter 44.05

WASHINGTON STATE REDISTRICTING ACT

Sections

- 44.05.010 Short title.
- 44.05.020 Definitions.
- 44.05.030 Redistricting commission—Membership—Chairperson—Vacancies.
- 44.05.040 Oath.

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- 44.05.050 Members—Persons ineligible to serve.
- 44.05.060 Members—Political activities prohibited.
- 44.05.070 Employment of experts, consultants, and staff—Assistance of chief election officer, treasurer, and attorney general—Expense reimbursement of witnesses—Appropriation to commission required—Compensation of members and employees.
- 44.05.080 Duties.
- 44.05.090 Redistricting plan.
- 44.05.100 Submission of redistricting plan to legislature—Amendment—Effect—Adoption of plan by supreme court upon failure of commission.
- 44.05.110 Cessation of operations—Financial statement—Official record.
- 44.05.120 Reconvening of commission—Eligibility to serve—Vacancies—Modification of plan—Amendment by legislature—Cessation of operations.
- 44.05.130 Challenges to plan.
- 44.05.900 Contingent effective date—1983 c 16.
- 44.05.901 Severability—1983 c 16.
- 44.05.902 Severability—1984 c 13.

44.05.010 Short title. This act may be cited as the Washington State Redistricting Act. [1983 c 16 § 1.]

44.05.020 Definitions. The definitions set forth in this section apply throughout this chapter, unless the context requires otherwise.

(1) "Chief election officer" means the secretary of state.

(2) "Federal census" means the decennial census required by federal law to be prepared by the United States bureau of the census in each year ending in zero.

(3) "Lobbyist" means an individual required to register with the Washington public disclosure commission pursuant to RCW 42.17.150.

(4) "Plan" means a plan for legislative and congressional redistricting mandated by Article II, section 43 of the state Constitution. [1983 c 16 § 2.]

44.05.030 Redistricting commission—Membership—Chairperson—Vacancies. A redistricting commission shall be established in January of each year ending in one to accomplish state legislative and congressional redistricting. The five-member commission shall be appointed as follows:

(1) Each legislative leader of the two largest political parties in each house of the legislature shall appoint one voting member to the commission by January 15th of each year ending in one.

(2) The four legislators appointing commission members pursuant to this section shall certify their appointments to the chief election officer. If an appointing legislator does not certify an appointment by January 15th of each year ending in one, within five days the supreme court shall certify an appointment to the chief election officer.

(3) No later than January 31st of the year of their selection, the four appointed members, by an affirmative vote of at least three, shall appoint and certify to the chief election officer the nonvoting fifth member who shall act as the commission’s chairperson. If by January 31st of the year of their selection three of the four voting members fail to elect a chairperson, the supreme court shall within five days certify an appointment to the chief election officer. A vacancy on the commission shall be filled by the person who made the initial appointment, or their successor, within

fifteen days after the vacancy occurs. [1984 c 13 § 1; 1983 c 16 § 3.]

44.05.040 Oath. Before serving on the commission every person shall take and subscribe an oath to faithfully perform the duties of that office. The oath shall be filed in the office of the secretary of state. [1983 c 16 § 4.]

44.05.050 Members—Persons ineligible to serve. No person may serve on the commission who:

- (1) Is not a registered voter of the state at the time of selection; or
- (2) Is or has within one year prior to selection been a registered lobbyist; or
- (3) Is or has within two years prior to selection been an elected official or elected legislative district, county, or state party officer. The provisions of this subsection do not apply to the office of precinct committeeperson. [1984 c 13 § 2; 1983 c 16 § 5.]

44.05.060 Members—Political activities prohibited. No member of the commission may:

- (1) Campaign for elective office while a member of the commission;
- (2) Actively participate in or contribute to any political campaign of any candidate for state or federal elective office while a member of the commission; or
- (3) Hold or campaign for a seat in the state house of representatives, the state senate, or congress for two years after the effective date of the plan. [1984 c 13 § 3; 1983 c 16 § 6.]

44.05.070 Employment of experts, consultants, and staff—Assistance of chief election officer, treasurer, and attorney general—Expense reimbursement of witnesses—Appropriation to commission required—Compensation of members and employees. (1) The commission may employ the services of experts, consultants, and support staff, including attorneys not employed by the attorney general, as necessary to carry out its duties pursuant to this chapter.

(2) The chief election officer, the treasurer, and the attorney general shall make available to the commission such personnel, facilities, and other assistance as the commission may reasonably request. The chief election officer shall be the official recipient of all provisional and preliminary census data and maps, and shall forward such data and maps, upon request, to the commission.

(3) The commission, upon written request by a witness and subject to rules promulgated by the commission, may reimburse witnesses for their necessary expenses incurred in appearing before the commission.

(4) The legislature shall appropriate funds to enable the commission to carry out its duties. Members shall receive one hundred dollars of compensation for each day spent in the performance of their duties. Compensation of employees shall be determined by the commission. The provisions of RCW 43.03.050 and 43.03.060 shall apply to both the members and the employees of the commission. [1983 c 16 § 7.]

44.05.080 Duties. In addition to other duties prescribed by law, the commission shall:

(1) Adopt rules pursuant to the Administrative Procedure Act, chapter 34.05 RCW, to carry out the provisions of Article II, section 43 of the state Constitution and of this chapter, which rules shall provide that three voting members of the commission constitute a quorum to do business, and that the votes of three of the voting members are required for any official action of the commission;

(2) Act as the legislature's recipient of the final redistricting data and maps from the United States Bureau of the Census;

(3) Comply with requirements to disclose and preserve public records as specified in chapters 40.14 and 42.17 RCW;

(4) Hold open meetings pursuant to the open public meetings act, chapter 42.30 RCW;

(5) Prepare and disclose its minutes pursuant to RCW 42.32.030;

(6) Be subject to the provisions of RCW 42.17.240;

(7) Prepare and publish a report with the plan; the report will be made available to the public at the time the plan is published. The report will include but will not be limited to: (a) The population and percentage deviation from the average district population for every district; (b) an explanation of the criteria used in developing the plan with a justification of any deviation in a district from the average district population; (c) a map of all the districts; and (d) the estimated cost incurred by the counties for adjusting precinct boundaries. [1983 c 16 § 8.]

44.05.090 Redistricting plan. In the redistricting plan:

(1) Districts shall have a population as nearly equal as is practicable, excluding nonresident military personnel, based on the population reported in the federal decennial census.

(2) To the extent consistent with subsection (1) of this section the commission plan should, insofar as practical, accomplish the following:

(a) District lines should be drawn so as to coincide with the boundaries of local political subdivisions and areas recognized as communities of interest. The number of counties and municipalities divided among more than one district should be as small as possible;

(b) Districts should be composed of convenient, contiguous, and compact territory. Land areas may be deemed contiguous if they share a common land border or are connected by a ferry, highway, bridge, or tunnel. Areas separated by geographical boundaries or artificial barriers that prevent transportation within a district should not be deemed contiguous; and

(c) Whenever practicable, a precinct shall be wholly within a single legislative district.

(3) The commission's plan and any plan adopted by the supreme court under RCW 44.05.100(4) shall provide for forty-nine legislative districts.

(4) The house of representatives shall consist of ninety-eight members, two of whom shall be elected from and run at large within each legislative district. The senate shall

consist of forty-nine members, one of whom shall be elected from each legislative district.

(5) The commission shall exercise its powers to provide fair and effective representation and to encourage electoral competition. The commission's plan shall not be drawn purposely to favor or discriminate against any political party or group. [1990 c 126 § 1; 1983 c 16 § 9.]

44.05.100 Submission of redistricting plan to legislature—Amendment—Effect—Adoption of plan by supreme court upon failure of commission. (1) Upon approval of a redistricting plan by three of the voting members of the commission, but not later than December 15th of the year ending in one, the commission shall submit the plan to the legislature.

(2) After submission of the plan by the commission, the legislature shall have the next thirty days during any regular or special session to amend the commission's plan. If the legislature amends the commission's plan the legislature's amendment must be approved by an affirmative vote in each house of two-thirds of the members elected or appointed thereto, and may not include more than two percent of the population of any legislative or congressional district.

(3) The plan approved by the commission, with any amendment approved by the legislature, shall be final upon approval of such amendment or after expiration of the time provided for legislative amendment by subsection (2) of this section whichever occurs first, and shall constitute the districting law applicable to this state for legislative and congressional elections, beginning with the next elections held in the year ending in two. This plan shall be in force until the effective date of the plan based upon the next succeeding federal decennial census or until a modified plan takes effect as provided in RCW 44.05.120(6).

(4) If three of the voting members of the commission fail to approve and submit a plan within the time limitations provided in subsection (1) of this section, the supreme court shall adopt a plan by March 1st of the year ending in two. Any such plan approved by the court is final and constitutes the districting law applicable to this state for legislative and congressional elections, beginning with the next election held in the year ending in two. This plan shall be in force until the effective date of the plan based on the next succeeding federal decennial census or until a modified plan takes effect as provided in RCW 44.05.120(6). [1995 c 88 § 1; 1983 c 16 § 10.]

44.05.110 Cessation of operations—Financial statement—Official record. (1) Following the period provided by RCW 44.05.100(1) for the commission's adoption of a plan, the commission shall take all necessary steps to conclude its business and cease operations. The commission shall prepare a financial statement disclosing all expenditures made by the commission. The official record shall contain all relevant information developed by the commission pursuant to carrying out its duties under this chapter, maps, data collected, minutes of meetings, written communications, and other information of a similar nature. Once the commission ceases to exist, the chief election officer shall be the custodian of the official record for purposes of reprecincting and election administration. The

chief election officer shall provide for the permanent preservation of this official record pursuant to chapter 42.17 RCW and Title 40 RCW. Once the commission ceases to exist any budget surplus shall revert to the state general fund.

(2) Except as provided in RCW 44.05.120 for a reconvened commission, the commission shall cease to exist on July 1st of each year ending in two unless the supreme court extends the commission's term. [1983 c 16 § 11.]

44.05.120 Reconvening of commission—Eligibility to serve—Vacancies—Modification of plan—Amendment by legislature—Cessation of operations. (1) If a commission has ceased to exist, the legislature may, upon an affirmative vote in each house of two-thirds of the members elected or appointed thereto, adopt legislation reconvening the commission for the purpose of modifying the redistricting plan.

(2) RCW 44.05.050 governs the eligibility of persons to serve on the reconvened commission. A vacancy involving a voting member of the reconvened commission shall be filled by the person who made the initial appointment, or their successor, within fifteen days after the effective date of the legislation reconvening the commission. A vacancy involving the nonvoting member of the commission shall be filled by an affirmative vote of at least [least] three of four voting members, within fifteen days after all other vacancies are filled or, if no other vacancies exist, within fifteen days after the effective date of the legislation reconvening the commission. A subsequent vacancy on a reconvened commission shall be filled by the person or persons who made the initial appointment, or their successor, within fifteen days after the vacancy occurs. If any appointing authority fails to make a required appointment within the time limitations established by this subsection, within five days after that date the supreme court shall make the required appointment.

(3) The provisions of RCW 44.05.070 and 44.05.080 are applicable if a commission is reconvened under this section.

(4) The commission shall complete the modification to the redistricting plan as soon as possible, but no later than sixty days after the effective date of the legislation reconvening the commission. At least three of the voting members shall approve the modification to the redistricting plan.

(5) Following approval of a modification to the redistricting plan by the commission, the legislature has the next thirty days during any regular or special session to amend the commission's modification. Any amendment by the legislature must be approved by an affirmative vote in each house of two-thirds of the members elected or appointed thereto. No amendment by the legislature may include more than two percent of the population of any legislative or congressional district contained in the commission's modification.

(6) The commission's modification to the redistricting plan, with any amendments approved by the legislature, shall be final upon approval of the amendments or after expiration of the time provided for legislative amendment by subsection (5) of this section, whichever occurs first.

(7) Following the period provided by subsection (4) of this section for the commission's approval of a modification

to the redistricting plan, the commission shall take all necessary steps to conclude its business and cease operations in accordance with RCW 44.05.110(1). A reconvened commission shall cease to exist ninety days after the effective date of the legislation reconvening the commission, unless the supreme court extends the commission's term. [1983 c 16 § 12.]

44.05.130 Challenges to plan. After the plan takes effect as provided in RCW 44.05.100, any registered voter may file a petition with the supreme court challenging the plan. After a modification to the redistricting plan takes effect as provided in RCW 44.05.120, any registered voter may file a petition with the supreme court challenging the amended plan. The court may consolidate any or all petitions and shall give all such petitions precedence over all other matters. [1983 c 16 § 13.]

44.05.900 Contingent effective date—1983 c 16. This act shall take effect if the proposed amendment to Article II of the state Constitution establishing a commission for state legislative and congressional redistricting is validly submitted to and is approved and ratified by the voters at a general election held in November, 1983. If the proposed amendment is not so approved and ratified, this act shall be null and void in its entirety. [1983 c 16 § 18.]

Reviser's note: Senate Joint Resolution No. 103, requiring redistricting commissions and plans, was approved by the voters November 8, 1983, and is codified as Article II, section 43 of the state Constitution.

44.05.901 Severability—1983 c 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 c 16 § 17.]

44.05.902 Severability—1984 c 13. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 13 § 5.]

Chapter 44.07C

LEGISLATIVE DISTRICTS AND APPOINTMENT

Reviser's note: The following material represents the legislative portion of the redistricting plan filed with the legislature by the Washington State Redistricting Commission on January 1, 1992. For United States congressional districts, see chapter 29.69B RCW.

WASHINGTON STATE REDISTRICTING COMMISSION REDISTRICTING PLAN

A PLAN Relating to the redistricting of state legislative and congressional districts.

BE IT APPROVED BY THE REDISTRICTING COMMISSION OF THE STATE OF WASHINGTON:

Sec. 1. It is the intent of the commission to reapportion and redistrict the congressional and legislative districts of the state of Washington in accordance with the Constitution and laws of the United States and the state of Washington.

Sec. 2. The definitions set forth in RCW 44.05.020 apply throughout this plan, unless the context requires otherwise.

Sec. 3. In every case the population of the congressional and legislative districts described by this plan has been ascertained on the basis of the total number of persons found inhabiting such areas as of January 1, 1990, in accordance with the 1990 federal decennial census data submitted pursuant to P.L. 94-171.

Sec. 4. (a) Any area not specifically included within the boundaries of any of the districts as described in this plan and which is completely surrounded by a particular district, shall be a part of that district. Any such area not completely surrounded by a particular district shall be a part of the district having the smallest number of inhabitants and having territory contiguous to such area.

(b) Any area described in this plan as specifically embraced in two or more noninclusive districts shall be a part of the adjacent district having the smallest number of inhabitants and shall not be a part of the other district or districts.

(c) Any area specifically mentioned as embraced within a district but separated from such district by one or more other districts, shall be assigned as though it had not been included in any district specifically described.

(d) The 1990 United States federal decennial census data submitted pursuant to P.L. 94-171 shall be used for determining the number of inhabitants under this plan.

(e) If any court of competent jurisdiction requires nonresident military personnel that were not included in the United States census bureau data to be included, these persons shall be included in the population of the district or districts from which the persons were excluded.

Sec. 5. For purposes of this plan, districts shall be described in terms of:

(1) Official United States census bureau tracts, block numbering areas, block groups, blocks, or census county divisions established by the United States bureau of the census in the 1990 federal decennial census;

(2) Counties, municipalities, or other political subdivisions as they existed on January 1, 1990;

(3) Any natural or artificial boundaries or monuments including but not limited to rivers, streams, or lakes as they existed on January 1, 1990;

(4) Roads, streets, or highways as they existed on January 1, 1990.

Sec. 6. The following abbreviations used in this plan have the following meanings:

(1) "T" means "census tract";

(2) "BG" means "census block group";

(3) "B" means "block";

(4) "BNA" means "block numbering area"; and

(5) "Division" or "div." means "census county division".

Sec. 7. For election of members of the legislature, the territory of the state shall be divided into forty-nine districts. Two members of the house of representatives shall be elected from and run at large within each legislative district. One member of the senate shall be elected from each legislative district.

Sec. 8. The legislative districts described by this plan shall be those recorded electronically as "PLAN PRCOM - 019L", maintained in computer files designated as FINAL-LEG, which are public records of the commission. As soon as practicable after approval and submission of this plan to the legislature, the commission shall publish PLAN PRCOM - 019L in conformity with the description terminology set forth in sec. 6.

Sec. 9. For election of members of Congress, the territory of the state shall be divided into nine districts. The congressional districts described by this plan shall be those recorded electronically as "PLAN PRCOM - 0_C", maintained in computer files designated as FINAL-CON, which are public records of the commission. As soon as practicable after approval and submission of this plan to the legislature, the commission shall publish PLAN PRCOM - 0_C in conformity with the description terminology set forth in sec. 6.

Sec. 10. The commission intends that existing law shall continue to govern such matters as the terms and dates of election for members of the senate to be elected from each district, the status of "hold-over" senators, and the elections to fill vacancies, when required, provided that districts referred to in existing law and designated by number (without regard to any letter following that number) shall refer to districts of the same number described in this plan, beginning with the next elections in 1992.

Sec. 11. This commission intends that this plan supersede the district boundaries established by chapter 288, Laws of 1981 and chapter 17, Laws of 1983, and acknowledges that it is inconsistent with certain provisions of existing law, including but not limited to RCW 44.07B.001, RCW 44.07B.002, RCW 44.07B.005 through RCW 44.07B.800, RCW 44.07B.840, and RCW 29.69A.001 through RCW 29.69A.080.

District 1: King: Tract 0217: Block Group 1: Block 101, Block 102, Block 104, Block 107; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212A, Block 212B, Block 213, Block 214A, Block 214B, Block 215, Block 216, Block 217A, Block 217B, Block 217C, Block 218A, Block 218B, Block 219; Tract 0218.01: Block Group 1: Block 101, Block 102A, Block 102B, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117; Block Group 2: Block 201A, Block 201B, Block 201C, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316A, Block 316B, Block 317, Block 318A, Block 318B, Block 319, Block 320, Block 321, Block 322; Block Group 4: Block 401A, Block 401B, Block 402, Block 403A, Block 403B, Block 404, Block 405, Block 406A, Block 406B, Block 406C, Block 406D, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412A, Block 412B, Block 413; Block Group 5: Block 501A, Block 501B, Block 502, Block 503, Block 504, Block 505A, Block 505B, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512A, Block 512B, Block 513, Block 514A, Block 514B, Block 514C, Block 514D, Block 514E, Block 514F, Block 514G, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525; Tract 0218.02: Block Group 1: Block 101A, Block 101B, Block 101C, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109; Block Group 2: Block 201A, Block 201B, Block 202, Block 203, Block 204, Block 205A, Block 205B, Block 205C, Block 206A, Block 206B, Block 206C, Block 207; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309A, Block 309B, Block 310; Tract 0219.01: Block Group 1: Block 101A, Block 101B, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315; Block Group 4: Block 401A, Block 401B, Block 401C, Block 401D, Block 401E, Block 402, Block 403A, Block 403B, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411; Tract 0219.03: Block Group 2: Block 201, Block 202, Block 215, Block 216; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315; Tract 0220.01: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112; Block Group 9: Block 901A, Block 901B, Block 902, Block 903, Block 904, Block 905A, Block 905B, Block 905C, Block 905D, Block 906A, Block 906B, Block 906C, Block 907, Block 908A, Block 908B, Block 908C, Block 909, Block 910, Block 911A, Block 911B, Block 911C, Block 912A, Block 912B, Block 913, Block 914A, Block 914B, Block 914C, Block 914D, Block 915; Tract 0220.03: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213;

Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311; Tract 0221: Block Group 1: Block 101A, Block 101B, Block 101C, Block 102, Block 103, Block 104, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 206; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307; Tract 0222.01: Block Group 3: Block 301, Block 302, Block 303, Block 304; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432; Tract 0222.02: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413; Tract 0222.98: Block Group 1: Block 101A, Block 102, Block 103, Block 104, Block 105; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216; Block Group 3: Block 301A, Block 302; Block Group 9: Block 905A; Tract 0223.98: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207; Block Group 9: Block 901, Block 902, Block 903, Block 904, Block 905B; Snohomish: Tract 0417: Block Group 4: Block 402B; Tract 0511: Block Group 1: Block 101A, Block 101B, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 118, Block 119; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205A, Block 205B, Block 205C, Block 206A, Block 206B, Block 206C, Block 206D, Block 206E, Block 207A, Block 207B, Block 207C, Block 207D, Block 208, Block 209, Block 210, Block 211, Block 212; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313; Block Group 4: Block 401, Block 402, Block 403, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 510, Block 511, Block 512, Block 514, Block 515, Block 516; Tract 0512: Block Group 1: Block 102, Block 104, Block 105, Block 106A, Block 106B, Block 108, Block 119; Block Group 2: Block 201, Block 202, Block 203, Block 205, Block 206; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313; Block Group 4: Block 401, Block 402, Block 403, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 510, Block 511, Block 512, Block 514, Block 515, Block 516; Tract 0513: Block Group 1: Block 101B, Block 102, Block 103A, Block 103B, Block 104, Block 105, Block 106, Block 107, Block 108A, Block 108B, Block 108C, Block 109, Block 110, Block 111; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213A, Block 213B, Block 215, Block 226; Block Group 3: Block 301A, Block 301B, Block 301C, Block 302, Block 303, Block 304A, Block 304B, Block 305, Block 306A, Block 306B, Block 307, Block 308, Block 309A, Block 309B, Block 310, Block 311, Block 314, Block 319, Block 321, Block 322, Block 323, Block 324; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409; Tract 0519.05: Block Group 1: Block 101, Block 102, Block 104; Block Group 2: Block 201, Block 202, Block 203, Block 204A, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212; Block Group 3: Block 301, Block 302, Block 303; Block Group 4: Block 405B, Block 405C, Block 408B, Block 408D, Block 409; Tract 0519.06: Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306; Block Group 4: Block 401A, Block 401B, Block 402A, Block 402B, Block 402C, Block 402D, Block 403A, Block 403B, Block 404A, Block 404B, Block 405A, Block 405B, Block 406, Block 407, Block 408A, Block 408B, Block 408C, Block 409A, Block 409B, Block 410A, Block 410B, Block 410C, Block 411A, Block 411B, Block 411C, Block 412, Block 413A, Block 413B, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422; Block Group 5: Block 501A, Block 501B, Block 501C, Block 501D, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507,

Block 211, Block 212, Block 213; Block Group 3: Block 301, Block 302, Block 303, Block 309, Block 310, Block 311, Block 312; Block Group 6: Block 604, Block 612, Block 613, Block 614; Tract 0117: Block Group 2: Block 203, Block 210, Block 217, Block 218, Block 223, Block 226, Block 227, Block 234, Block 236, Block 239; Block Group 3: Block 317, Block 318, Block 319, Block 322, Block 323, Block 324; Tract 0119: Block Group 4: Block 406, Block 407, Block 408, Block 413A, Block 413B, Block 419A, Block 419B; Tract 0252: Block Group 1: Block 104; Block Group 2: Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 209, Block 213; Tract 0253: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 216, Block 217, Block 220, Block 232; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 315, Block 316, Block 319, Block 320, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 422, Block 427, Block 428, Block 429, Block 430, Block 431; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525, Block 528, Block 530, Block 532, Block 533; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619, Block 620, Block 621, Block 622, Block 623, Block 624, Block 625, Block 626, Block 627, Block 628, Block 630, Block 631; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713, Block 714, Block 715; Block Group 9: Block 901, Block 902, Block 903, Block 904B; Tract 0257: Block Group 2: Block 202; Tract 0260.02: Block Group 4: Block 402, Block 404, Block 405, Block 406, Block 407A, Block 407B, Block 407C, Block 411, Block 412, Block 415, Block 416, Block 422; Block Group 6: Block 601B; Block Group 7: Block 701, Block 702, Block 707, Block 708, Block 709, Block 710A, Block 710B, Block 711, Block 712, Block 713, Block 714A, Block 714B, Block 716A, Block 716B, Block 717, Block 724; Block Group 8: Block 801, Block 802, Block 803, Block 804, Block 805, Block 806, Block 807, Block 808, Block 809, Block 810A, Block 810B, Block 811, Block 812, Block 813, Block 814, Block 815, Block 816, Block 817, Block 818A, Block 818B, Block 819, Block 820, Block 821; Tract 0261: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 217; Block Group 3: Block 301A, Block 301B, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413A, Block 413B, Block 414, Block 415, Block 416A, Block 416B, Block 416C; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 512, Block 514, Block 515, Block 516; Tract 0262: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110; Block Group 2: Block 204, Block 205, Block 206, Block 207; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 424, Block 425; Tract 0263: Block Group 1: Block 102, Block 104, Block 105, Block 106, Block 107A, Block 107B, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113; Block Group 2: Block 201, Block 202, Block 203, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 215; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 317, Block 318; Block Group 9: Block 901A, Block 901B, Block 902, Block 903, Block 904A, Block 904B, Block 904C, Block 905, Block 906, Block 907, Block 908, Block 909,

Block 910, Block 911, Block 912, Block 913, Block 914, Block 915, Block 916, Block 917; Tract 0264: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 110; Block Group 2: Block 201, Block 202, Block 204, Block 205, Block 206, Block 207, Block 208; Block Group 3: Block 301, Block 302, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310; Block Group 4: Block 402B, Block 402C, Block 409, Block 410, Block 411, Block 413; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 508, Block 512, Block 514, Block 515, Block 516; Tract 0265: Block Group 1: Block 101A, Block 101B, Block 102, Block 103, Block 104A, Block 104B, Block 104C, Block 105, Block 106, Block 107, Block 109; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 209, Block 210, Block 212, Block 213, Block 214; Block Group 3: Block 301, Block 302, Block 303, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 508, Block 509; Tract 0266: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118; Block Group 2: Block 201, Block 202, Block 203, Block 209, Block 218, Block 219; Tract 0267: Block Group 1: Block 103, Block 107; Block Group 5: Block 511; Tract 0268: Block Group 4: Block 405, Block 406, Block 407, Block 408, Block 409; Block Group 5: Block 502, Block 504, Block 505, Block 506, Block 507, Block 508, Block 516; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713; Block Group 8: Block 803, Block 804, Block 805, Block 810, Block 811, Block 812, Block 813, Block 814, Block 815, Block 816; Tract 0269: Block Group 3: Block 308, Block 312; Tract 0271: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 108; Block Group 2: Block 201, Block 203, Block 204, Block 205, Block 206, Block 210, Block 211; Block Group 3: Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313; Tract 0272: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 207, Block 208, Block 209; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 306, Block 308, Block 313, Block 314, Block 315, Block 316; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405A, Block 405B, Block 407, Block 411, Block 412; Tract 0273: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 111, Block 112, Block 113, Block 114; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 310; Block Group 4: Block 416; Block Group 5: Block 501, Block 502, Block 503, Block 511, Block 512, Block 513, Block 514; Block Group 6: Block 601, Block 603, Block 604, Block 605, Block 607, Block 608; Tract 0281: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 106; Block Group 2: Block 201, Block 204, Block 207, Block 208; Block Group 3: Block 301, Block 302, Block 303; Tract 0282: Block Group 2: Block 207; Block Group 3: Block 301, Block 304, Block 305, Block 306, Block 307; Block Group 4: Block 401.

District 12: Chelan, Douglas, Grant: Tract 9801, Tract 9802: Block Group 1: Block 129, Block 130, Block 131, Block 132; Tract 9803: Block Group 1: Block 129, Block 130A, Block 130B, Block 131A, Block 131B, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145; Block Group 2: Block 201, Block 202, Block 203A, Block 203B, Block 203C, Block 204, Block 205A, Block 205B, Block 206, Block 207A, Block 207B, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229A, Block 229B, Block 230, Block 231, Block 232, Block 233A, Block 233B, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241; Block Group 3: Block 301, Block 302, Block 303A,

Block 456, Block 457, Block 458, Block 459, Block 460, Block 461, Block 462, Block 463, Block 464, Block 465, Block 466, Block 467, Block 468, Block 469, Block 470, Block 471, Block 472, Block 473, Block 474A, Block 474B, Block 475A, Block 475B, Block 476, Block 477, Block 478, Block 479, Block 480, Block 481, Block 482, Block 483, Block 484, Block 485, Block 486, Block 487, Block 488, Block 489, Block 490, Block 491, Block 492, Block 493, Block 494, Block 495, Block 496, Block 497; Tract 0702.01: Block Group 4: Block 401, Block 402A, Block 403A, Block 405; Tract 0702.02: Block Group 4: Block 433, Block 435, Block 436, Block 437, Block 438, Block 439, Block 440, Block 441, Block 443, Block 444, Block 445, Block 446, Block 447, Block 448, Block 449, Block 450, Block 451B; Block Group 7: Block 701A, Block 701B, Block 702, Block 703A, Block 703B, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710A, Block 710B, Block 711A, Block 711B, Block 712A, Block 712B, Block 712C, Block 713, Block 714, Block 715, Block 716, Block 717, Block 718, Block 719, Block 720, Block 721C, Block 722, Block 723C, Block 724, Block 725, Block 726, Block 727D; Tract 0704: Block Group 3: Block 328; Tract 0730.02: Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 340, Block 341, Block 342, Block 343, Block 344, Block 345, Block 346, Block 347, Block 348, Block 349, Block 350, Block 351, Block 352, Block 353, Block 354, Block 355, Block 356, Block 357, Block 358, Block 359, Block 360, Block 361, Block 362, Block 363, Block 364, Block 365, Block 366, Block 367, Block 368, Block 369, Block 370, Block 371, Block 372, Block 373, Block 374, Block 375, Block 376, Block 377, Block 378A, Block 378B, Block 379, Block 380, Block 381, Block 382, Block 383, Block 384, Block 385, Block 386, Block 387, Block 388, Block 389, Block 390, Block 391, Block 392, Block 393, Block 394, Block 395, Block 396, Block 397; Tract 0731.06: Block Group 3: Block 302; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408A, Block 408B, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439, Block 440, Block 441, Block 442, Block 476, Block 477, Block 478, Block 479, Block 480, Block 481, Block 482, Block 483; Tract 0732; Thurston: Tract 0108: Block Group 3: Block 317; Block Group 5: Block 501, Block 502A, Block 502B, Block 505, Block 507, Block 508, Block 509, Block 510, Block 511A, Block 511B, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519A, Block 519B, Block 520A, Block 520B, Block 521A, Block 521B, Block 521C, Block 522A, Block 522B, Block 523; Tract 0109: Block Group 2: Block 201, Block 202A, Block 202B, Block 202C, Block 202D, Block 202F, Block 203, Block 211A, Block 211B, Block 212A, Block 212B, Block 218A, Block 218B, Block 218C; Tract 0116.10: Block Group 5: Block 501, Block 502, Block 503; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608; Tract 0116.20: Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308B, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423; Tract 0117: Block Group 4: Block 402, Block 403, Block 404, Block 405; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521; Tract 0118: Block Group 1: Block 175, Block 176, Block 177; Block Group 3: Block 301A; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619, Block 620, Block 621, Block 622, Block 623, Block 624, Block 625, Block 626, Block 627, Block 628,

Block 629, Block 630, Block 631, Block 632, Block 633, Block 634, Block 635, Block 636, Block 637, Block 638, Block 639, Block 640, Block 641, Block 642, Block 643, Block 644, Block 645, Block 646, Block 647, Block 648, Block 649, Block 650; Block Group 7: Block 731, Block 743, Block 744, Block 745, Block 746; Block Group 8: Block 851; Tract 0123: Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520; Block Group 6: Block 601, Block 602A, Block 602B, Block 602C, Block 603, Block 604, Block 605, Block 606A, Block 606B, Block 607, Block 608, Block 609A, Block 609B, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619, Block 620; Tract 0124: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114; Block Group 3: Block 301A, Block 301B, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 340, Block 341, Block 342, Block 343, Block 344, Block 345, Block 346, Block 347, Block 348, Block 349, Block 350, Block 351; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413A, Block 413B, Block 413C, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439, Block 440, Block 441, Block 442, Block 443A, Block 443B, Block 444A, Block 444B, Block 445A, Block 445B, Block 446, Block 447, Block 448, Block 449, Block 450, Block 451, Block 452, Block 453, Block 454, Block 455A, Block 455B, Block 456, Block 457A, Block 457B, Block 458A, Block 458B, Block 459A, Block 459B, Block 460, Block 461, Block 462, Block 463, Block 464; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506A, Block 506B, Block 507A, Block 507B, Block 508, Block 509A, Block 509B, Block 510; Block 511, Block 512, Block 513, Block 514, Block 515A, Block 515B, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525A, Block 525B, Block 526, Block 527A, Block 527B, Block 528, Block 529, Block 530, Block 531, Block 532, Block 533, Block 534, Block 535, Block 536A, Block 536B, Block 537A, Block 537B, Block 537C, Block 537D, Block 538, Block 539, Block 540A, Block 540B, Block 541A, Block 541B, Block 542, Block 543, Block 544, Block 545, Block 546, Block 547, Block 548, Block 549, Block 550, Block 551, Block 552, Block 553, Block 554, Block 555, Block 556, Block 557, Block 558, Block 559, Block 560, Block 561, Block 562, Block 563, Block 564, Block 565, Block 566, Block 567; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613A, Block 613B, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619, Block 620, Block 621, Block 622, Block 623, Block 624, Block 625, Block 626, Block 627, Block 628, Block 629, Block 630, Block 631; Block Group 7: Block 701, Block 702, Block 703A, Block 703B, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713, Block 714, Block 715A, Block 715B, Block 716, Block 717A, Block 717B, Block 718A, Block 718B, Block 718C, Block 719, Block 720, Block 721, Block 722, Block 723, Block 724, Block 725, Block 726, Block 727, Block 728A, Block 728B; Tract 0124.02: Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308; Tract 0125, Tract 0126, Tract 0127.

District 21: Snohomish: Tract 0413: Block Group 1: Block 109C, Block 109D, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118; Block Group 3: Block 301B, Block 302, Block 303, Block 304, Block 307, Block 308, Block 310,

Block 311, Block 313, Block 314; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 620; Block Group 8: Block 801B, Block 802, Block 803, Block 804, Block 805, Block 806, Block 807, Block 808, Block 809, Block 810, Block 811, Block 818, Block 820, Block 827, Block 829, Block 832; Tract 0419.01: Block Group 9: Block 901C, Block 901D, Block 902, Block 903, Block 904; Tract 0420.01: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108; Block Group 2: Block 201A, Block 201B, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313; Tract 0420.02: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 107, Block 108, Block 109; Block Group 2: Block 202, Block 203, Block 204; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305; Block Group 4: Block 401, Block 402; Tract 0420.03: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106; Block Group 2: Block 201, Block 202, Block 203, Block 204; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305; Tract 0420.04: Block Group 1: Block 103, Block 104, Block 105, Block 106, Block 107; Tract 0501: Block Group 1: Block 112, Block 113, Block 114; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209; Tract 0502: Block Group 1: Block 101A, Block 101B, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112A, Block 112B; Block Group 2: Block 201A, Block 201B, Block 201C, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208; Block Group 4: Block 401A, Block 401B, Block 402, Block 408; Block Group 5: Block 501, Block 502A, Block 502B, Block 502C, Block 503A, Block 503B, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510A, Block 510B, Block 511, Block 512A, Block 512B; Tract 0503, Tract 0504.01, Tract 0504.02: Block Group 1: Block 101A, Block 101B, Block 102, Block 118, Block 119, Block 120, Block 122, Block 123, Block 124, Block 125; Block Group 2: Block 201, Block 202, Block 203A, Block 203B, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 211, Block 214, Block 215, Block 218, Block 219; Block Group 3: Block 301, Block 302, Block 303, Block 304A, Block 304B, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 313, Block 314, Block 321; Tract 0505, Tract 0506, Tract 0507: Block Group 1: Block 101, Block 102A, Block 102B, Block 103A, Block 103B, Block 104, Block 107A, Block 107B, Block 108, Block 109, Block 111, Block 113; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212; Block Group 3: Block 301A, Block 301B, Block 302, Block 303A, Block 303B, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312A, Block 312B; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406A, Block 406B, Block 407A, Block 407B, Block 408; Tract 0508: Block Group 1: Block 101, Block 102, Block 103, Block 104A, Block 104B, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 112; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308; Block Group 4: Block 401, Block 402, Block 403, Block 404A, Block 404B, Block 405, Block 406A, Block 406B, Block 406C, Block 407, Block 409A, Block 409B, Block 410A, Block 410B, Block 412, Block 413, Block 414, Block 415; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 510, Block 511, Block 512, Block 513, Block 516; Tract 0509: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105A, Block 105B, Block 106A, Block 106B, Block 107, Block 110, Block 111, Block 112; Block Group 2: Block 201, Block 202, Block 203A, Block 203B, Block 204, Block 205, Block 206, Block 207, Block 208, Block 211; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 311; Tract 0510: Block Group 1: Block 101, Block 102, Block 103A, Block 103B, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 113, Block 114, Block 121, Block 123A, Block 123B; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221; Block Group 3: Block 301A, Block 301B, Block 301C, Block 302A, Block 302B, Block 303A, Block 303B, Block 303C,

Block 304A, Block 304B, Block 304C, Block 305, Block 306, Block 307, Block 308, Block 309A, Block 309B, Block 309C, Block 310, Block 311, Block 312, Block 313; Block Group 5: Block 501A, Block 501B, Block 502A, Block 502B, Block 503, Block 508A, Block 508B; Tract 0513: Block Group 1: Block 101A; Tract 0514: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109A, Block 109B, Block 110, Block 120, Block 121, Block 122; Block Group 2: Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 219; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307A, Block 307B, Block 308, Block 309, Block 310, Block 311A, Block 311B, Block 319, Block 322, Block 324; Block Group 4: Block 411, Block 412, Block 413, Block 415; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 516, Block 519, Block 521, Block 522; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605A, Block 605B; Tract 0515: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107; Block Group 2: Block 201, Block 202, Block 210; Block Group 3: Block 301A, Block 301B, Block 302, Block 303, Block 304, Block 305A, Block 305B, Block 305C, Block 306A, Block 306B, Block 307A, Block 307B, Block 308, Block 309; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 408, Block 409, Block 413, Block 415, Block 416; Block Group 5: Block 506, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514; Tract 0516: Block Group 1: Block 102A, Block 103A, Block 103B, Block 104, Block 105A, Block 105B, Block 106, Block 107; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 211; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312A, Block 312B, Block 313; Block Group 4: Block 401A, Block 401B, Block 402, Block 403A, Block 403B, Block 403C, Block 403D, Block 404A, Block 404B, Block 404C, Block 405; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505A, Block 505B, Block 506, Block 507A, Block 507B, Block 507C, Block 508, Block 509A, Block 509B, Block 509C, Block 510, Block 511, Block 512, Block 513, Block 514, Block 517, Block 522, Block 525, Block 526; Tract 0517: Block Group 1: Block 101, Block 102A, Block 102B, Block 102C, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 311, Block 312, Block 314, Block 315, Block 316; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408; Block Group 5: Block 501B, Block 502A, Block 502B, Block 503, Block 504, Block 505, Block 506, Block 507; Tract 0518.02: Block Group 1: Block 103, Block 104A, Block 104B, Block 105B; Block Group 3: Block 302A, Block 302B, Block 305A, Block 306A, Block 308A, Block 308B, Block 309A, Block 310A, Block 310B, Block 311A, Block 311B, Block 312, Block 313, Block 314; Tract 0519.05: Block Group 1: Block 103A, Block 103B; Block Group 2: Block 204B, Block 205A, Block 205B, Block 206; Block Group 4: Block 401, Block 402A, Block 402B, Block 402C, Block 403A, Block 403B, Block 404A, Block 404B, Block 404C, Block 405A, Block 406, Block 407, Block 408A, Block 408C.

District 22: Thurston: Tract 0101, Tract 0102: Block Group 1: Block 101A, Block 101B, Block 102, Block 103, Block 104A, Block 104B, Block 106, Block 108, Block 109, Block 110, Block 131, Block 142, Block 143; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 246, Block 247, Block 248, Block 249, Block 250A, Block 250B, Block 250C, Block 251A, Block 251B, Block 252, Block 253, Block 254, Block 255, Block 256; Block Group 3: Block 301A, Block 301B, Block 302A, Block 302B, Block 302C, Block 302D, Block 303, Block 304, Block 305, Block 306, Block 307A, Block 307B, Block 307C, Block 307D, Block 307E, Block 308, Block 309, Block 310; Tract 0103: Block Group 1: Block 101, Block 102, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 130, Block 131, Block 132, Block 133,

Block 528, Block 529, Block 530, Block 531, Block 532, Block 533, Block 534, Block 535, Block 536, Block 537, Block 538, Block 539, Block 540, Block 541, Block 542, Block 546B, Block 549D, Block 551, Block 552A, Block 552B, Block 552C, Block 553, Block 554, Block 555, Block 556, Block 557, Block 558A, Block 558B, Block 558C, Block 558D, Block 559, Block 560, Block 561, Block 562, Block 563, Block 567, Block 568, Block 569, Block 570, Block 571, Block 572, Block 573, Block 574, Block 585, Block 586, Block 587, Block 588, Block 589, Block 590, Block 591, Block 592, Block 593, Block 594, Block 595, Block 596, Block 597; Tract 0008: Block Group 1: Block 101, Block 102, Block 103, Block 104A, Block 104B, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 209; Block Group 3: Block 302, Block 304, Block 314; Block Group 4: Block 401, Block 402, Block 403, Block 404A, Block 404B, Block 404C, Block 405A, Block 405B, Block 406, Block 407, Block 408B, Block 410A, Block 410D, Block 411A, Block 411B, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422B, Block 423B, Block 424B, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431A, Block 431B, Block 432, Block 433, Block 434; Tract 0009: Block Group 1: Block 119B; Tract 0010: Block Group 2: Block 201B, Block 201C, Block 202, Block 203B; Tract 0011: Block Group 5: Block 501B; Tract 0013: Block Group 1: Block 101B, Block 101C, Block 101D, Block 103, Block 104, Block 105, Block 106A, Block 106B, Block 107A, Block 107B, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118B, Block 119B; Block Group 2: Block 201B, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439, Block 440, Block 441, Block 442; Tract 0014: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230; Block Group 3: Block 301, Block 302A, Block 302B, Block 303, Block 304A, Block 304B, Block 304C, Block 305, Block 306A, Block 306B, Block 307, Block 308, Block 309, Block 310, Block 311; Tract 0015: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145, Block 146, Block 147, Block 148, Block 149, Block 150, Block 151, Block 152, Block 153, Block 154, Block 155, Block 156, Block 157, Block 158, Block 159, Block 160, Block 161, Block 162, Block 163, Block 164, Block 165, Block 166, Block 167, Block 168, Block 169; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211A, Block 211B, Block 212, Block 213, Block 214A, Block 214B, Block 215A, Block 215B, Block 216, Block 217, Block 218, Block 219A, Block 219B, Block 219C, Block 220, Block 221, Block 222,

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District 25: King: Tract 0304.02: Block Group 4: Block 408B, Block 408C, Block 408D, Block 408E, Block 409, Block 410, Block 411, Block 412, Block 413, Block 415B, Block 415C, Block 415D, Block 416; Block Group 5: Block 502C; Tract 0308: Block Group 2: Block 223B, Block 227B, Block 227C; Tract 0309: Block Group 2: Block 209B, Block 215B, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 228, Block 230, Block 231, Block 232, Block 233; Block Group 3: Block 302B, Block 304, Block 305, Block 306, Block 307, Block 308B, Block 309, Block 310B, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324A, Block 324B, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 340A, Block 340B; Tract 0310: Block Group 9: Block 913B, Block 914, Block 915, Block 916C, Block 917B; Pierce: Tract 0702.01: Block Group 1: Block 105, Block 106; Tract 0703.03: Block Group 3: Block 316, Block 317A; Block Group 4: Block 401C, Block 402, Block 403, Block 405B; Tract 0703.05: Block Group 1: Block 101B, Block 102B, Block 103, Block 104, Block 105, Block 106, Block 107; Block Group 2: Block 206, Block 207; Tract 0704: Block Group 1: Block 101A, Block 101B, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220; Tract 0705: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105A, Block 105B, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113A, Block 113B, Block 113C, Block 114; Block Group 2: Block 201, Block 202, Block 203, Block 204; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306A, Block 306B, Block 307, Block 308, Block 309, Block 310, Block 311A, Block 311B, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321A, Block 321B, Block 322; Block Group 4: Block 401, Block 402, Block 403, Block 404A, Block 404B, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511; Tract 0706: Block Group 1: Block 101, Block 102A, Block 102B, Block 103, Block 104, Block 105, Block 108, Block 109, Block 110A, Block 110B, Block 112A, Block 112B, Block 113, Block 114, Block 115, Block 116, Block 117A, Block 117B, Block 118A, Block 118B, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136A, Block 136B, Block 137A, Block 137B, Block 138, Block 139, Block 140A, Block 140B, Block 141, Block 142, Block 143, Block 144, Block 145; Tract 0707.01: Block Group 1: Block 101, Block 102, Block 103A, Block 103B, Block 104, Block 112; Block Group 2: Block 201, Block 202, Block 203, Block 204; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507; Block Group 6: Block 601A, Block 601B, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609A, Block 609B, Block 610A, Block 610B, Block 611; Tract 0707.02: Block Group 3: Block 301, Block 302, Block 303,

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Chapter 44.16
LEGISLATIVE INQUIRY

Sections

44.16.010	Examination of witnesses—Compulsory process.
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Reviser's note: "Act" has been translated to "chapter" throughout chapter 44.16 RCW as the entire chapter is composed of 1895 c 6 with the exception of 1897 c 33 § 1, which is supplementary thereto.

44.16.010 Examination of witnesses—Compulsory process. Every chairman or presiding member of any committee of either the senate or house of representatives, or any joint committee of the senate or house of representatives, which, by the terms of its appointment, shall be authorized to send for persons and papers, shall have power, under the direction of such committee, to issue compulsory process for the attendance of any witness within the state whom the committee may wish to examine. [1895 c 6 § 1; RRS § 8178.]

44.16.020 Service of process. All process provided for in this chapter may be served in the same manner as is provided by law for the service of process in the superior court; and it shall be the duty of any officer to whom any process may be delivered or issued, to serve the same as directed: PROVIDED, That in the service of process a copy thereof shall be delivered to the witness. [1895 c 6 § 15; RRS § 8192.]

Service of summons: RCW 4.28.080.

44.16.030 Chairman to administer oaths. The chairman or presiding member of any committee of either the senate, house of representatives, or any joint committee thereof, shall be authorized to administer oaths to all witnesses coming before such committee for examination; and all witnesses who shall testify in any proceeding provided for in this chapter, shall be under oath or affirmation. [1895 c 6 § 2; RRS § 8179.]

44.16.040 Commission to examine absent witness. Every such chairman or presiding member shall also have power, under the direction of the committee, to issue a commission for the examination of any witness who shall be without the jurisdiction of the state, or if within the state, shall be unable to attend, or who shall, for any reasons, be excused by the committee from attendance. [1895 c 6 § 3; RRS § 8180.]

44.16.050 Commission executed during recess. Whenever such committee shall obtain authority for that purpose, from the senate or house, or legislature, by which it may be appointed, it may issue such commission to be executed during the recess of the legislature. [1895 c 6 § 4; RRS § 8181.]

44.16.060 To whom directed—Interrogatories. Every such commission shall be directed to such magistrate or other person, as the committee may designate, and interrogatories framed by the committee shall be annexed thereto. [1895 c 6 § 5; RRS § 8182.]

44.16.070 Oath and powers of commissioner. The person to whom such commission shall be directed, if he reside within the state and accept the trust, shall, before entering upon the execution of his duties, take the oath of office prescribed in the Constitution. Such commissioner shall have power to issue process to compel the attendance of witnesses, whom he shall be required to examine, and shall have power to administer oaths to such witnesses. [1895 c 6 § 6; RRS § 8183.]

44.16.080 Examination to be private. Unless otherwise directed by the committee, it shall in all cases be the duty of the commissioner to examine, in private, every witness attending before him, and not to make public the particulars of such examination, when so made in private, until the same shall be made public by order of the house or legislature appointing the committee. [1895 c 6 § 7; RRS § 8184.]

44.16.090 Testimony reduced to writing. Every witness so attending shall be examined on oath or affirmation, and his testimony shall be reduced to writing by the commissioner, or by some disinterested person in his presence and under the direction of said commissioner, and signed by the witness. [1895 c 6 § 8; RRS § 8185.]

44.16.100 Return of depositions. When a commission shall have been duly executed, the commissioner shall annex thereto the depositions of the witnesses, duly certified by him, and shall, without delay, transmit the same by mail, inclosed and under seal, or deliver the same, to the chairman of the committee by which the commission shall have been issued, or to such person as by the committee directed. [1895 c 6 § 9; RRS § 8186.]

44.16.110 Fees of commissioner and witnesses. A person executing any such commission shall be paid, out of the state treasury, the same fees that are allowed by law for the taking of depositions on commissions issued out of the superior courts of this state; and any witness attending before either house of the legislature, or any committee or joint committee thereof, or before any such commissioner, shall be so paid two dollars per day for each day in attendance, and five cents a mile for the distance necessarily traveled in attending as such witness. [1895 c 6 § 10; RRS § 8187.]

44.16.120 Punishment of recalcitrant witness. Any person who shall fail to attend as a witness upon any committee appointed by either the house or senate of the state of Washington, or both, after having been duly subpoenaed as provided in this chapter, or who, being in attendance as a witness before such committee, shall refuse to answer any question or produce any paper or document or book which he is required to answer or to produce by such committee, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars, or by imprisonment in the county jail for a term not longer than six months, or by both such fine and imprisonment. [1897 c 33 § 1; RRS § 8194.]

Witness refusing to attend or testify if requested by legislature or committee thereof: RCW 9.55.020.

44.16.130 Failure to attend—Contempt. A person who, being duly summoned to attend as a witness before either house of the legislature, or any committee or joint committee thereof, or commissioner authorized to summon witnesses, refuses or neglects, without lawful excuse, to attend pursuant to such summons, shall be punished as for contempt, as hereinafter provided. [1895 c 6 § 11; RRS § 8188.]

44.16.140 Refusal to testify—Contempt. A person who, being present before either house of the legislature, or any committee or joint committee thereof, or commissioner authorized to summon witnesses, wilfully refuses to be sworn or affirmed, or to answer any material and proper question, or to produce, upon reasonable notice, any material and proper books, papers or documents in his possession or under his control, shall be punished as for contempt, as hereinafter provided. [1895 c 6 § 12; RRS § 8189.]

44.16.150 Punishment for contempt. Any person being in contempt, as hereinbefore provided, shall be punished by fine in any sum not less than fifty dollars and not exceeding one thousand dollars, or by imprisonment in the county jail in the county where such examination is being had, for any period of time not extending beyond the legislative session then being held, or by both such fine and imprisonment, as the legislative body which authorized such examination may order. And in case the contempt arises in a joint proceeding of both houses, or before a joint committee thereof, the senate shall prescribe the penalty. [1895 c 6 § 13; RRS § 8190.]

Contempt: Chapter 7.21 RCW.

Witness refusing to attend legislature or committee or to testify: RCW 9.55.020.

44.16.160 Warrant of imprisonment. If any fine is imposed against any person for contempt, as hereinbefore provided, he shall stand committed to the county jail of the county in which the offense was committed until such fine is paid. The presiding officer of the house, fixing the fine, shall issue a warrant to the sheriff of the county where the offense was committed, commanding him to imprison such person in the county jail until such fine is paid, or until he has been imprisoned in such jail one day for every three dollars of such fine. [1895 c 6 § 14; RRS § 8191.]

44.16.170 Record of proceedings. Every such committee shall keep a record of its proceedings under the provisions of this chapter, which record shall be signed by the chairman or presiding officer of the committee, and the same returned to the legislative body by which the committee was appointed, as a part of the report of such committee. [1895 c 6 § 16; RRS § 8193.]

Chapter 44.20 SESSION LAWS

Sections

- 44.20.010 Engrossed bills to be filed with secretary of state.
- 44.20.020 Chapter numbers—Bill copies certified, delivered—Citation by number and year.
- 44.20.030 Publication of temporary edition.
- 44.20.050 Headings, index—Publication of permanent edition.
- 44.20.060 Duty of code reviser in arranging laws.
- 44.20.080 Private publication restricted.
- 44.20.090 Legislative records—Preservation.

Distribution of session laws: RCW 40.04.040.

Public printer to print and bind session laws: RCW 43.78.030.

Revised Code of Washington: Chapter 1.04 RCW.

Salaries for public officials to appear in session laws: RCW 43.03.047.

44.20.010 Engrossed bills to be filed with secretary of state. Whenever any bill shall have passed both houses, the house transmitting the enrolled bill to the governor shall also file with the secretary of state the engrossed bill, together with the history of such bill up to the time of transmission to the governor. [1907 c 136 § 1; RRS § 8196.]

Secretary of state to keep record of acts of the legislature: State Constitution Art. 3 § 17; RCW 43.07.040.

44.20.020 Chapter numbers—Bill copies certified, delivered—Citation by number and year. Whenever any bill shall become a law the secretary of state shall number such bill in the order in which it became a law, commencing with each session of the legislature, and shall forthwith certify and deliver three copies of such bill to the statute law committee. Such number shall be in Arabic numerals, and shall be the chapter number of the act when published. A citation to the chapter number and year of the session laws heretofore or hereafter published shall be a sufficient reference to the act so designated. [1969 c 6 § 1; 1907 c 136 § 2; RRS § 8197.]

44.20.030 Publication of temporary edition. The statute law committee, after each and every legislative session, whether regular or extraordinary, shall cause to be reproduced or printed for temporary use separate copies of each act filed in the office of secretary of state within ten days after the filing thereof.

The committee shall cause to be reproduced or printed three thousand copies or such additional number as may be necessary of temporary bound sets of all acts filed in the office of secretary of state within seventy-five days after the final adjournment of the legislature for that year. [1982 1st ex.s. c 32 § 3; 1969 c 6 § 2; 1961 c 21 § 1; 1933 ex.s. c 31 § 1; 1933 c 27 § 1; 1925 ex.s. c 35 § 1; 1907 c 136 § 3; RRS § 8198.]

*Distribution of temporary edition of session laws: RCW 40.04.035.
Statute law committee: Chapter 1.08 RCW.*

44.20.050 Headings, index—Publication of permanent edition. When all of the acts of any session of the legislature and initiative measures enacted by the people since the next preceding session have been certified to the statute law committee, the code reviser employed by the statute law committee shall make the proper headings and index of such acts or laws and, after such work has been completed, the statute law committee shall have published and bound in good buckram at least six hundred copies or such additional copies as may be necessary of such acts and laws, with such headings and indexes, and such other matter as may be deemed essential, including a title page showing the session at which such acts were passed, the date of convening and adjournment of the session, and any other matter deemed proper, including a certificate by the secretary of state of such referendum measures as may have been enacted by the people since the next preceding session. [1982 1st ex.s. c 32 § 4; 1969 c 6 § 4; 1951 c 157 § 18; 1915 c 27 § 1; 1907 c 136 § 5; RRS § 8200.]

Distribution of permanent edition of session laws: RCW 40.04.040.

44.20.060 Duty of code reviser in arranging laws. In arranging the laws, memorials and resolutions for publication, the code reviser is hereby authorized to make such corrections in the orthography, clerical errors and punctuation of the same as in his judgment shall be deemed essential: PROVIDED, That when any words or clauses shall be inserted, the same shall be inclosed in brackets; and no correction shall be made which changes the intent or meaning of any sentence, section or act of the legislature. [1969 c 6 § 5; 1890 p 632 § 8; RRS § 8203.]

44.20.080 Private publication restricted. It shall be unlawful for any person to print and publish for sale the session laws of any session in book form within one year after the adjournment of such session, other than those ordered printed by the statute law committee, or to deliver to anyone other than such committee or upon their order any of the session laws so ordered printed by them: PROVIDED, This section shall not apply to any general compilation of the laws of this state or to a compilation of any special laws or laws on any special subject. [1969 c 6 § 6; 1907 c 136 § 6; RRS § 8201.]

44.20.090 Legislative records—Preservation. See RCW 40.14.100 through 40.14.180.

Chapter 44.28

JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

(Formerly: Legislative budget committee)

Sections

- 44.28.005 Definitions.
- 44.28.010 Committee created—Members.
- 44.28.020 Terms of members—Vacancies.
- 44.28.030 Continuation of memberships and powers.
- 44.28.040 Travel expenses.

- 44.28.050 Expenses of committee—Vouchers.
- 44.28.060 Executive committee—Legislative auditor—Rules, subcommittees.
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- 44.28.071 Conduct of performance audits.
- 44.28.075 Performance audits—Scope.
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- 44.28.083 Performance audit work plans.
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- 44.28.091 Compliance reports—Preliminary and final.
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- 44.28.120 Contempt proceedings—Witnesses failing to appear or testify.
- 44.28.130 Witness fees and mileage.
- 44.28.150 Cooperation with legislative committees and others.
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Director of financial management: Chapter 43.41 RCW.

Loan program for mathematics and science teachers—Review of: RCW 28B.15.766.

Personal service contracts, filing with joint legislative audit and review committee required: Chapter 39.29 RCW.

State budgeting, accounting, and reporting: Chapter 43.88 RCW.

Study and report on Washington health care policy board: RCW 43.73.040.

Study of funds related to state transportation programs: RCW 44.40.025.

Sunset review process: Chapter 43.131 RCW.

Termination of tax preferences: Chapter 43.136 RCW.

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

(1) "Legislative auditor" means the executive officer of the joint legislative audit and review committee.

(2) "Economy and efficiency audits" means performance audits that establish: (a) Whether a state agency or unit of local government receiving state funds is acquiring, protecting, and using its resources such as personnel, property, and space economically and efficiently; (b) the causes of inefficiencies or uneconomical practices; and (c) whether the state agency or local government has complied with significant laws and rules in acquiring, protecting, and using its resources.

(3) "Final compliance report" means a written document, as approved by the joint committee, that states the specific actions a state agency or unit of local government receiving state funds has taken to implement recommendations contained in the final performance audit report and the preliminary compliance report. Any recommendations, including proposed legislation and changes in the agency's rules and practices or the local government's practices, based on testimony received, must be included in the final compliance report.

(4) "Final performance audit report" means a written document adopted by the joint legislative audit and review committee that contains the findings and proposed recommendations made in the preliminary performance audit report, the final recommendations adopted by the joint committee, any comments to the preliminary performance audit report by the joint committee, and any comments to the preliminary performance audit report by the state agency or local government that was audited.

(5) "Joint committee" means the joint legislative audit and review committee.

(6) "Local government" means a city, town, county, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including a public corporation created by such an entity.

(7) "Performance audit" means an objective and systematic assessment of a state agency or any of its programs, functions, or activities, or a unit of local government receiving state funds, by an independent evaluator in order to help public officials improve efficiency, effectiveness, and accountability. Performance audits include economy and efficiency audits and program audits. A performance audit of a local government may only be made to determine whether the local government is using state funds for their intended purpose in an efficient and effective manner.

(8) "Performance measures" are a composite of key indicators of a program's or activity's inputs, outputs, outcomes, productivity, timeliness, and/or quality. They are means of evaluating policies and programs by measuring results against agreed upon program goals or standards.

(9) "Preliminary compliance report" means a written document that states the specific actions a state agency or unit of local government receiving state funds has taken to implement any recommendations contained in the final performance audit report.

(10) "Preliminary performance audit report" means a written document prepared for review and comment by the joint legislative audit and review committee after the completion of a performance audit. The preliminary performance audit report must contain the audit findings and any proposed recommendations to improve the efficiency, effectiveness, or accountability of the state agency or local government audited.

(11) "Program audits" means performance audits that determine: (a) The extent to which desired outcomes or results are being achieved; (b) the causes for not achieving intended outcomes or results; and (c) compliance with significant laws and rules applicable to the program.

(12) "State agency" or "agency" means a state agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education. "State agency" includes all elective offices in the executive branch of state government. [1996 c 288 § 2.]

Findings and intent—1996 c 288: "The public expects the legislature to address citizens' increasing demand for the basic services of state government, while limiting the growth in spending. The public demands that public officials and state employees be accountable to provide maximum value for every dollar entrusted to state government. The public believes that it is possible to improve the responsiveness of state government and to save the taxpayers' money, and that efficiency and effectiveness should result in savings.

The legislature, public officials, state employees, and citizens need to know the extent to which state agencies, programs, and activities are achieving the purposes for which they were created. It is essential to compare the conditions, problems, and priorities that led to the creation of government programs with current conditions, problems, and priorities, and to examine the need for and performance of those programs in the current environment.

Along with examining the performance of state agencies and programs, the legislature, public officials, state employees, and citizens must also consider the effect that state government programs can reasonably expect to have on citizens' lives, how the level of programs and services of Washington state government compares with that of other states, and alternatives for service delivery, including other levels of government and

the private sector including not-for-profit organizations. It is essential that the legislature, public officials, state employees, and citizens share a common understanding of the role of state government. The performance and relative priority of state agency programs and activities must be the basis for managing and allocating resources within Washington state government.

It is the intent of the legislature to strengthen the role of the current legislative budget committee so that it may more effectively examine how efficiently state agencies perform their responsibilities and whether the agencies are achieving their goals, and whether units of local government are using state funds for their intended purpose in an efficient and effective manner. It is also the intent of the legislature to enact a clear set of definitions for different types of audits in order to eliminate confusion with regard to government reviews." [1996 c 288 § 1.]

44.28.010 Committee created—Members. The joint legislative audit and review committee is created, which shall consist of eight senators and eight representatives from the legislature. The senate members of the committee shall be appointed by the president of the senate, and the house members of the committee shall be appointed by the speaker of the house. Not more than four members from each house shall be from the same political party. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year. If before the close of a regular session during an odd-numbered year, the governor issues a proclamation convening the legislature into special session, or the legislature by resolution convenes the legislature into special session, following such regular session, then such appointments shall be made as a matter of closing business of such special session. Members shall be subject to confirmation, as to the senate members by the senate, and as to the house members by the house. In the event of a failure to appoint or confirm joint committee members, the members of the joint committee from either house in which there is a failure to appoint or confirm shall be elected by the members of such house. [1996 c 288 § 3; 1983 c 52 § 1; 1980 c 87 § 30; 1969 c 10 § 4; 1967 ex.s. c 114 § 1; 1963 ex.s. c 20 § 1; 1955 c 206 § 4; 1951 c 43 § 1.]

44.28.020 Terms of members—Vacancies. The term of office of the members of the joint committee who continue to be members of the senate and house shall be from the close of the session in which they were appointed or elected as provided in RCW 44.28.010 until the close of the next regular session during an odd-numbered year or special session following such regular session, or, in the event that such appointments or elections are not made, until the close of the next regular session during an odd-numbered year during which successors are appointed or elected. The term of office of joint committee members who do not continue to be members of the senate and house ceases upon the convening of the next regular session of the legislature during an odd-numbered year after their confirmation, election or appointment. Vacancies on the joint committee shall be filled by appointment by the remaining members. All such vacancies shall be filled from the same political party and from the same house as the member whose seat was vacated. [1996 c 288 § 4; 1980 c 87 § 31; 1969 c 10 § 5; 1955 c 206 § 5; 1951 c 43 § 12.]

44.28.030 Continuation of memberships and powers. On and after the commencement of a succeeding

general session of the legislature, those members of the joint committee who continue to be members of the senate and house, respectively, shall continue as members of the joint committee as indicated in RCW 44.28.020 and the joint committee shall continue with all its powers, duties, authorities, records, papers, personnel and staff, and all funds made available for its use. [1996 c 288 § 5; 1955 c 206 § 6; 1951 c 43 § 13.]

44.28.040 Travel expenses. The members of the joint committee shall serve without additional compensation, but shall be reimbursed for their travel expenses in accordance with RCW 44.04.120 for attending meetings of the joint committee or a subcommittee of the joint committee, or while engaged on other business authorized by the joint committee. [1996 c 288 § 6; 1975-'76 2nd ex.s. c 34 § 134; 1951 c 43 § 14.]

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

44.28.050 Expenses of committee—Vouchers. All expenses incurred by the committee, including salaries and expenses of employees, shall be paid upon voucher forms as provided by the auditor. The legislative auditor may be authorized by the *legislative budget committee's executive committee to sign vouchers. Such authorization shall specify a dollar limitation and be set out in writing. A monthly report of such vouchers shall be submitted to the executive committee. If authorization is not given to the legislative auditor then the chair, or the vice-chair in the chair's absence, is authorized to sign vouchers. This authority shall continue until the chair's or vice-chair's successors are selected after each ensuing session of the legislature. Vouchers may be drawn on funds appropriated generally by the legislature for legislative expenses or upon any special appropriation which may be provided by the legislature for the expenses of the committee or both. [1989 c 137 § 1; 1955 c 206 § 7; 1951 c 43 § 15.]

***Reviser's note:** The "legislative budget committee" was redesignated the "joint legislative audit and review committee" by 1996 c 288 § 3. *Vouchers on public funds: Chapter 42.24 RCW.*

44.28.060 Executive committee—Legislative auditor—Rules, subcommittees. The members of the joint committee shall form an executive committee consisting of one member from each of the four major political caucuses, which shall include a chair and a vice-chair. The chair and vice-chair shall serve for a period not to exceed two years. The chair and the vice-chair may not be members of the same political party. The chair shall alternate between the members of the majority parties in the senate and the house of representatives.

The executive committee is responsible for performing all general administrative and personnel duties assigned to it in the rules and procedures adopted by the joint committee, as well as other duties delegated to it by the joint committee. The executive committee shall recommend applicants for the position of the legislative auditor to the membership of the joint committee. The legislative auditor shall be hired with the approval of a majority of the membership of the joint

committee. The executive committee shall set the salary of the legislative auditor.

The joint committee shall adopt rules and procedures for its orderly operation. The joint committee may create subcommittees to perform duties under this chapter. [1996 c 288 § 7; 1975 1st ex.s. c 293 § 13; 1951 c 43 § 2.]

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

44.28.065 Legislative auditor—Duties. The legislative auditor shall:

(1) Establish and manage the office of the joint legislative audit and review committee to carry out the functions of this chapter;

(2) Direct the audit and review functions described in this chapter and ensure that performance audits are performed in accordance with the "Government Auditing Standards" published by the comptroller general of the United States as applicable to the scope of the audit;

(3) Make findings and recommendations to the joint committee and under its direction to the committees of the state legislature concerning the organization and operation of state agencies and the expenditure of state funds by units of local government;

(4) In consultation with and with the approval of the executive committee, hire staff necessary to carry out the purposes of this chapter. Employee salaries, other than the legislative auditor, shall be set by the legislative auditor with the approval of the executive committee;

(5) Assist the several standing committees of the house and senate in consideration of legislation affecting state departments and their efficiency; appear before other legislative committees; and assist any other legislative committee upon instruction by the joint legislative audit and review committee;

(6) Provide the legislature with information obtained under the direction of the joint legislative audit and review committee;

(7) Maintain a record of all work performed by the legislative auditor under the direction of the joint legislative audit and review committee and keep and make available all documents, data, and reports submitted to the legislative auditor by any legislative committee. [1996 c 288 § 8; 1975 1st ex.s. c 293 § 17; 1955 c 206 § 9; 1951 c 43 § 11. Formerly RCW 44.28.140.]

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

44.28.071 Conduct of performance audits. (1) In conducting performance audits and other reviews, the legislative auditor shall work closely with the chairs and staff of standing committees of the senate and house of representatives, and may work in consultation with the state auditor and the director of financial management.

(2) The legislative auditor may contract with and consult with public and private independent professional and technical experts as necessary in conducting the performance audits. The legislative auditor should also involve front-line employees and internal auditors in the performance audit process to the highest possible degree.

(3) The legislative auditor shall work with the legislative evaluation and accountability program committee and the office of financial management to develop information system capabilities necessary for the performance audit requirements of this chapter.

(4) The legislative auditor shall work with the legislative office of performance review and the office of financial management to facilitate the implementation of effective performance measures throughout state government. In agencies and programs where effective systems for performance measurement exist, the measurements incorporated into those systems should be a basis for performance audits conducted under this chapter. [1996 c 288 § 9.]

44.28.075 Performance audits—Scope. (1) Subject to the requirements of the performance audit work plan approved by the joint committee under RCW 44.28.083, performance audits may, in addition to the determinations that may be made in such an audit as specified in RCW 44.28.005, include the following:

- (a) An examination of the costs and benefits of agency programs, functions, and activities;
- (b) Identification of viable alternatives for reducing costs or improving service delivery;
- (c) Identification of gaps and overlaps in service delivery, along with corrective action; and
- (d) Comparison with other states whose agencies perform similar functions, as well as their relative funding levels and performance.

(2) As part of a performance audit, the legislative auditor may review the costs of programs recently implemented by the legislature to compare actual agency costs with the appropriations provided and the cost estimates that were included in the fiscal note for the program at the time the program was enacted. [1996 c 288 § 10.]

44.28.080 Powers—Appropriations, expenses, revenues. The joint committee has the following powers:

(1) To make examinations and reports concerning whether or not appropriations are being expended for the purposes and within the statutory restrictions provided by the legislature; and concerning the organization and operation of procedures necessary or desirable to promote economy, efficiency, and effectiveness in state government, its officers, boards, committees, commissions, institutions, and other state agencies, and to make recommendations and reports to the legislature.

(2) To make such other studies and examinations of economy, efficiency, and effectiveness of state government and its state agencies as it may find advisable, and to hear complaints, hold hearings, gather information, and make findings of fact with respect thereto.

(3) To conduct program and fiscal reviews of any state agency or program scheduled for termination under the process provided under chapter 43.131 RCW.

(4) To perform other legislative staff studies of state government or the use of state funds.

(5) To conduct performance audits in accordance with the work plan adopted by the joint committee under *RCW 44.28.180.

(6) To receive a copy of each report of examination or audit issued by the state auditor for examinations or audits that were conducted at the request of the joint committee and to make recommendations as it deems appropriate as a separate addendum to the report or audit.

(7) To develop internal tracking procedures that will allow the legislature to measure the effectiveness of performance audits conducted by the joint committee including, where appropriate, measurements of cost-savings and increases in efficiency and effectiveness in how state agencies deliver their services.

(8) To receive messages and reports in person or in writing from the governor or any other state officials and to study generally any and all business relating to economy, efficiency, and effectiveness in state government and state agencies. [1996 c 288 § 11; 1975 1st ex.s. c 293 § 14; 1955 c 206 § 10; 1951 c 43 § 4.]

*Reviser's note: RCW 44.28.180 was recodified as RCW 44.28.083 pursuant to 1996 c 288 § 55.

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

44.28.083 Performance audit work plans. (1) During the regular legislative session of each odd-numbered year, beginning with 1997, the joint legislative audit and review committee shall develop and approve a performance audit work plan for the subsequent sixteen to twenty-four-month period and an overall work plan that identifies state agency programs for which formal evaluation appears necessary. Among the factors to be considered in preparing the work plans are:

(a) Whether a program newly created or significantly altered by the legislature warrants continued oversight because (i) the fiscal impact of the program is significant, or (ii) the program represents a relatively high degree of risk in terms of reaching the stated goals and objectives for that program;

(b) Whether implementation of an existing program has failed to meet its goals and objectives by any significant degree; and

(c) Whether a follow-up audit would help ensure that previously identified recommendations for improvements were being implemented.

(2) The project description for each performance audit must include start and completion dates, the proposed approach, and cost estimates.

(3) The legislative auditor may consult with the chairs and staff of appropriate legislative committees, the state auditor, and the director of financial management in developing the performance audit work plan.

(4) The performance audit work plan and the overall work plan may include proposals to employ contract resources. As conditions warrant, the performance audit work plan and the overall work plan may be amended from time to time. All performance audit work plans shall be transmitted to the appropriate fiscal and policy committees of the senate and the house of representatives no later than the sixtieth day of the regular legislative session of each odd-numbered year, beginning with 1997. All overall work plans shall be transmitted to the appropriate fiscal and policy committees of the senate and the house of representatives. [1996 c 288 § 12; 1993 c 406 § 5. Formerly RCW 44.28.180.]

Short title—1993 c 406: See note following RCW 43.88.020.

44.28.088 Performance audit reports—Preliminary, final. (1) When the legislative auditor has completed a performance audit authorized in the performance audit work plan, the legislative auditor shall transmit the preliminary performance audit report to the affected state agency or local government and the office of financial management for comment. The agency or local government and the office of financial management shall provide any response to the legislative auditor within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the joint committee. The legislative auditor shall incorporate the response of the agency or local government and the office of financial management into the final performance audit report.

(2) Before releasing the results of a performance audit to the legislature or the public, the legislative auditor shall submit the preliminary performance audit report to the joint committee for its review, comments, and final recommendations. Any comments by the joint committee must be included as a separate addendum to the final performance audit report. Upon consideration and incorporation of the review, comments, and recommendations of the joint committee, the legislative auditor shall transmit the final performance audit report to the affected agency or local government, the director of financial management, the leadership of the senate and the house of representatives, and the appropriate standing committees of the house of representatives and the senate and shall publish the results and make the report available to the public. For purposes of this section, "leadership of the senate and the house of representatives" means the speaker of the house, the majority leaders of the senate and the house of representatives, the minority leaders of the senate and the house of representatives, the caucus chairs of both major political parties of the senate and the house of representatives, and the floor leaders of both major political parties of the senate and the house of representatives. [1996 c 288 § 13.]

44.28.091 Compliance reports—Preliminary and final. (1) No later than nine months after the final performance audit has been transmitted by the joint committee to the appropriate standing committees of the house of representatives and the senate, the joint committee in consultation with the standing committees may produce a preliminary compliance report on the agency's or local government's compliance with the final performance audit recommendations. The agency or local government may attach its comments to the joint committee's preliminary compliance report as a separate addendum.

(2) Within three months after the issuance of the preliminary compliance report, the joint committee may hold at least one public hearing and receive public testimony regarding the findings and recommendations contained in the preliminary compliance report. The joint committee may waive the public hearing requirement if the preliminary compliance report demonstrates that the agency or local government is in compliance with the audit recommendations. The joint committee shall issue any final compliance report within four weeks after the public hearing or hearings.

The legislative auditor shall transmit the final compliance report in the same manner as a final performance audit is transmitted under RCW 44.28.088. [1996 c 288 § 14.]

44.28.094 Quality control review of joint committee. Subject to the joint committee's approval, the office of the joint committee shall undergo an external quality control review within three years of June 6, 1996, and at regular intervals thereafter. The review must be conducted by an independent organization that has experience in conducting performance audits. The quality control review must include, at a minimum, an evaluation of the quality of the audits conducted by the joint committee, an assessment of the audit procedures used by the joint committee, and an assessment of the qualifications of the joint committee staff to conduct performance audits. [1996 c 288 § 15.]

44.28.097 Agency documents furnished to joint committee. All agency reports concerning program performance, including administrative review, quality control, and other internal audit or performance reports, as requested by the joint committee, shall be furnished by the agency requested to provide such report. [1996 c 288 § 18; 1973 1st ex.s. c 197 § 2. Formerly RCW 44.28.087.]

44.28.100 Reports, minutes. The joint committee may make reports from time to time to the members of the legislature and to the public with respect to any of its findings or recommendations. The joint committee shall keep complete minutes of its meetings. [1996 c 288 § 19; 1987 c 505 § 45; 1975 1st ex.s. c 293 § 16; 1951 c 43 § 6.]

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

44.28.110 Examinations—Subpoenas—Depositions. In the discharge of any duty herein imposed, the committee or any personnel under its authority and its subcommittees shall have the authority to examine and inspect all properties, equipment, facilities, files, records and accounts of any state office, department, institution, board, committee, commission or agency, and to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by laws for taking depositions in civil actions in the superior courts. [1955 c 206 § 8; 1951 c 43 § 8.]

Depositions: Rules of court: CR 26 through 37.

44.28.120 Contempt proceedings—Witnesses failing to appear or testify. In case of the failure on the part of any person to comply with any subpoena issued in behalf of the joint committee, or on the refusal of any witness to testify to any matters regarding which he or she may be lawfully interrogated, it shall be the duty of the superior court of any county, or of the judge thereof, on application of the joint committee, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. [1996 c 288 § 20; 1951 c 43 § 9.]

Contempt: Chapter 7.21 RCW.

Legislative inquiry: Chapter 44.16 RCW.

Witness refusing to attend or testify before legislature or committee: RCW 9.55.020.

44.28.130 Witness fees and mileage. Each witness who appears before the joint committee by its order, other than a state official or employee, shall receive for his or her attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers signed by such witness, verified by the legislative auditor, and approved by the chair and the vice-chair of the joint committee. [1996 c 288 § 21; 1951 c 43 § 10.]

Witness fees and mileage: Chapter 2.40 RCW.

44.28.150 Cooperation with legislative committees and others. The joint committee shall cooperate, act, and function with legislative committees and with the councils or committees of other states similar to this joint committee and with other interstate research organizations. [1996 c 288 § 22; 1975 1st ex.s. c 293 § 18; 1951 c 43 § 7.]

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

44.28.900 Severability—1951 c 43. If any section, subsection, paragraph or provision of this chapter shall be held invalid by any court for any reason, such invalidity shall not in any way affect the validity of the remainder of this chapter. [1951 c 43 § 16.]

Chapter 44.39

JOINT COMMITTEE ON ENERGY AND UTILITIES

Sections

- 44.39.010 Committee created.
- 44.39.015 Composition—Appointment of members.
- 44.39.020 Terms.
- 44.39.025 Vacancies.
- 44.39.038 Study of state building code relating to energy.
- 44.39.039 State-wide thermal efficiency and lighting code—State building code council authorized to adopt; presentation to legislative committees on energy and utilities.
- 44.39.045 Expenses and per diem.
- 44.39.050 Payment of expenses—Vouchers.
- 44.39.060 Examinations—Subpoenas—Depositions—Contempt proceedings—Witness fees.
- 44.39.070 Meetings—Energy supply alert or energy emergency—Duties.

Energy supply emergencies, alerts: Chapter 43.21G RCW.

44.39.010 Committee created. There is hereby created the joint committee on energy and utilities of the legislature of the state of Washington. [1977 ex.s. c 328 § 13; 1969 ex.s. c 260 § 1.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

44.39.015 Composition—Appointment of members. The committee shall consist of four senators and four representatives who shall be selected biennially as follows:

(1) The president of the senate shall nominate four members from the energy and utilities committee, including the chairman, two members being from each major political

party, to serve on the committee, and shall submit the list of nominees to the senate for confirmation. Upon confirmation, the senators shall be deemed installed as members.

(2) The speaker of the house shall nominate four members from the energy and utilities committee, including the chairman, two members being from each major political party, to serve on the committee, and shall submit the list of nominees to the house of representatives for confirmation. Upon confirmation, the representatives shall be deemed installed as members. The chairmen of the senate and house energy and utilities committees shall alternately serve as chairman for one year terms. The chairman of the house committee shall serve as the initial chairman. The chairman may designate another committee member to serve as chairman in his or her absence. [1977 ex.s. c 328 § 14; 1969 ex.s. c 260 § 2.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

44.39.020 Terms. Members shall serve until their successors are installed as provided in RCW 44.39.015, as now or hereafter amended, at the next succeeding regular session of the legislature during an odd-numbered year, or until they are no longer members of the legislature, whichever is sooner. [1980 c 87 § 38; 1977 ex.s. c 328 § 15; 1969 ex.s. c 260 § 3.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

44.39.025 Vacancies. The presiding officer of the appropriate legislative chamber shall fill any vacancies occurring on the committee by appointment from the same political party as the departing member. Notwithstanding the provisions of RCW 44.39.015 as now or hereafter amended, any such appointee shall be deemed installed as a member upon appointment. Members filling vacancies shall serve until they or their successors are installed as provided in RCW 44.39.015, as now or hereafter amended, or until they are no longer members of the legislature, whichever is sooner. [1977 ex.s. c 328 § 16; 1969 ex.s. c 260 § 4.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

44.39.038 Study of state building code relating to energy. The senate and house committees on energy and utilities shall make continuing studies of the state building code as it relates to energy consumption, conservation and retention and shall submit their recommendations concerning such to the legislature periodically. [1977 ex.s. c 14 § 13.]

Severability—1977 ex.s. c 14: See RCW 19.27.905.

Energy-related building standards: Chapter 19.27A RCW.

44.39.039 State-wide thermal efficiency and lighting code—State building code council authorized to adopt; presentation to legislative committees on energy and utilities. See RCW 19.27A.020.

44.39.045 Expenses and per diem. The members of the committee shall serve without compensation, but shall be reimbursed for their expenses incurred while attending sessions of the committee or any subcommittee of the

committee, or while engaged in other committee business authorized by the committee, as provided for in RCW 44.04.120. [1969 ex.s. c 260 § 8.]

44.39.050 Payment of expenses—Vouchers. All expenses incurred by the committee, including salaries and expenses of employees, shall be paid upon voucher forms as provided by the director of financial management and signed by the chairman of the committee. Vouchers may be drawn upon funds appropriated generally by the legislature for legislative expenses or upon any special appropriation which may be provided by the legislature for the expenses of the committee. [1979 c 151 § 156; 1969 ex.s. c 260 § 9.]

44.39.060 Examinations—Subpoenas—Depositions—Contempt proceedings—Witness fees. In the discharge of any duty imposed by this chapter, the committee or any personnel acting under its direction shall have the authority to examine and inspect all properties, equipment, facilities, files, records, and accounts of any state office, department, institution, board, committee, commission, or agency; to administer oaths; and to issue subpoenas, upon approval of a majority of the members of the house or senate rules committee, to compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the superior courts.

In case of the failure of any person to comply with any subpoena issued in behalf of the committee, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, it shall be the duty of the superior court of any county, or of the judge thereof, on application of the committee, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

Each witness who appears before the committee by its order, other than a state official or employee, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers signed by such witness and approved by the chairman of the committee. [1977 ex.s. c 328 § 17.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

44.39.070 Meetings—Energy supply alert or energy emergency—Duties. The committee shall only meet and function during a condition of energy supply alert or energy emergency. Upon the declaration by the governor of a condition of energy supply alert or energy emergency, the committee on energy and utilities shall meet to receive any plans proposed by the governor for programs, controls, standards, and priorities for the production, allocation, and consumption of energy during any current or anticipated condition of energy supply alert or energy emergency, any proposed plans for the suspension or modification of existing rules of the Washington Administrative Code, and any other relevant matters the governor deems desirable. The commit-

tee shall review such plans and matters and shall transmit its recommendations to the governor for review. The committee shall review any voluntary programs or local or regional programs for the production, allocation, or consumption of energy which have been submitted to the committee.

The committee shall receive any request from the governor for the approval of a declaration of a condition of energy emergency as provided in RCW 43.21G.040 as now or hereafter amended and shall either approve or disapprove such request.

During a condition of energy supply alert, the committee shall receive any request from the governor for an extension of the condition of energy supply alert for an additional sixty consecutive days and the findings upon which such request is based and shall either approve or disapprove such request.

During a condition of energy emergency the committee shall receive any request from the governor for an extension of the condition of energy emergency for an additional forty-five consecutive days and the finding upon which any such request is based and shall either approve or disapprove such request. [1977 ex.s. c 328 § 18.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

Chapter 44.40

LEGISLATIVE TRANSPORTATION COMMITTEE—SENATE AND HOUSE TRANSPORTATION COMMITTEES

Sections

- 44.40.010 Creation—Composition—Appointments—Vacancies.
 - 44.40.020 Powers, duties, and studies.
 - 44.40.025 Study of transportation-related funds or accounts—Coordination of activities.
 - 44.40.030 Participation in activities of other organizations.
 - 44.40.040 Members' allowances—Procedure for payment of committee's expenses.
 - 44.40.050 Additional motor vehicle fees for support of committee activities.
 - 44.40.070 State transportation agencies—Preparation of comprehensive programs and financial plans required.
 - 44.40.080 State transportation agencies—Recommended budget—Preparation and presentation—Contents.
 - 44.40.090 Delegation of powers and duties to senate and house transportation committees.
 - 44.40.100 Contracts and programs authorized.
 - 44.40.120 Periodic review of plans for bicycle, pedestrian, and equestrian facilities.
 - 44.40.140 Review of policy on fees imposed on nonpolluting fuels—Report.
 - 44.40.150 Study—Final report by December 1993.
- Report (state traffic safety commission) to legislative transportation committee: RCW 43.59.130.*
- Review of rules for private carrier drivers: RCW 46.73.010.*
- Study reports available to legislators: RCW 47.01.145.*

44.40.010 Creation—Composition—Appointments—Vacancies. The joint fact-finding committee on highways, streets, and bridges originally created by chapter 111, Laws of 1947, recreated and renamed the joint committee on highways by chapter 3, Laws of 1963 extraordinary session, is hereby recreated and renamed the legislative transportation committee. The renaming of said committee shall not affect any powers invested in it or its duties imposed upon it by any other statute. All appropriations made to the committee

under its former name shall continue to be available to said committee as renamed, the legislative transportation committee. The committee shall consist of eleven senators to be appointed by the president of the senate and twelve members of the house of representatives to be appointed by the speaker thereof. A list of appointees shall be submitted before the close of each regular legislative session during an odd-numbered year or any successive special session convened by the governor or the legislature prior to the close of such regular session or successive special session(s) for confirmation of senate members, by the senate, and house members, by the house. Vacancies occurring shall be filled by the appointing authority. [1980 c 87 § 39; 1971 ex.s. c 195 § 1; 1967 ex.s. c 145 § 68; 1965 ex.s. c 170 § 64; 1963 ex.s. c 3 § 35.]

Severability—1971 ex.s. c 195: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other circumstances is not affected." [1971 ex.s. c 195 § 21.]

44.40.020 Powers, duties, and studies. (1) The committee is authorized and directed to continue its studies and for that purpose shall have the powers set forth in chapter 111, Laws of 1947. The committee is further authorized to make studies related to bills assigned to the house and senate transportation committees and such other studies as provided by law. The executive committee of the committee may assign responsibility for all or part of the conduct of studies to the house and/or senate transportation committees.

(2) The committee may review and approve franchise agreements entered into by the department of transportation under RCW 43.51.113. [1996 c 129 § 9; 1977 ex.s. c 235 § 5; 1975 1st ex.s. c 268 § 1; 1963 ex.s. c 3 § 36.]

Intent—Effective date—Severability—1996 c 129: See notes following RCW 43.51.112.

Powers set forth in chapter 111, Laws of 1947: "Sec. 2. The committee is hereby authorized and directed to ascertain, study and analyze all available facts and matters relating or pertaining to: (a) A study of the policies relating to and the cost of the administration, operation, construction and maintenance of public highways and streets of the state, with recommendations for such changes as may be deemed necessary;

(b) the need for and cost of bringing the highways and streets in the state to acceptable standards, the cost of maintaining them in such condition, the need and cost of expanding the highway and street systems of the state to meet the increasing demands for travel and the demands arising from the changing economic and industrial development, and the determination of long-range programs to provide the needed construction;

(c) the making of a study of motor vehicle taxation including the assignment of the total highway costs among property owners, general taxpayers and highway users;

(d) the determination of the portion of highway and street operation and construction costs assignable to the various highway users and classes of users so that all vehicles and classes of vehicles shall bear their fair share of such costs;

(e) the determination of the tax basis and rates to be exacted from each vehicle or user;

(f) a determination of what roads should be included in the state highway system and what changes should be made in the existing system;

(g) other studies of motor vehicle transport economics including but not limited to the inspection of motor vehicles to insure the safety of operation upon the highways, the control of loads and weights for the protection of the highway and street investments, and a study of such other factors and conditions as may appear necessary;

(h) the revision of any and all laws bearing upon or relating to the subject of this resolution together with the committee's recommendations for appropriate legislation. [1947 c 111 § 2.]

Sec. 3. The committee is authorized to act during this session of the legislature, including any recess, and after final adjournment until the commencement of the next regular session. It shall file a final report not later than the 15th legislative day of the next regular session. The committee may prepare and submit a preliminary report to the legislature at any extraordinary session which may be convened. [1947 c 111 § 3.]

Sec. 4. The committee and its members shall have and exercise all of the rights, duties and powers conferred upon legislative committees and their members by the provisions of chapter 6, Laws of 1895 and chapter 33, Laws of 1897 (secs. 8178 through 8194, Rem. Rev. Stat.; secs. 722-1, -3, -5, -7, -9, -11, -13, -15, -17, -19, -21, -23, -25, -27, -29, -31, and -33, PPC) [chapter 44.16 RCW] and shall have additional powers: (a) To select a chairman and vice-chairman from its membership;

(b) to employ an executive secretary and such expert, clerical and other help as may be necessary to carry out its duties;

(c) to cooperate with and secure the cooperation of county, city and other local law enforcement agencies in investigating any matter within the scope of this act and to direct the sheriff of any county to serve subpoenas, orders and other process issued by the committee;

(d) to do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this act." [1947 c 111 § 4.]

Reviser's note: Successive study authorizations, not codified in RCW, are to be found in the various session laws subsequent to 1947, for example: 1949 c 213; 1951 c 269; 1953 c 254; 1955 c 384; 1957 c 172; 1959 c 319; 1961 ex.s. c 21; 1963 ex.s. c 3; 1965 ex.s. c 170; 1967 ex.s. c 145; 1969 ex.s. c 281; 1970 ex.s. c 85; 1971 ex.s. c 195; 1973 1st ex.s. c 210; 1975 1st ex.s. c 268; 1977 ex.s. c 235; and 1979 ex.s. c 192.

Legislative transportation committee duties in conjunction with transportation commission: See note following RCW 47.01.071.

44.40.025 Study of transportation-related funds or accounts—Coordination of activities. In addition to the powers and duties authorized in RCW 44.40.020, the committee and the standing committees on transportation of the house and senate shall, in coordination with the joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means committees of the senate and house of representatives, ascertain, study, and/or analyze all available facts and matters relating or pertaining to sources of revenue, appropriations, expenditures, and financial condition of the motor vehicle fund and accounts thereof, the highway safety fund, and all other funds or accounts related to transportation programs of the state.

The joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means committees of the senate and house of representatives shall coordinate their activities with the legislative transportation committee in carrying out the committees' powers and duties under chapter 43.88 RCW in matters relating to the transportation programs of the state. [1996 c 288 § 49; 1981 c 270 § 15; 1977 ex.s. c 235 § 6; 1975 1st ex.s. c 293 § 19; 1971 ex.s. c 195 § 2.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

44.40.030 Participation in activities of other organizations. In addition to the powers and duties heretofore conferred upon it, the legislative transportation committee may participate in: (1) The activities of committees of the council of state governments concerned with transportation activities; (2) activities of the national committee on uniform traffic laws and ordinances; (3) any interstate reciprocity or

proration meetings designated by the department of licensing; and (4) such other organizations as it deems necessary and appropriate. [1982 c 227 § 17; 1977 ex.s. c 235 § 7; 1971 ex.s. c 195 § 3; 1963 ex.s. c 3 § 38.]

Effective date—1982 c 227: See note following RCW 19.09.100.

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

44.40.040 Members' allowances—Procedure for payment of committee's expenses. The members of the legislative transportation committee and the house and senate transportation committees shall receive allowances while attending meetings of the committees or subcommittees and while engaged in other authorized business of the committees as provided in RCW 44.04.120 as now or hereafter amended. All expenses incurred by the committee, and the house and senate transportation committees, including salaries of employees of the legislative transportation committee, shall be paid upon voucher forms as provided by the office of financial management and signed by the chairman or vice chairman or authorized designee of the chairman of the committee, and the authority of said chairman or vice chairman to sign vouchers shall continue until their successors are selected. Vouchers may be drawn upon funds appropriated for the expenses of the committee. [1979 c 151 § 157; 1977 ex.s. c 235 § 8; 1975 1st ex.s. c 268 § 3; 1971 ex.s. c 195 § 4; 1963 ex.s. c 3 § 39.]

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

44.40.050 Additional motor vehicle fees for support of committee activities. See RCW 46.16.061.

44.40.070 State transportation agencies—Preparation of comprehensive programs and financial plans required. Prior to October 1st of each even-numbered year all state agencies whose major programs consist of transportation activities, including the department of transportation, the utilities and transportation commission, the transportation improvement board, the Washington state patrol, the department of licensing, the traffic safety commission, the county road administration board, and the board of pilotage commissioners, shall adopt or revise, after consultation with the legislative transportation committee, a comprehensive six-year program and financial plan for all transportation activities under each agency's jurisdiction.

The comprehensive six-year program and financial plan shall state the general objectives and needs of each agency's major transportation programs, including workload and performance estimates. [1988 c 167 § 10; 1979 ex.s. c 192 § 3; 1979 c 158 § 112; 1977 ex.s. c 235 § 9; 1973 1st ex.s. c 201 § 1.]

Savings—Severability—1988 c 167: See notes following RCW 47.26.121.

Effective dates—1979 ex.s. c 192: "Section 6 of this 1979 act shall take effect July 1, 1980. Sections 1 through 5 of this 1979 act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1979." [1979 ex.s. c 192 § 7.] "Section 6 of this 1979 act" refers to the reenactment of RCW 46.16.380 by 1979 ex.s. c 192. "Sections 1 through 5 of this 1979 act" refer to three temporary, uncodified sections of 1979 ex.s. c 192 and to the amendments to RCW 44.40.070 and 47.17.370 by 1979 ex.s. c 192.

Revenue forecasts: RCW 43.88.122.

44.40.080 State transportation agencies—Recommended budget—Preparation and presentation—Contents. Notwithstanding any other provision of law, state transportation agencies shall prepare and present to the governor and to the legislature prior to its convening a recommended budget for the ensuing biennium. The biennial budget shall include details of expenditures, and performance and public service criteria for the transportation programs and activities of each agency in consonance with said agency's adopted six-year comprehensive program and financial plan. [1973 1st ex.s. c 201 § 2.]

44.40.090 Delegation of powers and duties to senate and house transportation committees. Powers and duties enumerated by this chapter shall be delegated to the senate and house transportation committees during periods when the legislative transportation committee is not appointed. [1977 ex.s. c 235 § 10; 1973 1st ex.s. c 210 § 2.]

44.40.100 Contracts and programs authorized. The legislative transportation committee and/or the senate and house transportation committees may enter into contracts on behalf of the state to carry out the purposes of chapter 44.40 RCW as amended; and it or they may act for the state in the initiation of or participation in any multigovernmental program relative to transportation planning or programming; and it or they may enter into contracts to receive federal or other funds, grants, or gifts to carry out said purposes and to be used in preference to or in combination with state funds. When federal or other funds are received, they shall be deposited with the state treasurer and thereafter expended only upon approval by the committee or committees. [1977 ex.s. c 235 § 11; 1975 1st ex.s. c 268 § 7; 1973 1st ex.s. c 210 § 3.]

44.40.120 Periodic review of plans for bicycle, pedestrian, and equestrian facilities. The house and senate transportation committees shall periodically review the six-year comprehensive plans submitted by cities and counties for expenditures for bicycle, pedestrian, and equestrian facilities prepared pursuant to RCW 35.77.010 and 36.81.121. [1977 ex.s. c 235 § 12; 1975 1st ex.s. c 268 § 2.]

44.40.140 Review of policy on fees imposed on nonpolluting fuels—Report. Prior to the start of each regular legislative session in an odd-numbered year, the legislative transportation committee shall review the policy of the state concerning fees imposed on non-polluting fuels under RCW 82.38.075, and shall report its findings and recommendations for change, if any, to the legislature. [1983 c 212 § 2.]

44.40.150 Study—Final report by December 1993. (1) The legislative transportation committee shall undertake a study and develop recommendations for legislative and executive consideration that will:

(a) Increase the efficiency and effectiveness of state transportation programs and reduce costs;

(b) Enhance the accountability and organizational soundness of all transportation modes;

(c) Encourage better communication between local jurisdictions and the department of transportation in developing engineering plans and subsequent construction projects;

(d) Encourage private sector support and financial participation in project development and construction of transportation projects;

(e) Develop long-range goals that reflect changing technology and state-of-the-art advancements in transportation;

(f) Explore alternatives for the establishment of an integrated and balanced multimodal state-wide transportation system to meet the needs of the 21st century; and

(g) Explore ways to reduce the demand on the transportation system and more effectively use the existing system.

The committee may study other transportation needs and problems and make further recommendations.

(2) The office of financial management and the department of transportation shall provide staff support as required by the legislative transportation committee in developing the recommendations. To the extent permitted by law, all agencies of the state shall cooperate fully with the legislative transportation committee in carrying out its duties under this section.

(3) The legislative transportation committee may receive and expend gifts, grants, and endowments from private sector sources to carry out the purpose of this section.

(4) By December 1991 the legislative transportation committee shall submit its preliminary findings and recommendations to the governor, transportation commission, and legislature. A final report shall be submitted by December 1993. [1989 1st ex.s. c 6 § 14.]

Severability—1989 1st ex.s. c 6: See note following RCW 46.68.110.

Chapter 44.44

OFFICE OF STATE ACTUARY—JOINT COMMITTEE ON PENSION POLICY

Sections

- 44.44.010 Office of state actuary—Created—Qualifications.
 44.44.030 Personnel—Participation of American academy of actuaries.
 44.44.040 Powers and duties—Actuarial fiscal notes.
 44.44.050 Joint committee on pension policy—Membership, terms, leadership.
 44.44.060 Joint committee on pension policy—Powers and duties.
 44.44.900 Severability—1975-'76 2nd ex.s. c 105.

Department of retirement systems: Chapter 41.50 RCW.

44.44.010 Office of state actuary—Created—Qualifications. (1) There is hereby created an office within the legislative branch to be known as the office of the state actuary.

(2) The executive head of the office shall be the state actuary who shall be qualified by education and experience in the field of actuarial science. [1987 c 25 § 1; 1975-'76 2nd ex.s. c 105 § 19.]

44.44.030 Personnel—Participation of American academy of actuaries. (1) The state actuary shall have the authority to select and employ such research, technical,

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clerical personnel, and consultants as the actuary deems necessary, whose salaries shall be fixed by the actuary and approved by the joint committee on pension policy, and who shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

(2) All actuarial valuations and experience studies performed by the office of the state actuary shall be signed by a member of the American academy of actuaries. If the state actuary is not such a member, the state actuary, after approval by the committee, shall contract for a period not to exceed two years with a member of the American academy of actuaries to assist in developing actuarial valuations and experience studies. [1987 c 25 § 2; 1975-'76 2nd ex.s. c 105 § 21.]

44.44.040 Powers and duties—Actuarial fiscal notes.

The office of the state actuary shall have the following powers and duties:

(1) Perform all actuarial services for the department of retirement systems, including all studies required by law. Reimbursement for such services shall be made to the state actuary pursuant to the provisions of RCW 39.34.130 as now or hereafter amended.

(2) Advise the legislature and the governor regarding pension benefit provisions, and funding policies and investment policies of the state investment board.

(3) Consult with the legislature and the governor concerning determination of actuarial assumptions used by the department of retirement systems.

(4) Prepare a report, to be known as the actuarial fiscal note, on each pension bill introduced in the legislature which briefly explains the financial impact of the bill. The actuarial fiscal note shall include: (a) The statutorily required contribution for the biennium and the following twenty-five years; (b) the biennial cost of the increased benefits if these exceed the required contribution; and (c) any change in the present value of the unfunded accrued benefits. An actuarial fiscal note shall also be prepared for all amendments which are offered in committee or on the floor of the house of representatives or the senate to any pension bill. However, a majority of the members present may suspend the requirement for an actuarial fiscal note for amendments offered on the floor of the house of representatives or the senate.

(5) Provide such actuarial services to the legislature as may be requested from time to time.

(6) Provide staff and assistance to the committee established under RCW 46.44.050. [1987 c 25 § 3; 1986 c 317 § 6; 1975-'76 2nd ex.s. c 105 § 22.]

Legislative findings—Intent—Severability—1986 c 317: See notes following RCW 41.40.150.

Requirements for proposed legislation submitted by department of retirement systems: RCW 41.50.100.

44.44.050 Joint committee on pension policy—Membership, terms, leadership. (1) There is hereby created a joint committee on pension policy. The committee shall consist of: (a) Eight members of the senate appointed by the president of the senate, four of whom shall be members of the majority party and four of whom shall be members of the minority party; and (b) eight members of the

house of representatives appointed by the speaker, four of whom shall be members of the majority party and four of whom shall be members of the minority party. Members of the committee shall be appointed before the close of the 1987 legislative session and before the close of each regular session during an odd-numbered year thereafter.

(2) Each member's term of office shall run from the close of the session in which he or she was appointed until the close of the next regular session held in an odd-numbered year. If a successor is not appointed during a session, the member's term shall continue until the member is reappointed or a successor is appointed. The term of office for a committee member who does not continue as a member of the senate or house shall cease upon the convening of the next session of the legislature during an odd-numbered year after the member's appointment, or upon the member's resignation, whichever is earlier. Vacancies on the committee shall be filled by appointment in the same manner as described in subsection (1) of this section. All such vacancies shall be filled from the same political party and from the same house as the member whose seat was vacated.

(3) The committee shall elect a chairperson and a vice-chairperson. The chairperson shall be a member of the senate in even-numbered years and a member of the house of representatives in odd-numbered years.

(4) The committee shall establish an executive committee of four members, including the chairperson and the vice-chairperson, representing the majority and minority caucuses of each house. [1987 c 25 § 4.]

44.44.060 Joint committee on pension policy—Powers and duties. The joint committee on pension policy shall have the following powers and duties:

(1) Study pension issues, develop pension policies for public employees in state retirement systems, and make recommendations to the legislature;

(2) Study the financial condition of the state pension systems, develop funding policies, and make recommendations to the legislature; and

(3) Appoint or remove the state actuary by a two-thirds vote of the committee. [1987 c 25 § 5.]

44.44.900 Severability—1975-'76 2nd ex.s. c 105. See note following RCW 41.04.270.

Chapter 44.48

LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

Sections

44.48.010	Committee created—Composition.
44.48.020	Terms of members—Vacancies.
44.48.030	Continuation of memberships, powers, duties, etc.
44.48.040	Travel expenses of members—Reimbursement.
44.48.050	Expenses of committee—Vouchers.
44.48.060	Officers and rules.
44.48.070	Committee's duties with respect to data processing capability for fiscal matters—LEAP defined.
44.48.080	Duties of LEAP administration.
44.48.090	Committee's powers.
44.48.100	Reports to legislature—Minutes.
44.48.110	Witness fees and mileage.

44.48.120	LEAP administrator and other assistants—Employment—Duties of LEAP administrator.
44.48.130	Exemption from department of information services.
44.48.140	Cooperation with legislative committees and others.
44.48.900	Severability—1977 ex.s. c 373.

Alternative economic and revenue forecasts to be provided at the request of the legislative evaluation and accountability program committee: RCW 82.33.030.

44.48.010 Committee created—Composition. There is hereby created a legislative evaluation and accountability program committee which shall consist of four senators and four representatives from the legislature. The senate members of the committee shall be appointed by the president of the senate and the house members of the committee shall be appointed by the speaker of the house. Not more than two members from each house shall be from the same political party. All members shall be appointed before the close of the 1977 session of the legislature and before the close of each regular session during an odd-numbered year thereafter. Members shall be subject to confirmation, as to the senate members by the senate, and as to the house members by the house. [1980 c 87 § 40; 1977 ex.s. c 373 § 1.]

44.48.020 Terms of members—Vacancies. The term of office of the members of the committee who continue to be members of the senate and house shall be from the close of the session in which they were appointed or elected as provided in RCW 44.48.010 until the close of the next regular session during an odd-numbered year, or, in the event that such appointments or elections are not made, until the close of the next regular session during an odd-numbered year during which successors are appointed or elected. The term of office of such committee members as shall not continue to be members of the senate and house shall cease upon the convening of the next regular session of the legislature during an odd-numbered year after their confirmation, election, or appointment. Vacancies on the committee shall be filled by appointment by the remaining members. All such vacancies shall be filled from the same political party and from the same house as the member whose seat was vacated. [1980 c 87 § 41; 1977 ex.s. c 373 § 2.]

44.48.030 Continuation of memberships, powers, duties, etc. On and after the commencement of a succeeding regular session of the legislature during an odd-numbered year, those members of the committee who continue to be members of the senate and house, respectively, shall continue as members of the committee as indicated in RCW 44.48.020 and the committee shall continue with all its powers, duties, authorities, records, papers, personnel and staff, and all funds made available for its use. [1980 c 87 § 42; 1977 ex.s. c 373 § 3.]

44.48.040 Travel expenses of members—Reimbursement. The members of the committee shall serve without additional compensation, but shall be reimbursed in accordance with RCW 44.04.120 while attending sessions of the committee or meetings of any subcommittee of the committee, or on other committee business authorized by the committee. [1977 ex.s. c 373 § 4.]

44.48.050 Expenses of committee—Vouchers. All expenses incurred by the committee, including salaries and expenses of employees, shall be paid upon voucher forms as provided by the administrator and signed by the chairman or vice chairman of the committee and attested by the secretary of said committee, and the authority of said chairman and secretary to sign vouchers shall continue until their successors are selected after each ensuing session of the legislature. Vouchers may be drawn on funds appropriated by law for the committee: PROVIDED, That the senate and the house may authorize the committee to draw on funds appropriated by the legislature for legislative expenses. [1977 ex.s. c 373 § 5.]

44.48.060 Officers and rules. The committee shall have the power and duty to appoint its own chairman, vice chairman, and other officers; and to make rules for orderly procedure. [1977 ex.s. c 373 § 6.]

44.48.070 Committee's duties with respect to data processing capability for fiscal matters—LEAP defined. The committee shall acquire a data processing service capability under the exclusive jurisdiction and control of the legislature acting through the committee and its administrator for the purpose of providing the legislature and its staff with the type of information required for in-depth analysis and monitoring of state agency expenditures, budgets, and related fiscal matters. The legislative evaluation and accountability program established in this section may be referred to in this chapter as the LEAP administration. [1977 ex.s. c 373 § 7.]

44.48.080 Duties of LEAP administration. To carry out the provisions of RCW 44.48.070 the LEAP administration shall provide for:

- (1) Automated data bases and application systems in support of legislative requirements to monitor, evaluate, analyze, report, and review;
- (2) Maintenance of computer software, application programs, data bases, and related documentation;
- (3) Education, training, and programming services;
- (4) Procedural documentation support; and
- (5) Consulting assistance on special projects. [1977 ex.s. c 373 § 8.]

44.48.090 Committee's powers. The committee shall have the following powers:

- (1) To have timely access, upon written request of the administrator, to all machine readable, printed, and other data of state agencies relative to expenditures, budgets, and related fiscal matters;
- (2) To suggest changes relative to state accounting and reporting systems to the office of financial management or its successor and to require timely written responses to such suggestions; and
- (3) To enter into contracts; and when entering into any contract for computer access, make necessary provisions relative to the scheduling of computer time and usage in recognition of the unique requirements and priorities of the legislative process. [1979 c 151 § 158; 1977 ex.s. c 373 § 9.]

44.48.100 Reports to legislature—Minutes. The committee shall have the power to make reports to the legislature. The committee shall keep complete minutes of its meetings. [1987 c 505 § 46; 1977 ex.s. c 373 § 10.]

44.48.110 Witness fees and mileage. Each person who appears before the committee, other than a state official or employee, may upon request receive for attendance the fees and mileage provided for witnesses in civil cases in courts of record in accordance with the provisions of RCW 2.40.010, which shall be audited and paid upon the presentation of proper vouchers signed by such person and approved by the secretary and chairman of the committee. [1977 ex.s. c 373 § 11.]

44.48.120 LEAP administrator and other assistants—Employment—Duties of LEAP administrator. The committee is hereby authorized and empowered to appoint an officer to be known as the LEAP administrator who shall be the executive officer of the committee and assist in its duties and shall compile information for the committee.

The committee is hereby authorized and empowered to select and employ temporary and permanent personnel and fix their salaries.

The duties of the administrator shall be as follows:

- (1) To manage the LEAP operations.
- (2) To assist the several standing committees of the house and senate; to appear before other legislative committees; and to assist any other legislative committee upon instruction by the committee.
- (3) To provide the legislature with information obtained under the direction of the committee.
- (4) To maintain a record of all work performed by the administrator under the direction of the committee and to keep and make available all documents, data, and reports submitted to the administrator by any legislative committee. [1977 ex.s. c 373 § 12.]

44.48.130 Exemption from department of information services. The committee is hereby expressly exempted from the provisions of chapter 43.105 RCW. [1977 ex.s. c 373 § 13.]

44.48.140 Cooperation with legislative committees and others. The committee shall cooperate, act, and function with Washington state legislative committees and may cooperate with the councils or committees of other states similar to this committee and with other interstate research organizations. [1977 ex.s. c 373 § 14.]

44.48.900 Severability—1977 ex.s. c 373. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 373 § 16.]

Chapter 44.52

LEGISLATIVE COMMITTEE ON ECONOMIC DEVELOPMENT

Sections

44.52.010	Purpose—Legislative committee on economic development created—Membership.
44.52.020	Subcommittees—Rules of procedure.
44.52.030	Powers—Study and review of economic issues.
44.52.040	Staff support.
44.52.050	Travel expenses.
44.52.060	Payment of expenses.
44.52.070	Cooperation with other committees, agencies, and councils.
44.52.900	Severability—1985 c 467.
44.52.901	Effective date—1985 c 467.

44.52.010 Purpose—Legislative committee on economic development created—Membership. (1) Economic development and in particular international trade, tourism, and investment have become increasingly important to Washington, affecting the state's employment, revenues, and general economic well-being. Additionally, economic trends are rapidly changing and the international marketplace has become increasingly competitive as states and countries seek to improve and safeguard their own economic well-being. The purpose of the legislative committee on economic development is to provide responsive and consistent involvement by the legislature in economic development to maintain a healthy state economy and to provide employment opportunities to Washington residents.

(2) There is created a legislative committee on economic development which shall consist of six senators and six representatives from the legislature and the lieutenant governor who shall serve as chairperson. The senate members of the committee shall be appointed by the president of the senate and the house members of the committee shall be appointed by the speaker of the house. Not more than three members from each house shall be from the same political party. A list of appointees shall be submitted before the close of each regular legislative session during an odd-numbered year or any successive special session convened by the governor or the legislature prior to the close of such regular session or successive special session(s) for confirmation of senate members, by the senate, and house members, by the house. Vacancies occurring shall be filled by the appointing authority. [1985 c 467 § 17.]

44.52.020 Subcommittees—Rules of procedure. The committee shall by majority vote establish subcommittees, and prescribe rules of procedure for itself and its subcommittees which are consistent with this chapter. The committee shall at a minimum establish a subcommittee on international trade and a subcommittee on industrial development. [1985 c 467 § 18.]

44.52.030 Powers—Study and review of economic issues. The committee or its subcommittees are authorized to study and review economic development issues with special emphasis on international trade, tourism, investment, and industrial development, and to assist the legislature in developing a comprehensive and consistent economic development policy. The issues under review by the committee shall include, but not be limited to:

(1) Evaluating existing state policies, laws, and programs which promote or affect economic development with special emphasis on those concerning international trade, tourism, and investment and determine their cost-effectiveness and level of cooperation with other public and private agencies.

(2) Monitoring economic trends, and developing for review by the legislature such appropriate state responses as may be deemed effective and appropriate.

(3) Monitoring economic development policies and programs of other states and nations and evaluating their effectiveness.

(4) Determining the economic impact of international trade, tourism, and investment upon the state's economy.

(5) Assessing the need for and effect of federal, regional, and state cooperation in economic development policies and programs.

(6) Developing and evaluating legislative proposals concerning the issues specified in this section. [1985 c 467 § 19.]

44.52.040 Staff support. The committee shall receive the necessary staff support from both the senate and house staff resources. [1985 c 467 § 20.]

44.52.050 Travel expenses. The members of the committee shall serve without additional compensation, but shall be reimbursed for their travel expenses, in accordance with RCW 44.04.120, incurred while attending sessions of the committee or meetings of any subcommittee of the committee, while engaged on other committee business authorized by the committee, and while going to and coming from committee sessions or committee meetings. [1985 c 467 § 21.]

44.52.060 Payment of expenses. All expenses incurred by the committee, including salaries and expenses of employees, shall be paid upon voucher forms as provided by the auditor and signed by the chairperson or vice chairperson of the committee and attested by the secretary of the committee, and the authority of the chairperson and secretary to sign vouchers shall continue until their successors are selected after each ensuing session of the legislature. Vouchers may be drawn on funds appropriated generally by the legislature for legislative expenses or upon any special appropriation which may be provided by the legislature for the expenses of the committee or both. [1985 c 467 § 22.]

44.52.070 Cooperation with other committees, agencies, and councils. The committee shall cooperate, act, and function with legislative committees, executive agencies, and with the councils or committees of other states similar to this committee and with other interstate research organizations. [1985 c 467 § 23.]

44.52.900 Severability—1985 c 467. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 467 § 25.]

44.52.901 Effective date—1985 c 467. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985. [1985 c 467 § 26.]

Chapter 44.68

JOINT LEGISLATIVE SYSTEMS COMMITTEE

Sections

44.68.010	Definitions.
44.68.020	Committee created—Members, terms, vacancies, officers, rules.
44.68.030	Administrative committee—Membership, coordinator as secretary.
44.68.040	Legislative systems coordinator—Employment, duties.
44.68.050	Administrative committee—Powers and duties.
44.68.060	Joint legislative service center—Duties—Protection of information—Bill drafts.
44.68.070	Legislative systems revolving fund.
44.68.080	Scope of requirements of this chapter.
44.68.090	Systems committee, administrative committee members—Travel expenses.
44.68.100	Electronic access to legislative information.

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

(1) "Administrative committee" means the legislative systems administrative committee created under RCW 44.68.030.

(2) "Center" means the joint legislative service center established under RCW 44.68.060.

(3) "Coordinator" means the legislative systems coordinator employed under RCW 44.68.040.

(4) "Systems committee" means the joint legislative systems committee created under RCW 44.68.020. [1986 c 61 § 1.]

44.68.020 Committee created—Members, terms, vacancies, officers, rules. (1) The joint legislative systems committee is created to oversee the direction of the information processing and communications systems of the legislature and to enforce the policies, procedures, and standards established under this chapter. The systems committee consists of four members as follows:

(a) A member from each of the two largest caucuses in the house of representatives, appointed by the speaker of the house of representatives; and

(b) A member from each of the two largest caucuses in the senate, appointed by the majority leader of the senate.

(2) Members shall serve two-year terms, beginning with their appointment in the regular legislative session held in an odd-numbered year and continuing until their successors are appointed and qualified. In case of a vacancy, the original appointing authority shall appoint another member of the same party as the vacating member.

(3) The systems committee shall choose its own presiding officer and other necessary officers from among its membership, and shall make rules for orderly procedure. [1993 c 332 § 1; 1986 c 61 § 2.]

44.68.030 Administrative committee—Membership, coordinator as secretary. (1) The legislative systems administrative committee is created to manage the information processing and communications systems of the legislature. The administrative committee consists of five members appointed as follows:

(a) The secretary of the senate, and another senate staff person appointed by and serving at the pleasure of the secretary;

(b) The chief clerk of the house of representatives, and another house of representatives staff person appointed by and serving at the pleasure of the chief clerk; and

(c) The code reviser, or the code reviser's designee, serving in a nonvoting capacity.

(2) The coordinator shall serve as the secretary of the administrative committee. [1986 c 61 § 3.]

44.68.040 Legislative systems coordinator—Employment, duties. (1) The systems committee, after consultation with the administrative committee, shall employ a legislative systems coordinator. The coordinator shall serve at the pleasure of the systems committee, which shall fix the coordinator's salary.

(2) The coordinator shall serve as the executive and administrative head of the center, and shall assist the administrative committee in managing the information processing and communications systems of the legislature as directed by the administrative committee. [1986 c 61 § 4.]

44.68.050 Administrative committee—Powers and duties. The administrative committee shall, subject to the approval of the systems committee:

(1) Adopt policies, procedures, and standards regarding the information processing and communications systems of the legislature;

(2) Establish appropriate charges for services, equipment, and publications provided by the legislative information processing and communications systems, applicable to legislative and nonlegislative users as determined by the administrative committee;

(3) Employ or engage and fix the compensation for personnel required to carry out the purposes of this chapter;

(4) Enter into contracts for (a) the sale, exchange, or acquisition of equipment, supplies, services, and facilities required to carry out the purposes of this chapter and (b) the distribution of legislative information;

(5) Generally assist the systems committee in carrying out its responsibilities under this chapter, as directed by the systems committee. [1986 c 61 § 5.]

44.68.060 Joint legislative service center—Duties—Protection of information—Bill drafts. (1) The administrative committee, subject to the approval of the systems committee, shall establish a joint legislative service center. The center shall provide automatic data processing services, equipment, training, and support to the legislature and legislative agencies. The center may also, by agreement, provide services to agencies of the judicial and executive branch. All operations of the center shall be subject to the general supervision of the administrative committee in

accordance with the policies, procedures, and standards established under RCW 44.68.050.

(2) Except as provided otherwise in subsection (3) of this section, determinations regarding the security, disclosure, and disposition of information placed or maintained in the center shall rest solely with the originator and shall be made in accordance with any law regulating the disclosure of such information. The originator is the person who directly places information in the center.

(3) When utilizing the center to carry out the bill drafting functions required under RCW 1.08.027, the code reviser shall be considered the originator as defined in RCW 44.68.060. However, determinations regarding the security, disclosure, and disposition of drafts placed or maintained in the center shall be made by the person requesting the code reviser's services and the code reviser, acting as the originator, shall comply with and carry out such determinations as directed by that person. A measure once introduced shall not be considered a draft under this subsection. [1986 c 61 § 6.]

44.68.070 Legislative systems revolving fund. The legislative systems revolving fund is established in the custody of the state treasurer. All moneys received by the systems committee, the administrative committee, and the center shall be deposited in the fund. Moneys in the fund may be spent only for expenses approved by the systems committee for the purposes of this chapter. Disbursements from the fund shall be on vouchers signed by both the presiding officer of the systems committee and the coordinator. No appropriation is required for disbursements from the fund. The senate and house of representatives may transfer moneys appropriated for legislative expenses to the fund, in addition to charges made under RCW 44.68.050(2). [1986 c 61 § 7.]

44.68.080 Scope of requirements of this chapter. The information and communications functions of the legislature and legislative agencies are subject to the requirements of this chapter, and the standards, policies, and procedures established under this chapter. [1986 c 61 § 8.]

44.68.090 Systems committee, administrative committee members—Travel expenses. Members of the systems committee and of the administrative committee shall be reimbursed for travel expenses under RCW 44.04.120 or 43.03.050 and 43.03.060, as appropriate, while attending meetings of their respective committees or on other official business authorized by their respective committees. [1986 c 61 § 9.]

44.68.100 Electronic access to legislative information. The legislature and legislative agencies through the joint legislative systems committee, shall:

- (1) Continue to plan for and implement processes for making legislative information available electronically;
- (2) Promote and facilitate electronic access to the public of legislative information and services;
- (3) Establish technical standards for such services;

(4) Consider electronic public access needs when planning new information systems or major upgrades of information systems;

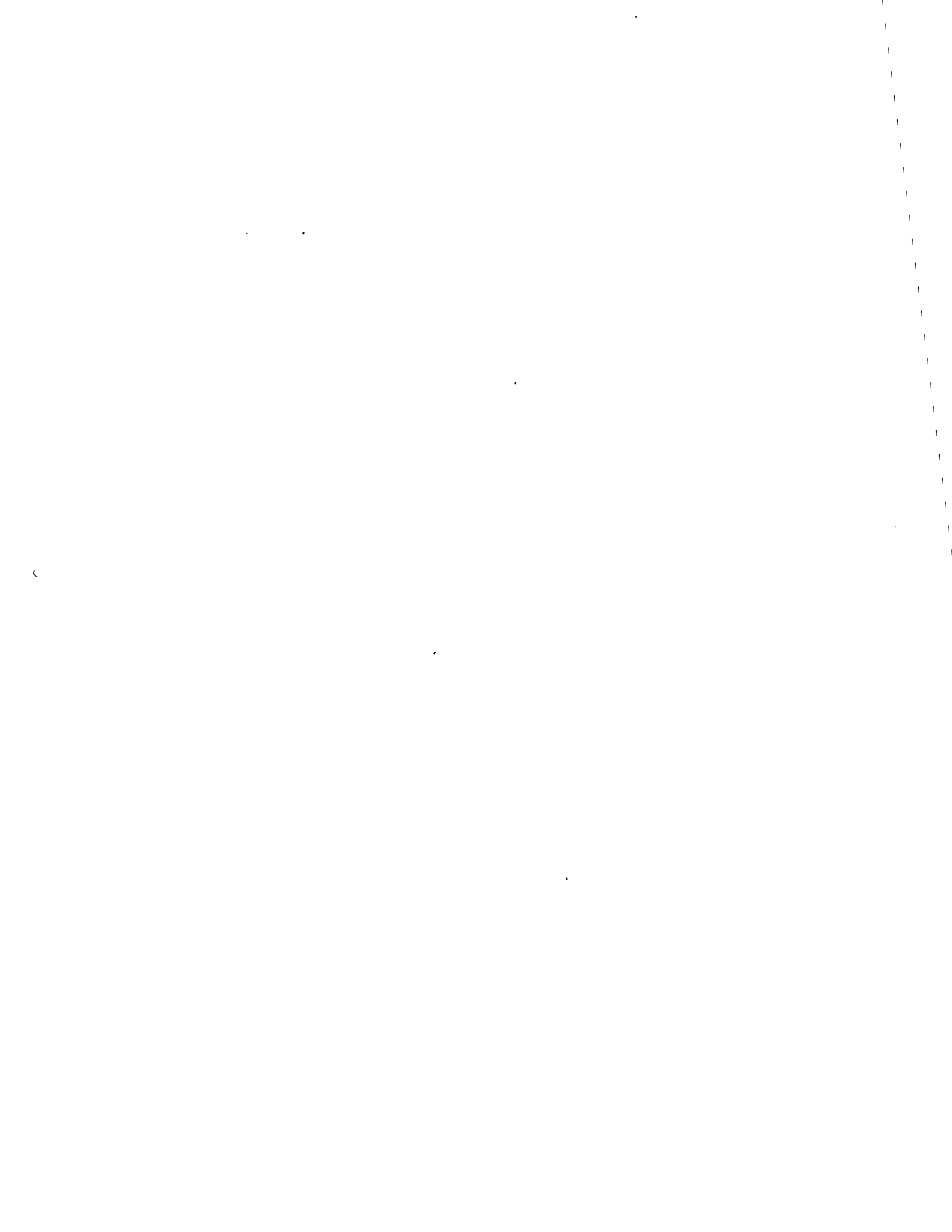
(5) Develop processes to determine which legislative information the public most wants and needs;

(6) Increase capabilities to receive information electronically from the public and transmit forms, applications and other communications and transactions electronically;

(7) Use technologies that allow continuous access twenty-four hours a day, seven days per week, involve little or no cost to access, and are capable of being used by persons without extensive technology ability; and

(8) Consider and incorporate wherever possible ease of access to electronic technologies by persons with disabilities. [1996 c 171 § 4.]

Captions not law—Effective dates—1996 c 171: See notes following RCW 43.105.250.



Title 45

TOWNSHIPS

Chapters

- 45.04 Vote on township organization.
- 45.08 Division of county into townships.
- 45.12 Town meetings—Powers of towns.
- 45.16 Qualifications of town officers.
- 45.20 Vacancies in office.
- 45.24 Duties of town supervisors.
- 45.28 Duties of town clerk.
- 45.32 Duties of town treasurer.
- 45.36 Pounds and poundmasters.
- 45.40 Duties of town officers at elections.
- 45.44 Compensation of officers.
- 45.48 Duty of retiring officers.
- 45.52 Claims against towns.
- 45.54 Assessment of property.
- 45.56 Town taxes and charges.
- 45.64 Actions by or against towns.
- 45.72 Miscellaneous provisions.
- 45.76 Disorganization of townships.
- 45.80 County-wide disorganization of townships.
- 45.82 Ad valorem taxes—Special assessments—
Gifts—Disorganization election.

*Hospitalization and medical aid for public employees and dependents—
Premiums, governmental contributions authorized: RCW 41.04.180,
41.04.190.*

*Public bodies may retain collection agencies to collect public debts: RCW
19.16.500.*

Township organization: State Constitution Art. 11 § 4.

Chapter 45.04

VOTE ON TOWNSHIP ORGANIZATION

Sections

- 45.04.010 Petition for township organization.
- 45.04.020 County commissioners to examine petition and order vote at
election on township organization.
- 45.04.030 Ballots.

45.04.010 Petition for township organization. When at least thirty days before a general election one hundred or more qualified electors of any county in this state present a petition in writing, signed by them, to the board of county commissioners of their county, asking that the question of township organization in said county be submitted to a vote of the people at the next general election, it shall be the duty of said commissioners to submit the question of adopting township organization in said county to the vote of the electors thereof at the first general election held after such petition is presented to said board of commissioners. [1895 c 175 § 1; RRS § 11360.]

45.04.020 County commissioners to examine petition and order vote at election on township orga-

nization. Upon such petition being filed with the clerk of the board of county commissioners, it shall be the duty of said board to examine said petition, and if they find that it has been signed by the requisite number of electors of said county, said board shall, by an order to be entered on their minutes, direct that the question of adopting township organization shall be submitted to the voters of said county at the next general election; said order shall direct that after the names of the candidates for office to be voted for at the next general election, and after any question directed by the state to be voted on, there shall be printed on the ballots the words "For township organization", and "Against township organization". [1895 c 175 § 2; RRS § 11361.]

45.04.030 Ballots. The clerk of the board of county commissioners shall, on preparing the ballots for the general election to be held next after the said petition has been so presented, have the words "For township organization", and "Against township organization" printed on said ballots as above directed. At said election the votes on said question shall be returned by the judges and clerks of election, and shall be canvassed along with the rest of the election returns. [1895 c 175 § 3; RRS § 11362.]

Chapter 45.08

DIVISION OF COUNTY INTO TOWNSHIPS

Sections

- 45.08.010 Division, how made.
- 45.08.020 Dividing towns.
- 45.08.060 Towns to be named.
- 45.08.070 County auditor to send abstract of report to state auditor.
- 45.08.080 Proceedings when two towns have the same name.
- 45.08.090 Boundaries of town to remain as first established.

45.08.010 Division, how made. Should the majority of the votes cast at such general election be in favor of township organization, it shall be the duty of the board of county commissioners, at their next meeting after such election, or as soon thereafter as practicable, to divide all the surveyed portion of the county, outside of incorporated cities, towns and villages, into organized townships. In making such division the county commissioners shall see that each organized township has at least twenty-five inhabitants who are legal voters, and they shall pay due regard to the lines of congressional townships, but wherever it shall be most convenient for the inhabitants of two or more congressional townships, or portions thereof adjoining each other, that they should be formed into one organized township, the county commissioners may organize a township out of such adjacent congressional townships or portions thereof, and a congressional township may be divided among two or more organized townships. Thereafter, when any

township has been surveyed, it shall either be organized into a township or be attached to another township or townships. When any unsurveyed tract of land in a county has a sufficient number of inhabitants who are legal voters to be organized into a township, the board of county commissioners may organize such tract into a township, or any unsurveyed tract may be annexed to an adjoining township. Said board shall fix and determine the boundaries of each of such townships, and shall name the same; and said board shall make a full report of all their proceedings in relation to laying out said towns, and shall have said report entered in full upon their minutes. [1927 c 74 § 1; 1895 c 175 § 4; RRS § 11363.]

Reviser's note: Caption for 1895 c 175 § 4 reads: "Division of counties into townships by county commissioners."

45.08.020 Dividing towns. When rivers or lakes or mountains so divide a township as to make it inconvenient to do town business, the said commissioners may dispose of any fraction so formed by annexing the same to an adjoining township in the same county, if it shall seem to them proper, whenever petitioned to do so by not less than two-thirds of the legal voters residing in such fraction, and the fact that such petition is signed by two-thirds of such voters may be proved by the affidavit of any legal voter residing in such fraction and having knowledge of the fact; and any township having two or more villages, each containing two hundred or more inhabitants, may petition the county commissioners for a division. When the county commissioners are so petitioned, they may, if they think the interest of such town will be subserved thereby, proceed to divide such townships in such manner as will best suit the inhabitants thereof: PROVIDED, HOWEVER, That at least twenty days' notice shall first be given by the county commissioners to the chairman of the board of supervisors of each township affected by the change before action is taken thereon: PROVIDED FURTHER, That nothing herein contained shall be construed to release any property in or belonging to that part of any township so detached from any tax levied or assessed prior to such division being made: PROVIDED, That part of any town annexed to any other town, and any village or city separated from any town under the provisions of *this act shall not be released from or in any way discharged from the payment of any bonded or other indebtedness that may exist against the town from which separation has been made. [1895 c 175 § 5; RRS § 11364. Formerly RCW 45.08.020, 45.08.030, 45.08.040 and 45.08.050.]

***Reviser's note:** This act [1895 c 175] is codified in chapters 45.04, 45.08, 45.12, 45.16, 45.20, 45.24 RCW, RCW 45.28.010, 45.28.040 through 45.28.100, 45.32.010 through 45.32.080, chapters 45.36, 45.40, 45.44, 45.48, 45.52 RCW, RCW 45.56.010, 45.56.040, 45.56.060 through 45.56.080, chapters 45.64 and 45.68 RCW, RCW 45.72.010 through 45.72.030 and 45.72.070.

45.08.060 Towns to be named. Towns thus formed shall be named by the county commissioners in accordance with the expressed wish of a majority of the legal voters resident therein; but if they fail to so designate the name, the county commissioners may select a name. [1895 c 175 § 6; RRS § 11365.]

45.08.070 County auditor to send abstract of report to state auditor. Each county auditor shall, within thirty days after such town is organized, transmit by mail to the auditor of state an abstract of such report, giving the bounds of each town, and the name designated; and said county auditor shall record, in a book for that purpose, a full description of each town. [1895 c 175 § 7; RRS § 11366.]

45.08.080 Proceedings when two towns have the same name. If the auditor of state, on comparing the abstracts of the reports from the several counties, finds that any two or more townships have the same name, he shall transmit to the auditor of the proper county the name of the town to be altered; and the board of commissioners shall, at their next meeting thereafter, adopt for such town some name different from those heretofore named, so that no two towns organized under *this chapter shall have the same name; and when such name is adopted, the auditor of the county shall inform the state auditor as before directed. [1895 c 175 § 8; RRS § 11367.]

***Reviser's note:** The term "this chapter" appears in the session law (1895 c 175) which was divided by Roman numbered subtitles into twenty-one subdivisions. The above section appears in subdivision "II—DIVISION OF COUNTIES INTO TOWNSHIPS" which contains sections 4 through 9 of the 1895 act, codified herein as RCW 45.08.010, 45.08.020, and 45.08.060 through 45.08.090.

45.08.090 Boundaries of town to remain as first established. The limits and boundary lines of every organized township shall remain as first established, until otherwise provided by the board of county commissioners under the authority of law. [1895 c 175 § 9; RRS § 11368.]

Chapter 45.12

TOWN MEETINGS—POWERS OF TOWNS

Sections

45.12.010	Place and time of holding first town meeting.
45.12.020	Powers of towns.
45.12.021	Joint acquisition, operation, and maintenance of public cemeteries.
45.12.022	Nonpolluting power generation by individual—Exemption from regulation—Authorization to contract with utility.
45.12.025	Hydroelectric resources—Separate legal authority—Creation by irrigation districts and cities, towns, or public utility districts.
45.12.030	Limitation of powers.
45.12.040	Proceedings to be in name of town.
45.12.050	Bylaws, when to take effect.
45.12.060	Electors—Eligibility to office.
45.12.070	Annual town meetings.
45.12.080	What officers to be elected at town meeting.
45.12.090	Supervisors to be fence viewers.
45.12.100	Powers of electors at town meetings.
45.12.110	Special town meetings.
45.12.120	Notice of special town meeting.
45.12.130	Contents of notice.
45.12.140	Town meeting, how organized.
45.12.150	Business, how transacted.
45.12.160	Challenges, how regulated.
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45.12.200	Method of voting.
45.12.210	Manner of conducting canvass.
45.12.220	Result of canvass to be read to meeting.
45.12.230	Minutes of town meeting to be filed.

45.12.240 Persons elected to be notified.

Reviser's note: References in this chapter to justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

45.12.010 Place and time of holding first town meeting. At the time of dividing any county into organized townships the county commissioners shall make out notices designating a suitable place for holding the first town meeting in each town, which shall be holden on the second Tuesday in January following the election at which township organization was adopted by vote of the county, and the auditor shall deliver such notice to the sheriff of the county, who shall cause the same to be posted in each township not less than ten days before the day set for such town meeting. [1923 c 13 § 1; 1895 c 175 § 10; RRS § 11369.]

45.12.020 Powers of towns. Each town is a body corporate, and has capacity:

- (1) To sue and be sued.
- (2) To purchase, or receive by gift or otherwise, and hold lands within or without its own limits for the use of its inhabitants, subject to the power of the legislature.
- (3) To make contracts, purchase, and hold such personal property as may be necessary for the exercise of its corporate or administrative powers, and convey and dispose of the same.
- (4) To make such orders for the disposition, regulation or use of its corporate property as may be deemed conducive to the interest of its own inhabitants.
- (5) To acquire property jointly with adjacent towns to use for the operation of a garbage disposal dump, and to mutually contribute to the cost of operating said garbage disposal dump in such amounts as shall be determined by the electors at the annual town meeting. [1953 c 167 § 1; 1909 c 47 § 1; 1895 c 175 § 11; RRS § 11370.]

45.12.021 Joint acquisition, operation, and maintenance of public cemeteries. Two or more townships may agree, contract or combine for the purpose of acquiring, operating and maintaining a public cemetery or cemeteries, and may enter into any necessary negotiations, contracts or agreements with the state or any political subdivision thereof, the federal government or any agency thereof, or any private individual, corporation, partnership or unincorporated association for the joint purchase, operation and maintenance of such public cemetery or cemeteries. [1965 c 119 § 1.]

45.12.022 Nonpolluting power generation by individual—Exemption from regulation—Authorization to contract with utility. See chapter 80.58 RCW.

45.12.025 Hydroelectric resources—Separate legal authority—Creation by irrigation districts and cities, towns, or public utility districts. See RCW 87.03.825 through 87.03.840.

45.12.030 Limitation of powers. No town shall possess or exercise any corporate powers except such as are enumerated in *this chapter or are especially given by law

or necessary to the exercise of the powers so enumerated or granted. [1895 c 175 § 12; RRS § 11371.]

***Reviser's note:** The term "this chapter" appears in the session law (1895 c 175) which was divided by Roman numbered subtitles into twenty-one subdivisions. The above section appears in subdivision "III—TOWN MEETINGS, POWERS OF TOWNS" which contains sections 10 through 33 of the 1895 act, codified herein as chapter 45.12 RCW.

45.12.040 Proceedings to be in name of town. All acts or proceedings by or against a town in its corporate capacity shall be in the name of such town; but every conveyance of land within the limits of such town, made in any manner for the use or benefit of its inhabitants, has the same effect as if made to the town by name. [1895 c 175 § 13; RRS § 11372.]

Actions, in what name brought: RCW 45.64.020.

45.12.050 Bylaws, when to take effect. No bylaw made by any town shall take effect before the same is published by posting up copies thereof in three of the most public places in the town; and such bylaws duly made and so published are binding upon all persons coming within the limits of the town, as well as upon the inhabitants thereof, and shall remain in force until altered or repealed at some subsequent town meeting. [1895 c 175 § 14; RRS § 11373.]

45.12.060 Electors—Eligibility to office. Every person possessing the qualifications of an elector in any town is entitled to vote at any town meeting, and is eligible to any town office. [1895 c 175 § 15; RRS § 11374.]

Reviser's note: Caption for 1895 c 175 § 15 reads: "Who are electors at town meeting."

45.12.070 Annual town meetings. The citizens of the several towns of this state qualified to vote at town meetings shall annually assemble and hold town meetings in their several towns on the second Tuesday in January, at such place in each town as the electors thereof, at their annual town meetings from time to time appoint, and notice of the time and place of holding such meeting shall be given by the town clerk by posting up written or printed notices in three of the most public places in said town, at least ten days prior to said meeting. Every town meeting shall be held at the same place as the last preceding town meeting was held, unless the place of meeting be changed by vote of the town meeting or of the board of supervisors: PROVIDED, That before any change of place of holding town meetings is made by the board of supervisors, notice of such contemplated change may be given by any member of the town board to the town clerk, who shall, in his regularly printed or written notices as provided herein, incorporate the notice of the change of place at which said town meeting is to be held. [1923 c 13 § 2; 1895 c 175 § 16; RRS § 11375.]

45.12.080 What officers to be elected at town meeting. There shall be elected at the annual town meeting in each town, one supervisor and there shall be elected at the annual town meeting in the odd-numbered years one town clerk, one treasurer, one assessor, one justice of the peace and one constable to hold office for the term of two years and until their successors are elected and qualified: PRO-

VIDED, That at the first annual town meeting of every town hereafter organized there shall be elected three supervisors, one to hold office for the term of one year, one to hold office for the term of two years and one to hold office for the term of three years. The board of supervisors shall have power to employ and appoint and to fix the salary of an *overseer of highways for said town or an *overseer of highways for each road district in said town. Said overseer or overseers may or may not be a resident of said town or road district. [1923 c 13 § 3; 1915 c 90 § 1; 1909 c 47 § 2; 1895 c 175 § 17; RRS § 11376.]

**Reviser's note:* This section and other sections throughout this title relating to roads should be read in the light of *Great Northern Railway Co. v. Glover*, 94 Wash. 146, 77 P.2d 598 (1938), wherein it is said that "... the provisions of the township laws have been impliedly repealed insofar as they are inconsistent with chapters 53, 187, and 207 of the Laws of 1937." Such 1937 laws are comprehensive, general acts relating to highways, roads, and bridges.

Office of township assessor abolished: Chapter 45.54 RCW.

Officers, how elected: RCW 45.12.180.

45.12.090 Supervisors to be fence viewers. The supervisors elected in every town are, by virtue of their office, fence viewers of such town. [1959 c 16 § 5. Prior: 1895 c 175 § 18; RRS § 11377.]

45.12.100 Powers of electors at town meetings. The electors of each town shall have power, at their annual town meeting:

(1) To determine the number of poundmasters, and location of pounds.

(2) To select such town officers as are required to be chosen.

(3) To direct the institution or defense of actions in all controversies where the town is interested.

(4) To direct such sums to be raised in the town for prosecuting or defending such actions as they may deem necessary.

(5) To make all rules and regulations for ascertaining the sufficiency of fences in the town and for impounding animals.

(6) To determine the time and manner in which certain domestic animals, including dogs, may be permitted to go at large.

(7) To impose such penalties on persons offending against any rules and regulations established by the town, except such as relate to the keeping and maintaining of fences, as they think proper not exceeding ten dollars for each offense, unless herein otherwise provided.

(8) To apply such penalties, when collected, in such manner as they may deem conducive to the interests of the town.

(9) To vote to raise such sums of money as they deem necessary for the purchase, repair, maintenance, and operation of snow plows or snow removing equipment, appliances for the prevention of highway dust or debris, and highway lighting, all in cooperation with the state and county authorities: PROVIDED, The board of county commissioners of any county wherein township taxing power is abolished under the provisions of this chapter shall annually budget and levy under chapter 36.82 RCW such additional amounts as necessary to maintain street lighting facilities now

provided by townships if no other sufficient financial provision has been made for that purpose at the conclusion of the final hearing on the county's annual road fund budget. Such amount shall be limited to the dollar amount budgeted by the townships in the year 1967 for such street lighting and shall be subject to the same limitations applicable to township levies prior to August 11, 1969. The county shall thereafter maintain such street lighting facilities either as a part of its road fund program or by contract, during the next ensuing year.

(10) To instruct by vote the board to purchase grounds for a town cemetery; to limit the price to be paid therefor, to raise a special assessment for payment thereon and to establish rules for the care and management thereof.

(11) To make such bylaws and regulations as may be deemed conducive to the peace, good order and welfare of the town; to license, tax, regulate and control dogs, hawkers, peddlers, shows, theatricals, circuses, lawful games, merry-go-rounds, ferris wheels, or other amusement devices or places of amusement.

(12) To create a river improvement fund from revenues available for that purpose other than ad valorem taxes. [1984 c 189 § 4; 1969 ex.s. c 243 § 4; 1959 c 16 § 2; 1953 c 165 § 1. Prior: (i) 1927 c 269 § 1; 1923 c 13 § 4; 1919 c 108 § 2; 1913 c 142 § 1; 1911 c 34 § 1, part; 1909 c 47 § 3; 1895 c 175 § 19; RRS § 11378. (ii) 1945 c 148 § 3; 1941 c 226 § 1, part; Rem. Supp. 1945 § 11449-1, part.]

Severability—1969 ex.s. c 243: See note following RCW 45.82.010.

Public places for posting notices: RCW 45.72.010.

What officers to be elected at town meeting: RCW 45.12.080.

45.12.110 Special town meetings. Special town meetings may be held for the purpose of transacting any lawful business whenever the supervisors, town clerk and justice of the peace, or any two of them, together with at least twelve other freeholders of the town, file in the office of the town clerk a written statement that a special meeting is necessary for the interest of the town. [1895 c 175 § 20; RRS § 11379.]

45.12.120 Notice of special town meeting. Every town clerk with whom such statement is filed, as required in RCW 45.12.110, shall record the same and immediately cause notice to be posted up in five of the most public places in the town, giving at least ten days' notice of such special meeting; and if there is a newspaper published in said town he shall cause a copy of said notice to be published therein at least three days before the time appointed for such meeting. [1895 c 175 § 21; RRS § 11380.]

45.12.130 Contents of notice. Every notice given for a special town meeting shall specify the purpose for which it is to be held, and no other business shall be transacted at such meeting than such as is specified in such notice. [1895 c 175 § 22; RRS § 11381.]

45.12.140 Town meeting, how organized. The electors present at any time between nine and ten o'clock in the forenoon of the day of the annual town meeting, or special town meeting, shall be called to order by the town clerk, if there is one present; in case there is none present,

then the voters may elect, by acclamation, one of their number chairman. They shall then proceed to choose one of their number to preside as moderator of such meeting. The town clerk last before elected shall be clerk of the meeting, and keep full minutes of its proceedings, in which he shall enter at length every order or direction, and all rules and regulations made by the meeting. If the town clerk is absent, then such person as is elected for that purpose shall act as clerk of the meeting. [1895 c 175 § 23; RRS § 11382.]

45.12.150 Business, how transacted. At the opening of every town meeting, the moderator shall state the business to be transacted and the order in which it shall be entertained, and no proposition to vote a tax shall be acted on out of the order of business as stated by the moderator; and no proposition to reconsider any vote shall be entertained at any town meeting, unless such proposition to reconsider is made within one hour from the time such vote was passed or the motion for such reconsideration is sustained by a number of voters equal to a majority of all the names entered upon the poll list at such election up to the time such motion is made; and all questions upon motions made at town meetings shall be determined by a majority of the electors voting, and the moderator shall ascertain and declare the result of the votes on each question. [1895 c 175 § 24; RRS § 11383.]

45.12.160 Challenges, how regulated. If any person offering to vote at any election or upon any question arising at such town meeting is challenged as unqualified, the judges of the town meeting shall proceed thereupon in like manner as the judges at the general election are required to proceed, adapting the oath to the circumstances of the town meeting. [1895 c 175 § 25; RRS § 11384.]

45.12.170 Proclamation. Before the electors proceed to elect any town officer, proclamation shall be made of the opening of the polls by the moderator, and proclamation shall, in like manner, be made of the adjournment, and the opening and closing of the polls, until the election is ended. [1895 c 175 § 26; RRS § 11385.]

45.12.180 Officers, how elected. The supervisors, treasurer, town clerk, assessor, justices of the peace and constables in each township shall be elected by ballot. All other officers, if not otherwise provided by law, shall be chosen either by yeas or nays or by a division, as the electors determine. [1895 c 175 § 27; RRS § 11386.]

Office of township assessor abolished: Chapter 45.54 RCW.

What officers to be elected at town meeting: RCW 45.12.080.

45.12.190 Names voted on to be on one ballot. When the electors vote by ballot, all the officers voted for shall be named in one ballot, which shall contain, written or printed, or partly written and partly printed, the names of the persons voted for and the offices to which such persons are intended to be chosen. [1895 c 175 § 28; RRS § 11387.]

45.12.200 Method of voting. When the election is by ballot, the elector voting shall fold his ballot so that the

names voted for cannot be seen, and hand the ballot to one of the judges of election, who shall, without opening the same or permitting the same to be opened or examined, deposit the ballot in the ballot box, and shall announce the name of the elector in an audible voice. The clerk of the town meeting shall then enter on a poll list to be kept by him the name of the person voting. [1895 c 175 § 29; RRS § 11388.]

Reviser's note: Caption for 1895 c 175 § 28 reads: "Judge to deposit ballot in box—Poll list to be kept."

45.12.210 Manner of conducting canvass. At the close of every election by ballot the judges shall proceed publicly to canvass the votes, which canvass, when commenced, shall continue without adjournment or interruption until the same is completed. The canvass shall be conducted by taking a ballot at a time from the ballot box and counting until the number of ballots is equal to the number of names on the poll list; and if there are any left in the box they shall be immediately destroyed; and the person having the greatest number of votes for any office shall be declared duly elected: PROVIDED, That if two or more persons have an equal and the highest number of votes for any office the judges of election shall at once publicly, by lot, determine who of such persons shall be declared elected. If, on opening the ballots, two or more ballots are found to be so folded that it is apparent that the same person voted them, the board shall destroy such votes immediately. [1895 c 175 § 30; RRS § 11389.]

45.12.220 Result of canvass to be read to meeting. The canvass being completed, a statement of the result shall be entered at length by the clerk of the meeting in the minutes of its proceedings, to be kept by him as before required, which shall be publicly read by him to the meeting; and such reading shall be deemed notice of the result of the election to every person whose name is entered on the poll list as a voter. [1895 c 175 § 31; RRS § 11390.]

45.12.230 Minutes of town meeting to be filed. The minutes of the proceedings of every town meeting, subscribed by the clerk of said meeting and by the judges, shall be filed in the office of the town clerk within two days after such town meeting. [1895 c 175 § 32; RRS § 11391.]

45.12.240 Persons elected to be notified. The clerk of every town meeting, within ten days thereafter, shall transmit to each person elected to any town office whose name is not entered on the poll list as a voter notice of his election. [1895 c 175 § 33; RRS § 11392.]

Chapter 45.16

QUALIFICATIONS OF TOWN OFFICERS

Sections

- 45.16.010 Officers to take oath.
- 45.16.020 Certificate of oath to be filed.
- 45.16.030 Effect of not filing oath or bond.
- 45.16.035 Effect of not filing oath or bond—Treasurer, constable or overseer.
- 45.16.040 Overseers and poundmasters to file acceptance of office.

- 45.16.060 Treasurer to give bond.
- 45.16.070 Bond, when approved, to be filed.
- 45.16.080 Constable to take oath and give bond.
- 45.16.090 Justices to take oath and give bond.
- 45.16.100 Penalty for entering on duties before taking oath.
- 45.16.110 Town officers must not be interested in contracts with towns.
- 45.16.120 Terms of office.

Reviser's note: References in this chapter to justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

Public officials—Official bonds: Chapter 42.08 RCW.

45.16.010 Officers to take oath. Every person elected or appointed to the office of supervisor, town clerk, assessor, treasurer or constable, within two weeks after he is notified of his election or appointment, shall take and subscribe before the town clerk or justice of the peace an oath to support the Constitution of the United States and of the state of Washington, and faithfully to discharge the duties of his office (naming the same) to the best of his ability. Such oath shall be administered without fee and certified by the officer before whom it was taken, with the date of taking the same. [1895 c 175 § 34; RRS § 11393.]

Office of township assessor abolished: Chapter 45.54 RCW.

45.16.020 Certificate of oath to be filed. The person taking such oath shall immediately, and before entering upon the duties of his office, file the certificate of such oath in the office of the town clerk. [1895 c 175 § 35; RRS § 11394.]

45.16.030 Effect of not filing oath or bond. If any person elected or appointed to any town office, of whom an oath or bond is required, neglects to file the same within the time prescribed by law, such neglect shall be deemed a refusal to serve in such office. [1895 c 175 § 36; RRS § 11395.]

Penalty for entering on duties before taking oath: RCW 45.16.100.

45.16.035 Effect of not filing oath or bond—Treasurer, constable or overseer. If any person elected or appointed to the office of treasurer, constable or *overseer of highways does not give such bond and take such oath as is required above, within the time limited for that purpose, such neglect shall be deemed a refusal to serve. [1913 c 142 § 4; 1895 c 175 § 42; RRS § 11401.]

Reviser's note: (1) Caption for 1895 c 175 § 42 reads: "Effect of neglect to give bond."

(2) For "overseer of highways," see note following RCW 45.12.080.

Penalty for entering on duties before taking oath: RCW 45.16.100.

45.16.040 Overseers and poundmasters to file acceptance of office. Every person elected or appointed to the office of *overseer of highways or poundmaster, before he enters on the duties of his office, and within two weeks after he is notified of his election or appointment, shall file in the office of the town clerk a notice signifying his acceptance of such office. A neglect to file such notice shall be deemed a refusal to serve. Every person elected or appointed to the office of *overseer of highways, before he enters upon the duties of his office, and within two weeks after he is notified of his election or appointment shall take

and subscribe before the town clerk or justice of the peace an oath to support the Constitution of the United States and of the state of Washington, and faithfully to discharge the duties of his office to the best of his ability. Such *overseer of highways shall also execute and deliver to the supervisors of the town and their successors in office a bond, with one or more sureties, to be approved by the board of supervisors, in an amount determined by said board, conditioned for the faithful discharge of his duties. [1913 c 142 § 2; 1895 c 175 § 37; RRS § 11396. Formerly RCW 45.16.040 and 45.16.050.]

***Reviser's note:** For "overseer of highways," see note following RCW 45.12.080.

45.16.060 Treasurer to give bond. Every person appointed or elected to the office of treasurer, before he enters upon the duties of his office, shall execute and deliver to the supervisors of the town and their successors in office, a bond, with one or more sureties, to be approved by the board of supervisors, in double the probable amount of money to be in his hands at any one time, which amount shall be determined by said board, conditioned for the faithful execution of his duties as such treasurer. [1913 c 142 § 3; 1895 c 175 § 38; RRS § 11397.]

45.16.070 Bond, when approved, to be filed. The said chairman shall, within six days thereafter, file such bond, with said approval indorsed thereon, in the office of the county clerk, who shall record the same in a book provided for that purpose. [1895 c 175 § 39; RRS § 11398.]

45.16.080 Constable to take oath and give bond. Every person chosen to the office of constable, before he enters upon the duties of his office, and within two weeks after he is notified of his election or appointment, shall take and subscribe the oath of office prescribed by law and execute a bond to the state of Washington in such penal sum as the supervisors direct, with one or more sufficient sureties, to be approved by the chairman of said board or the town clerk, conditioned for the faithful discharge of his duties. The chairman of said board or the town clerk shall, if such bond is approved, indorse his approval thereon and cause such bond to be filed with the town clerk for the benefit of any person aggrieved by acts or omission of said constable; and any person so aggrieved, or the town, may maintain an action on said bond against said constable and sureties. [1895 c 175 § 40; RRS § 11399.]

45.16.090 Justices to take oath and give bond. Every person elected or appointed to the office of justice of the peace shall, within two weeks after receiving notice thereof, take and subscribe before any other officer duly authorized to administer oaths, an oath to support the Constitution of the United States and of the state of Washington and faithfully and impartially to discharge the duties of his office according to the best of his ability. He shall also execute a bond to the state of Washington, with two or more sufficient sureties, to be approved by the chairman, in the penal sum of not less than five hundred dollars nor more than one thousand dollars, conditioned for the faithful discharge of his official duties. Said chairman shall indorse thereon his

approval of the sureties named in such bond, and such justice shall immediately file the same, together with his oath of office, duly certified, with the clerk of the county of the proper county for the benefit of any person aggrieved by the acts of said justice; and any person aggrieved may maintain an action on said bond in his own name against said justice and his sureties. [1895 c 175 § 41; RRS § 11400.]

45.16.100 Penalty for entering on duties before taking oath. If any town officer who is required by law to take the oath of office enters upon the duties of his office before taking such oath, he forfeits to such town the sum of fifty dollars, and the same to go to the county poor fund. [1895 c 175 § 43; RRS § 11402.]

45.16.110 Town officers must not be interested in contracts with towns. No town officer shall become a party to or interested, directly or indirectly, in any contract made by the board of which he may be a member: PROVIDED, This shall not be construed to prohibit the employment of a team or teams belonging to a township officer when a required number of teams, owned in the township, are not otherwise obtainable, or the employment of a township officer as a day laborer. Every contract or payment voted for or made contrary to the provisions of *this title is void and any violation of this section hereafter committed shall be a malfeasance in office, which will subject the officer so offending to be removed from office. [1913 c 142 § 5; 1895 c 175 § 44; RRS § 11403.]

*Reviser's note: The term "this title" apparently refers to title 505, Pierce's Washington Code, 1912—TOWNSHIP ORGANIZATION, in which 1895 c 175 and amendments thereto were codified.

45.16.120 Terms of office. Town officers, except as otherwise provided, hold their offices for one year and until others are elected or appointed in their places and are qualified. All officers shall qualify and enter upon the duties of their offices at the first regular meeting of the board of supervisors following their election, and such first meeting of the board of supervisors shall be held within thirty days after such election. [1923 c 13 § 5; 1895 c 175 § 45; RRS § 11404.]

**Chapter 45.20
VACANCIES IN OFFICE**

- Sections
45.20.010 County commissioners may accept resignations.
45.20.020 Procedure for filling vacancies.

45.20.010 County commissioners may accept resignations. The board of county commissioners of any county may, for sufficient cause shown to them, accept the resignation of any town officer in any township in their county, and whenever they accept any such resignation, they shall forthwith appoint another elector of the town to the office, and shall give notice thereof in writing to the person so appointed and to the town clerk; or in the case of a vacancy in the office of town clerk or *overseer of highways, to the chairman of the board of supervisors of the town. [1913 c 142 § 6; 1895 c 175 § 46; RRS § 11405.]

(1996 Ed.)

Reviser's note: (1) Caption for 1895 c 175 § 46 reads: "Vacancies in town offices, how filled."

*(2) For "overseer of highways," see note following RCW 45.12.080.

45.20.020 Procedure for filling vacancies. Whenever any town fails to elect the proper number of town officers, or when any person elected to a town office fails to qualify, or whenever any vacancy happens in any town office from death, resignation, removal from town or other cause, the town clerk, or in case there is no town clerk, then the chairman or one of the town supervisors shall give notice in writing of such vacancy or vacancies to the board of county commissioners of the county in which such town is situated, and said board, upon such notice being given them, or if they know of any vacancy in any town office in any township in their county, shall forthwith fill the vacancy or vacancies by appointment by warrant, signed by the chairman of the board, and countersigned by the clerk of said board, and shall give notice in writing personally or by mail to the town clerk or the chairman of the board of supervisors, and also to the person so appointed. All persons appointed to office under *this act shall qualify as herein provided, and shall hold their offices until the next annual town meeting and until their successors are elected or appointed and qualified in their places, and shall have the same powers and be subject to the same duties and penalties as if they had been duly elected to such offices. [1895 c 175 § 47; RRS § 11406.]

Reviser's note: *(1) For "this act," see note following RCW 45.08.020.

(2) Caption for 1895 c 175 § 47 reads: "Fail to elect officers."

**Chapter 45.24
DUTIES OF TOWN SUPERVISORS**

- Sections
45.24.010 Powers and duties—General.
45.24.040 Supervisors to prosecute actions on bonds, penalties and trespasses.
45.24.050 Supervisors to audit accounts against towns.
45.24.060 Two supervisors a quorum.

Actions by or against towns
papers in action, how served: RCW 45.64.030.
tax levy to pay judgment: RCW 45.64.080.

Division of precinct: RCW 45.40.030.

Judges and clerks of election—Places of holding elections: RCW 45.40.010.

Office of township assessor abolished: Chapter 45.54 RCW.

Poundmaster—Duties—Fees: RCW 45.36.030.

45.24.010 Powers and duties—General. The supervisors shall have charge of such affairs of the town as are not by law committed to other town officers. They shall have power to draw orders on the town treasurer for the disbursement of such sums as may be necessary for the purpose of defraying the incidental expenses of the town, and for all moneys raised by the town to be disbursed for any other purpose. The board of township supervisors shall be authorized to cooperate with the board of county commissioners of the county acting under the provisions of RCW 86.12.010 through 86.12.030 in making new flood control improvements and to enter into contracts with the county to

pay a certain portion of the cost of such improvements made by the county. [1977 c 15 § 1; 1919 c 108 § 2; 1911 c 34 § 1, part; 1909 c 47 § 4; 1895 c 175 § 48; RRS § 11407. Formerly RCW 45.24.010 and 45.24.020.]

45.24.040 Supervisors to prosecute actions on bonds, penalties and trespasses. The supervisors shall, in the name of their town, prosecute, for the benefit of the town, all actions upon bonds given to them or their predecessors in office; and shall also sue for and collect all penalties and forfeitures, in respect to which no other provision is made, incurred by any officer or inhabitant of the town; and they shall have power, in like manner, to prosecute for any trespass committed on any public inclosure or property belonging to the town, and shall pay all moneys collected under this section to the town treasurer. [1895 c 175 § 51; RRS § 11410.]

Reviser's note: Caption for 1895 c 175 § 51 reads: "Supervisors shall bring actions on official bonds."

Action to recover penalty for trespass: RCW 45.64.050.

Actions by or against towns: Chapter 45.64 RCW.

Powers of electors at town meetings: RCW 45.12.100.

Proceedings to be in name of town: RCW 45.12.040.

45.24.050 Supervisors to audit accounts against towns. The supervisors constitute a town board for the purpose of auditing all accounts payable by said town; and if from any cause there are not three supervisors present to constitute said board, the chairman, and, in his absence, either of the other supervisors, may notify the justice of the peace of the town as will, together with the supervisors present, make a board of three; and the board so constituted shall have authority to act as the town board. [1895 c 175 § 52; RRS § 11411.]

Reviser's note: Justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

Board to audit and settle town charges: RCW 45.52.050.

Claims against towns: Chapter 45.52 RCW.

45.24.060 Two supervisors a quorum. Any two of the supervisors constitute a quorum for the performance of any duties required by law of the town supervisors, except when otherwise provided. [1895 c 175 § 49; RRS § 11408.]

Chapter 45.28

DUTIES OF TOWN CLERK

Sections

- 45.28.010 Duties in general—Appointment of deputy.
- 45.28.020 Annual report of needed supplies.
- 45.28.030 Supplies to be furnished at cost.
- 45.28.040 To record minutes and preserve accounts.
- 45.28.050 Town clerks may take acknowledgments and oaths.
- 45.28.060 Official bond.
- 45.28.070 Name of constable to be sent to clerk of court.
- 45.28.100 Bylaws to be posted.

45.28.010 Duties in general—Appointment of deputy. The town clerk shall be clerk of the town board, and shall keep a true record of all their proceedings in his office. He shall have the custody of the record books and

papers of the town, when no other provision is made by law, and he shall duly file and safely keep all certificates of oaths and other papers required by law to be filed in his office. The town board may, in case of necessity, appoint a deputy town clerk. Before any deputy town clerk shall enter upon the duties of his office he shall take and subscribe the oath required by law, which oath shall be filed in the office of the county clerk. In the month of March, each year, after the annual town meeting, the town clerk of each town shall make to the county auditor a return of all taxes and sums of money voted at said town meeting to be raised, except such taxes as may be assessed by the supervisors as labor tax, designating the separate amounts to be raised for each purpose; and it shall be the duty of the county auditor to levy such amounts on the tax rolls of that year against the assessed property of such town as hereinafter provided. [1895 c 175 § 53; RRS § 11412.]

Reviser's note: Caption for 1895 c 175 § 53 reads: "Town clerk to be clerk of town board and custodian of books—May appoint deputy."

45.28.020 Annual report of needed supplies. It shall be the duty of each township clerk to report to the county auditor on or before the first day of March in each year the amount and the kind of printing supplies, blank books, etc., other than those furnished by the county assessor, needed by the township for the ensuing year. [1911 c 34 § 2; RRS § 11413.]

45.28.030 Supplies to be furnished at cost. The county auditor upon receiving the estimates of the various townships shall procure from the lowest bidder the supplies and turn said supplies over to the township ordering the same at actual cost. [1911 c 34 § 3; RRS § 11414.]

45.28.040 To record minutes and preserve accounts. He shall record, in the book of records of his town, minutes of the proceedings of every town meeting, and he shall enter therein every order or direction, and all rules and regulations of any such town meeting; and shall also file and preserve all accounts audited by the town board, or allowed at a town meeting, and enter a statement thereof in such book of records. [1895 c 175 § 54; RRS § 11415.]

Reviser's note: Caption for 1895 c 175 § 54 reads: "Proceedings of town meeting to be recorded."

45.28.050 Town clerks may take acknowledgments and oaths. The town clerks of the several towns in this state are hereby authorized to administer all oaths, and take all acknowledgments of instruments, authorized or required by *this act. [1895 c 175 § 55; RRS § 11416.]

***Reviser's note:** For "this act," see note following RCW 45.08.020.

45.28.060 Official bond. Every person elected or appointed to the office of town clerk in any of the towns of this state shall, before he enters upon the duties of his office, and within the time prescribed by law for filing his oath of office, execute a bond with two or more sufficient sureties, to be approved by the town supervisors, in such penal sum as the supervisors direct, conditioned for the faithful discharge of his duties. Said bond so approved shall be filed and recorded in the office of the clerk of the superior court,

for the benefit of any person aggrieved by the acts or omissions of said town clerk; and any person so aggrieved, or the town, may maintain an action on said bond against said town clerk and sureties. [1895 c 175 § 56; RRS § 11417.]

Effect of not filing oath or bond: RCW 45.16.030.

Supervisors to prosecute actions on bonds, penalties and trespasses: RCW 45.24.040.

45.28.070 Name of constable to be sent to clerk of court. Every town clerk, immediately after the qualification of any constable elected or appointed in his town, shall transmit to the clerk of the superior court of the county the name of such constable. [1895 c 175 § 57; RRS § 11418.]

45.28.100 Bylaws to be posted. The town clerk shall post in three of the most public places in his town, copies of all bylaws made by such town, and shall make an entry in the town records of the time when, and the place where, such bylaws were posted. [1895 c 175 § 60; RRS § 11421.]

Fees for posting notices: RCW 45.44.010.

Public places for posting notices: RCW 45.72.010.

Chapter 45.32

DUTIES OF TOWN TREASURER

Sections

- 45.32.010 Duties of town treasurer.
- 45.32.020 Shall keep true accounts, and deliver books to successor.
- 45.32.030 Shall draw money from county treasurer—Compensation.
- 45.32.050 Shall make annual statement.
- 45.32.060 Penalty for noncompliance.
- 45.32.070 Unpaid orders—Indorsement.
- 45.32.080 Order of payment of town orders.
- 45.32.090 Town depository—Bond.

Actions by or against towns—Judgment against town, how collected: RCW 45.64.070.

Treasurer shall pay audited accounts: RCW 45.52.090.

45.32.010 Duties of town treasurer. The town treasurer shall receive and take charge of all moneys belonging to the town or which are by law required to be paid into the town treasury, and shall pay over and account for the same upon the order of such town, or the officers thereof duly authorized in that behalf, made pursuant to law, and shall perform all such duties as may be required of him by law. [1895 c 175 § 70; RRS § 11431.]

45.32.020 Shall keep true accounts, and deliver books to successor. Every town treasurer shall keep a true account of all moneys by him received by virtue of his office, and the manner in which the same are disbursed, in a book provided at the expense of the town for that purpose, and exhibit such account, together with his vouchers, to the town board at its annual meeting for adjustment; and he shall deliver all books and property belonging to his office, the balance of all moneys in his hands as such treasurer, to his successor in office, on demand, after such successor has qualified according to law. [1895 c 175 § 71; RRS § 11432.]

45.32.030 Shall draw money from county treasurer—Compensation. The town treasurer shall from time to time draw from the county treasurer such moneys as have been received by the county treasurer for the use of his town, and on receipt of such moneys shall deliver proper vouchers therefor. Each town treasurer shall be allowed and entitled to retain, as his official compensation, one percent of all moneys paid out in the redemption of warrants: PROVIDED, That the compensation of said treasurer shall in no case exceed the sum of seventy-five dollars in any one year: PROVIDED FURTHER, That in any town meeting, before the electors commence balloting for officers, they may by resolution, reduce or increase such compensation. [1923 c 13 § 6; 1913 c 142 § 7; 1895 c 175 § 72; RRS § 11433.]

Reviser's note: Caption for 1895 c 175 § 72 reads: "Shall draw money from county treasurer—Fees."

45.32.050 Shall make annual statement. Each town treasurer, within five days preceding the annual town meeting, shall make out a statement in writing of the moneys by him received into the town treasury from the county treasurer, and from all other officers and persons, and also of all moneys paid out by him as such treasurer, in which statement he shall set forth particularly from whom and on what account such moneys were received by him, with the amount received from each officer or person and the date of receiving the same; also to whom and for what purpose any moneys have been paid out by him, with the amount and date of each payment. He shall also state therein the amount of moneys remaining in his hands as treasurer. Such statement shall be filed by him in the office of the town clerk and shall be by such clerk carefully preserved and recorded in the town book of records. [1895 c 175 § 73; RRS § 11435.]

45.32.060 Penalty for noncompliance. Every town treasurer who refuses or neglects to comply with the provisions of *the four preceding sections shall forfeit not more than two thousand dollars, to be recovered in any court of competent jurisdiction, the amount to be fixed by the jury trying the cause, or by the court if there is no jury impaneled, and may be recovered by civil action in the name of any person who prosecutes the same, with costs of suit; one-half shall go to the person so prosecuting and the remainder to the town of which such delinquent is or has been treasurer. [1895 c 175 § 74; RRS § 11436.]

*Reviser's note: *(1) Reference to "the four preceding sections" is to sections 70 through 74, chapter 175, Laws of 1895, which are codified as RCW 45.32.010, 45.32.020, 45.32.030, and 45.32.050.*

(2) Caption for 1895 c 175 § 74 reads: "Violation of four preceding sections—Penalty."

45.32.070 Unpaid orders—Indorsement. Each and every town treasurer shall keep a suitable book, to be provided at the expense of the town, in which he shall enter the town orders that he cannot pay for want of funds when presented to him for payment, which orders, when presented, shall be indorsed by such treasurer by putting upon the back of the same the words "Not paid for want of funds", giving the date of such indorsement, signing the same as town treasurer. [1895 c 175 § 75; RRS § 11437.]

Reviser's note: Caption for 1895 c 175 § 75 reads: "Unpaid town orders—Record—Interest."

45.32.080 Order of payment of town orders. All town orders shall be paid in the order of their issuance out of the first moneys that come into the town treasurer's hands for such purpose. [1895 c 175 § 76; RRS § 11438.]

45.32.090 Town depository—Bond. Each township treasurer shall annually within thirty days after taking office, designate some bank of the state as a depository of all public funds held and acquired to be kept by him as such treasurer: PROVIDED, That the bank designated by the township treasurer shall furnish, if required by the board of supervisors, to the township an indemnity bond equal in amount to the official bond of said treasurer, such designation shall be filed in writing as part of the minutes of the township board. [1913 c 142 § 9; RRS § 11434. Formerly RCW 45.32.040.]

Chapter 45.36

POUNDS AND POUNDMASTERS

Sections

- 45.36.010 Pounds to be under care of poundmasters.
- 45.36.020 Pounds discontinued.
- 45.36.030 Poundmaster—Duties—Fees.

Powers of electors at town meetings: RCW 45.12.100.

45.36.010 Pounds to be under care of poundmasters. Whenever the electors of any town determine at their annual meeting to erect one or more pounds therein, the same shall be under the care and direction of such poundmasters as are chosen or appointed for that purpose. [1895 c 175 § 95; RRS § 11458.]

45.36.020 Pounds discontinued. The electors of any town may, at an annual meeting, discontinue any pounds therein. [1895 c 175 § 96; RRS § 11459.]

45.36.030 Poundmaster—Duties—Fees. The poundmaster shall be allowed the following fees, to wit: For taking into pound and discharging therefrom any horse, ass or mule and all meat cattle, fifty cents each; and for every hog, large or small, sheep or lamb, goat or kid, twenty-five cents each; and fifty cents a day for keeping each head of horses, asses, mules or meat cattle twenty-four hours, and twenty cents for keeping each hog, sheep or goat, for each twenty-four hours. And the poundmaster has a lien on all such animals for the full amount of his legal charges and expenses, and shall be entitled to the possession of such animals until the same are paid; and if the same are not paid, and said animals removed, within four days after they are so impounded, the said poundmaster shall give notice by posting the same in three of the most public places in said town, or by personal notice in writing, if the owner is known, that said animals (describing them) are impounded and that, unless the same are taken away and fee paid within fifteen days after the date of such notice, he will sell the same at public vendue at the place where the town meetings of said town are usually held; and on the day designated in such notice the said poundmaster shall expose the said

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animals for sale, and sell the same to the highest bidder in cash, for which service he shall receive two percent of the purchase money for each animal. Out of the money realized from said sale, the said poundmaster shall deduct all his legal fees and charges, and pay the balance, if any, to the chairman of the town supervisors, at the same time giving to said supervisors an accurate description of the animals sold, and the amount received by him for each animal, and shall take a receipt and duplicate therefor, and file one of them with the town clerk: PROVIDED, That the said supervisors shall, at any time within six months, upon sufficient proof from the owner of any animal so sold, pay to said owner the balance due as received from the said poundmaster; but if said money is not claimed within that time, the sum so received shall be retained for the use of said town. [1911 c 34 § 1, part; 1895 c 175 § 94; RRS § 11457.]

Chapter 45.40

DUTIES OF TOWN OFFICERS AT ELECTIONS

Sections

- 45.40.010 Judges and clerks of election—Places of holding elections.
- 45.40.030 Division of precinct.

45.40.010 Judges and clerks of election—Places of holding elections. Each township shall constitute at least one election precinct. The township supervisors of each township are the judges of election, and the town clerk of each township shall act as one of the clerks of election in their respective election precinct, and the judges of election shall appoint an additional clerk of election, who shall be of an opposite political party, if practicable, to the town clerk. The election shall be held in such election precinct at the place where the last preceding town meeting was held, except as herein provided; but if in any town a vote is taken to hold it elsewhere the next ensuing election shall be held at the place designated by such vote. When, in any township having over four hundred electors, the supervisors divide the same into two or more election precincts, they shall designate the boundaries thereof, and thereafter shall be elected, at the annual town meeting of such township, three judges of election and two clerks of election in each precinct, and the place of holding said election in each precinct shall be designated by said town meeting, or, in default of such designation, shall be appointed by the judges of election thereof, in which case they shall make such designation at least twenty days before election, and give notice thereof by posting proper notices in the public places in the township. In case the supervisors divide the township into precincts, as herein provided, and no town meeting is thereafter held prior to the election, then the county commissioners shall, twenty-five days before election, appoint the judges and clerks for that election. No more than two judges and one clerk of election, except where town supervisors and town clerks so act, shall belong to the same political party. No person shall be eligible as judge or clerk of election unless he be a qualified voter within the election district in which he sits, nor unless he can read, write and speak the English language understandingly. [1895 c 175 § 77; RRS § 11439. Formerly RCW 45.40.010 and 45.40.020.]

45.40.030 Division of precinct. Whenever any town constituting one election precinct is found by the number of votes there cast at any election to contain more than four hundred voters, it shall be the duty of the supervisors of the town to cause such precinct at least six weeks before the next ensuing general or town election, to be divided into two or more districts, each containing as nearly as may be an equal number of voters. [1895 c 175 § 78; RRS § 11440.]

Chapter 45.44 COMPENSATION OF OFFICERS

Sections

45.44.010 Schedule of compensation and fees fixed.

45.44.010 Schedule of compensation and fees fixed.

The following town officers are entitled to compensation at the following rates for each day necessarily devoted by them to the service of the town, in the duties of their respective offices. The town assessors shall receive for their services three dollars per day, while engaged in their respective duties as such assessors. Each *road overseer shall receive for his services such salary as shall be fixed by the board of supervisors, while engaged in his duties as such *road overseer. The town clerks and supervisors shall receive two dollars per day while engaged in their respective duties. No supervisor shall receive more than seventy-five dollars for compensation in any one year, and no clerk shall receive more than one hundred dollars for compensation in any one year: PROVIDED, That the town clerks shall be paid fees for the following, and not a per diem: For filing any paper required by law to be filed in his office ten cents each; for posting up notices required by law, twenty-five cents each; for recording any order or any instrument of writing authorized by law, five cents for each one hundred words; for copying any record or instrument on file in his office and certifying the same, five cents for each one hundred words, to be paid for by the person applying for the same: PROVIDED, FURTHER, That in any town meeting, before the electors commence balloting for officers, they may by resolution, reduce or increase the compensation of officers, and may fix the compensation of the town clerk at an annual salary not to exceed one hundred dollars, in lieu of the compensation per diem and fix his services other than copying and certifying records or instruments on file in his office for which he is paid by the person applying for the same. [1923 c 13 § 9; 1915 c 90 § 2; 1909 c 47 § 9; 1895 c 175 § 93; RRS § 11456.]

Reviser's note: (1) Caption for 1895 c 175 § 93 reads: "Fees of town officers."

*(2) For "road overseer," see note following RCW 45.12.080.

Bylaws to be posted: RCW 45.28.100.

Office of township assessor abolished: Chapter 45.54 RCW.

Poundmaster—Duties—Fees: RCW 45.36.030.

Public places for posting notices: RCW 45.72.010.

Township treasurer—Compensation: RCW 45.32.030.

Chapter 45.48

DUTY OF RETIRING OFFICERS

Sections

45.48.010 Incoming officer to demand books and papers.
45.48.020 Same in case of vacancy.
45.48.030 Books to be delivered to successor.
45.48.040 Same in case of death.

45.48.010 Incoming officer to demand books and papers. Whenever the term of any supervisor, town clerk, assessor, justice of the peace, constable, *road overseer or other town officer expires and another person is appointed or elected to such office, such successor, immediately after he enters upon the duties of his office, shall demand of his predecessor all books and papers under his control and belonging to such office. [1895 c 175 § 111; RRS § 11474.]

Reviser's note: *(1) For "road overseer," see note following RCW 45.12.080.

(2) Caption for 1895 c 175 § 111 reads: "Books and papers of outgoing officers."

(3) Justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

Office of township assessor abolished: Chapter 45.54 RCW.

Township treasurer to keep true accounts, and deliver books to successor: RCW 45.32.020.

45.48.020 Same in case of vacancy. Whenever either of the officers above named resigns, or the office becomes vacant in any way, and another person is elected or appointed in his stead, the person so elected shall make such demand of his predecessors or of any person having charge of such books and papers. [1895 c 175 § 112; RRS § 11475.]

45.48.030 Books to be delivered to successor. Every person so going out of office, whenever thereto required pursuant to the foregoing provisions, shall deliver, upon oath, all records, books and papers in his possession or in his control belonging to the office held by him, which oath may be administered by the officer to whom such delivery is made. [1895 c 175 § 113; RRS § 11476.]

45.48.040 Same in case of death. Upon the death of any of the officers enumerated, the successor of such officer shall make such demand, as above provided, of the executors or administrators of such deceased officer, and such executors or administrators shall deliver, upon like oath, all records, books, papers or moneys in their possession or under their control, belonging to the office held by their testator or intestate. [1895 c 175 § 114; RRS § 11477.]

Chapter 45.52

CLAIMS AGAINST TOWNS

Sections

45.52.010 Claims to be itemized before allowance.
45.52.020 Verification of claims.
45.52.030 Auditing of claims.
45.52.040 Penalties for allowing claims not verified.
45.52.050 Board to audit and settle town charges.
45.52.060 Shall audit accounts of town officers.
45.52.070 Board shall draw up report.

45.52.080 Report to be read at town meeting.
 45.52.090 Treasurer shall pay audited accounts.

Supervisors to audit accounts against towns: RCW 45.24.050.

What are town charges: RCW 45.56.010.

45.52.010 Claims to be itemized before allowance.

Before any account, claim or demand against any town of this state, for any property or services for which such town shall be liable, shall be audited or allowed by the board of officers authorized by law to audit and allow the same, the person in whose favor such account, claim or demand shall be, or his agent, shall reduce the same to writing in items, and shall verify the same to the effect that such account, claim or demand is just and true, that the money therein charged was actually paid for the purposes therein stated, that the property therein charged was actually delivered or used for the purposes therein stated, and was of the value therein charged, and that the services therein charged were actually rendered, and of the value therein charged; or, in case such services were official for which fees are prescribed by law, then that the fees or amounts charged therefor are such as are allowed by law, and that no part of such account, claim or demand has been paid: PROVIDED, That when the books of the town clerk show the official attendance of a town officer, his claim for per diem for that service need not be verified. [1895 c 175 § 61; RRS § 11422.]

Supervisors to audit accounts against towns: RCW 45.24.050.

45.52.020 Verification of claims. The verification required by RCW 45.52.010 may be made before any officer authorized by law to administer oaths, or before any member of the board to which the account, claim or demand shall be presented to be audited; and every member of any such board is hereby authorized to administer the proper oath in such cases; and every person who shall wilfully or knowingly swear falsely on any such cases, shall be deemed guilty of wilful perjury, and be punished accordingly: PROVIDED, That in any case any such account, claim or demand shall be made or presented by any administrator or executor on behalf of the estate of a deceased person, he shall not be required to verify the same, but may prove the same otherwise to the satisfaction of the board. [1895 c 175 § 62; RRS § 11423.]

45.52.030 Auditing of claims. Whenever any account, claim or demand against any town shall have been verified in the manner prescribed in *this act, the board of officers to whom the same shall be presented may receive and consider the same, and may allow or disallow the same in whole or in part as to such board or officers shall appear just or lawful, saving to such claimants the right of appeal. [1895 c 175 § 63; RRS § 11424.]

*Reviser's note: For "this act," see note following RCW 45.08.020.
Verification of claims: RCW 45.52.020.

45.52.040 Penalties for allowing claims not verified.

Any member of such board who shall audit and allow any accounts, claim or demand required by *this act to be itemized and verified, without the same having been first duly itemized and verified, shall be deemed guilty of a misdemeanor, and be punished by fine not exceeding five

hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment. [1895 c 175 § 64; RRS § 11425.]

*Reviser's note: For "this act," see note following RCW 45.08.020.

45.52.050 Board to audit and settle town charges.

The town board shall meet annually on the Tuesday next preceding the annual town meeting to be held in said town, and at such other times as they deem necessary and expedient, for the purpose of auditing and settling all charges against said town, and they shall state on each account the amount allowed by them; but no allowance shall be made for any account which does not specifically state each item of the same, and the nature thereof; and all unpaid accounts of town officers for services rendered since the last annual meeting of said board shall be presented to the town board at their annual meeting on the Tuesday next preceding the annual town meeting, to be audited as aforesaid. [1895 c 175 § 65; RRS § 11426.]

Reviser's note: Caption for 1895 c 175 § 65 reads: "Town board to meet, when."

45.52.060 Shall audit accounts of town officers.

The said board shall also, at their annual meeting in each year, examine and audit the accounts of the town treasurer for all moneys received and disbursed by him as such officer; and they shall audit the accounts of all other town officers who are authorized by law to receive or disburse any money of the town by virtue of their office. [1895 c 175 § 66; RRS § 11427.]

Duties of town treasurer—Shall make annual statement: RCW 45.32.050.

Poundmaster—Duties—Fees: RCW 45.36.030.

45.52.070 Board shall draw up report.

Such board shall draw up a report, stating in detail the items of account audited and allowed since the last annual meeting, the nature of each account and the name of the person to whom such account was allowed, the total amount audited and allowed to each township officer in payment for his services since their last annual meeting, including a statement of all the fiscal concerns of the town. As a part thereof said board shall make an estimate of the sum necessary for the current expenses thereof, and other incidental expenses for the ensuing year. [1895 c 175 § 67; RRS § 11428.]

45.52.080 Report to be read at town meeting.

Such report shall be produced and publicly read by the town clerk at the next ensuing town meeting; and the whole or any portion of such report may be referred, by the order of the meeting, to a committee whose duty it shall be to examine the same and report thereon to such meeting. [1895 c 175 § 68; RRS § 11429.]

45.52.090 Treasurer shall pay audited accounts.

The amount of any account audited and allowed by the town board, and the amount of any account voted to be allowed at any town meeting, shall be paid by the town treasurer on the order of said board, signed by the chairman and countersigned by the clerk; and all orders issued to any person by the town board for any sums due from such town shall be received in payment of town taxes of said town. [1895 c

175 § 69; RRS § 11430. Formerly RCW 45.52.090 and 45.52.100.]

Chapter 45.54

ASSESSMENT OF PROPERTY

Sections

- 45.54.010 Assessors and town board of review abolished.
- 45.54.020 Assessors and town board of review abolished—Powers transferred.

Reviser's note: Assessment of property was regulated by 1895 c 175 §§ 79-82 and amendments thereto, as follows:

Duties of township assessor. "Each township assessor elected or appointed under this title shall take an oath and give a bond as now required of county assessors, the amount of said bond to be fixed, and the said bond to be approved, by the board of supervisors; and each township assessor shall, in his town, perform the same duties and exercise the same rights as are now performed and exercised by county assessors in their respective counties under the laws of this state, and shall be subject to the same penalties as county assessors now are. All township assessors of the respective counties shall meet at the office of the county assessor on the second Tuesday of February of each year, and formulate and adopt by a majority vote of those present a plan and policy for the purpose of securing the equitable and uniform listing and valuation of property throughout the county, and it shall be the duty of all township assessors to make their respective assessments according to the plan and policy adopted at such meeting, and the county assessor shall have supervisory control over said township assessors for the purpose of enforcing the making of assessments according to such plan and policy." [1923 c 13 § 7; 1909 c 47 § 5; 1895 c 175 § 79; RRS § 11441.]

County auditor to furnish assessors' books and blanks. "First. The county assessor shall annually provide the necessary assessment books and blanks at the expense of the county, for and to correspond with each assessment district. He shall make out in the real property assessment book complete lists of all lands or lots subject to taxation, showing the names of the owners, if to him known, and, if unknown, so stated opposite each tract or lot, the number of acres and the lots and parts of lots or blocks included in each description of property. The list of real property becoming subject to assessment and taxation every odd numbered year may be appended to the personal property assessment book. The assessment books and blanks shall be delivered to the county assessor on or before the second Saturday of March in each year, and the town assessors shall meet on that day at the office of the county assessor for the purpose of receiving such books and blanks, and for conference with the said county assessor in reference to the performance of their duties and that all township assessors shall perform their duties under the supervision of the county assessor.

Second. The county assessor shall in making up his work for the county board of equalization, add thereto the assessment rolls of the various townships and the same shall be equalized by the county board of equalization as between townships as other property in such counties is equalized. If it shall be necessary to raise the assessment of a township or townships, the county board of equalization shall serve written notice upon the chairman of the township board of supervisors of its intention so to do and shall also give general notice by publication to the residents of such township or townships at least five days previous to raising such assessment." [1911 c 34 § 1; 1909 c 47 § 6; 1895 c 175 § 80; RRS § 11442.]

Town board of review—Duties. "The board of supervisors of each town shall meet on the second Monday in May at the office of the town clerk for the purpose of reviewing the assessment of property in such town, and they shall immediately proceed to examine, ascertain and see that all taxable property in their town or district has been properly placed upon the list and duly valued by the assessor; and in case any property, real or personal, shall have been omitted by inadvertence or otherwise, it shall be the duty of said board to place the same upon the list, with the true value thereof, and proceed to correct the assessment, so that each tract or lot of real property and each article, parcel or class of personal property shall be entered on the assessment list at the true and full value thereof; but the assessment of the property of any person shall not be raised until such person shall have been duly notified of the intention of the board so to do. And on the application of any person considering himself aggrieved they shall review the assessment and correct the same as shall appear to them just. Any two of said officers are authorized to act at such meeting, and they may adjourn from day to day until they shall finish the hearing of all

cases presented. All complaints and grievances of individuals, residents of the town or district, in reference to the assessment of any property, shall be heard and decided by the town board: PROVIDED, That the complaints of nonresidents in reference to the assessment of any property, real or personal, and of others in reference to any assessment made after the meeting of the town board of review, shall be heard and determined by the county board of equalization: PROVIDED FURTHER, That any person considering himself aggrieved by a decision of the town board of review may present the matter to the county board of equalization for determination." [1909 c 47 § 7; 1895 c 175 § 81; RRS § 11443.]

Notice of meeting of board of review. "The assessor shall cause at least ten days' previous notice of the time and place of the meeting of the town board of review by posting notices in at least three public places in his town or district, but the failure to give such notice or hold such meeting shall not vitiate such assessment, except as to the excess of valuation of tax thereon shown to be unjustly made or levied. It shall be the duty of the assessor to attend the meeting of the town board of review with his assessment books and papers, and note all changes and additions made by the board, and correct his work accordingly, and not later than ten days after the meeting of the board of review said assessor shall return the assessment books of his town, duly verified, along with all the assessment papers in his hands, to the county assessor not later than the fifth day of June." [1909 c 47 § 8; 1895 c 175 § 82; RRS § 11444.]

45.54.010 Assessors and town board of review abolished. Hereafter no assessor shall be elected by the electors of any township at any township meeting; nor shall the board of supervisors of any township hereafter meet and convene, or exercise any powers or perform any duties, as a town board of review, for the purpose of reviewing the assessment of property of the township or for any other purpose. [1937 c 81 § 1; RRS § 11376-1.]

45.54.020 Assessors and town board of review abolished—Powers transferred. On and after March 1, 1937, the office of township assessor and the town board of review for townships shall be and hereby are abolished; and on and after said date all powers and duties of said assessor and said board of review shall be vested in and required to be performed by the county assessor and the county board of equalization, respectively: PROVIDED, That the abolishment of said office and said board shall not affect the validity of any act done or performed by any township assessor or any town board of review in assessing and valuing or equalizing property for taxation purposes prior to said date, and shall not affect the validity of any tax levied or based upon any such acts. [1937 c 81 § 2; RRS § 11443-1.]

Chapter 45.56

TOWN TAXES AND CHARGES

Sections

- 45.56.010 What are town charges.
- 45.56.035 Ad valorem taxes prohibited—Levy by county commissioners.
- 45.56.040 Limit of debts and outlays.
- 45.56.050 County aid to townships.
- 45.56.070 Poll tax to be a town fund.
- 45.56.080 County treasurer to pay over township moneys quarterly.

Tax levy to pay judgment: RCW 45.64.080.

45.56.010 What are town charges. The following shall be deemed town charges:

(1) The compensation of town officers for services rendered their respective towns.

(2) Contingent expenses necessarily incurred for the use and benefit of the town.

(3) The moneys authorized to be raised by the vote of the town meeting for any town purpose.

(4) Every sum directed by law to be raised for any town purpose. [1959 c 16 § 3. Prior: 1895 c 175 § 84; RRS § 11446.]

45.56.035 Ad valorem taxes prohibited—Levy by county commissioners. See chapter 45.82 RCW.

45.56.040 Limit of debts and outlays. No town has power to contract debts or make expenditures for any one year in a larger sum than the amount of revenues provided for that year in a formally adopted budget. [1969 ex.s. c 243 § 5; 1895 c 175 § 86; RRS § 11448.]

Severability—1969 ex.s. c 243: See note following RCW 45.82.010.

45.56.050 County aid to townships. Whenever any county of this state shall have adopted township organization it shall be the duty of the board of county commissioners of such county to set aside from the levy of the current year the following sums, which shall be paid to the township treasurer in the manner provided by law: To each township for current expenses, one hundred dollars; to each township for *township roads and bridges, twenty-five percent of the amount levied upon the property of said township for construction and repair of roads and bridges. [1913 c 142 § 10; RRS § 11449.]

*Reviser's note: For "township roads and bridges," see note following RCW 45.12.080.

45.56.070 Poll tax to be a town fund. All poll tax collected by any *road overseer or other town officer shall be by him paid to the town treasurer and be part of the township funds. [1895 c 175 § 90; RRS § 11453.]

*Reviser's note: For "road overseer," see note following RCW 45.12.080.

45.56.080 County treasurer to pay over township moneys quarterly. The county treasurer shall keep an account of the money received for each town, and shall quarterly, after the settlement between the county treasurer and county auditor, pay over any money due a town to its treasurer upon the warrant of the county auditor. [1895 c 175 § 92; RRS § 11455.]

Chapter 45.64

ACTIONS BY OR AGAINST TOWNS

Sections

45.64.010	How governed.
45.64.020	Actions, in what name brought.
45.64.030	Papers in action—How served.
45.64.040	Action before justice of peace.
45.64.050	Action to recover penalty for trespass.
45.64.060	In action over lands court may partition.
45.64.070	Judgment against town—How collected.
45.64.080	Tax levy to pay judgment.

Powers of electors at town meetings: RCW 45.12.100.

Proceedings to be in name of town: RCW 45.12.040.

Supervisors to prosecute actions on bonds, penalties and trespasses: RCW 45.24.040.

45.64.010 How governed. Whenever any controversy or cause of action exists between towns, or between a town and an individual or corporation, such proceedings shall be had either at law or equity, for the purpose of trying and settling such controversy, and the same shall be conducted in the same manner, and the judgment or decree therein shall have the like effect, as in other actions or proceedings of a similar kind between individuals and corporations. [1895 c 175 § 97; RRS § 11460.]

Reviser's note: Caption for 1895 c 175 § 97 reads: "Actions between towns; how regulated."

45.64.020 Actions, in what name brought. In all such actions and proceedings the town shall sue and be sued in its name. [1895 c 175 § 98; RRS § 11461.]

Proceedings to be in name of town: RCW 45.12.040.

45.64.030 Papers in action—How served. In legal proceedings against a town by name, all papers shall be served on the chairman of the board of supervisors, and, in case of his absence, on the town clerk; and whenever any action or proceeding is commenced, said chairman shall attend to the defense thereof, and lay before the electors of the town, at the first town meeting, a full statement of such proceedings, for their direction in regard to the defense thereof. [1895 c 175 § 99; RRS § 11462.]

45.64.040 Action before justice of peace. No action in favor of any town shall be brought before any justice of the peace residing in such town. [1895 c 175 § 100; RRS § 11463.]

Reviser's note: Justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

45.64.050 Action to recover penalty for trespass. Whenever any action is brought to recover a penalty imposed for any trespass committed on the lands belonging to the town, if it appears on the trial thereof that the actual amount of injury to such town lands in consequence of such trespass exceeds the sum of twelve dollars and fifty cents, then the amount of actual damage with cost of suit shall be recovered in said action, instead of any penalty for said trespass imposed by the town meeting; and such recovery shall be used as a bar to every other action for the same trespass. [1895 c 175 § 101; RRS § 11464.]

Supervisors to bring actions for trespass: RCW 45.24.040.

45.64.060 In action over lands court may partition. Whenever by decree or decision, in any action or proceeding brought to settle any controversy in relation to town commons or other lands, the common property of a town, or for the partition thereof, the rights of any town are settled and confirmed, the court in which such proceedings are had may partition such lands according to the right of parties. [1895 c 175 § 102; RRS § 11465.]

Reviser's note: Caption for 1895 c 175 § 102 reads: "Other actions; how regulated."

45.64.070 Judgment against town—How collected.

When a judgment is recovered against any town, or against any town officers, in an action prosecuted by or against them in their name of office, no execution shall be awarded or issued upon such judgment, but the same, unless reversed or stayed on appeal, shall be paid by the town treasurer, upon demand and the delivery to him of the certified copy of the judgment, if there is sufficient money of such town in his hands not otherwise appropriated. If he fails to do so, he shall be personally liable for the amount, unless the collection thereof is afterward stayed upon appeal. If payment is not made within thirty days after the time fixed by law for the county treasurer to pay over to the town treasurer the money in his hands belonging to such town, levied for the purpose of paying such judgment, next after the rendition of such judgment, execution may be issued on such judgment, but only town property shall be liable thereon. [1895 c 175 § 103; RRS § 11466.]

45.64.080 Tax levy to pay judgment. If judgment for the recovery of money is rendered against any town, and the judgment is not satisfied, or proceedings thereon stayed by appeal or otherwise, before the next annual meeting of said town, a certified copy of the judgment may be presented to said town at said annual meeting. The supervisors of the town shall thereupon cause the amount due on the judgment, with interest from the date of its recovery, to be added to the tax of said town, and the same certified to the county auditor, and collected as other town taxes are collected. [1895 c 175 § 104; RRS § 11467.]

Chapter 45.72

MISCELLANEOUS PROVISIONS

Sections

- 45.72.010 Public places for posting notices.
- 45.72.020 Conveyances of real estate.
- 45.72.030 Former precincts and road districts abolished, etc.
- 45.72.040 Payment of outstanding obligations.
- 45.72.050 Payment of outstanding obligations—Tax levy to pay obligations.
- 45.72.060 Payment of outstanding obligations—Collection of tax—Application of proceeds.
- 45.72.070 Construction of words used in this act.

45.72.010 Public places for posting notices. At the annual town meeting in each year, the legal voters present at each meeting shall determine and designate three places in the town as public or the most public places of such town, and that all legal notices required to be posted in three public or the most public places of a town shall be posted up at such places at least, and they shall make provision for the erection and maintenance of suitable posts on which to post up notices as aforesaid, in all places so designated in which there is no sufficient natural convenience for that purpose. [1895 c 175 § 110; RRS § 11473.]

Bylaws to be posted: RCW 45.28.100.

Fees for posting notices: RCW 45.44.010.

45.72.020 Conveyances of real estate. Whenever any real estate belonging to the town is sold, the conveyances thereof shall be executed by the chairman of the town board

in his official capacity and attested by the clerk; and such conveyance, duly witnessed and acknowledged, shall convey to the grantee therein named all of the right, title and estate which the town then has in the real estate conveyed. [1909 c 47 § 11; RRS § 11483.]

Proceedings to be in name of town: RCW 45.12.040.

Town supervisors—Powers and duties—General: RCW 45.24.010.

45.72.030 Former precincts and road districts abolished, etc.

In all townships after they become fully organized under *this act, the election precinct or precincts, and road district or districts theretofore organized by the county commissioners shall be abolished, and election precincts and **road districts shall be established as provided in *this act; and there shall be no election for **road overseers in the December following the general election at which township organization is voted, but the **road overseers then holding office shall continue to hold their offices till the township **road overseers have been elected or appointed and qualified. After townships have been organized, justices of the peace and constables shall not be elected at general elections, but at town meetings as herein provided. The assessment of property in any town made last before any township has been organized shall remain and continue in force till the next assessment has been made by the township assessor. The county assessor shall not assess any property within the limits of an organized township, and the assessment of property made by the township assessors shall have the same force and effect, when reviewed by the town board of review, as the assessment of property now made by county assessors, and shall be acted on and equalized by the county board of equalization as required by law. [1895 c 175 § 116; RRS § 11479.]

Reviser's note: *(1) For "this act," see note following RCW 45.08.020.

** (2) For "road districts," "road overseers," see note following RCW 45.12.080.

(3) Justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

Office of township assessor abolished: Chapter 45.54 RCW.

45.72.040 Payment of outstanding obligations.

Whenever any county has heretofore, or shall hereafter, adopt and take upon itself township organization and government under the provisions of any law passed pursuant to the provisions of section 4, Article XI of the Constitution of this state, authorizing such organization and government, and at the time of the adoption of such form of government there shall exist against any road district in such county, previously created and defined by the commissioners of such county, any obligations for debts incurred in the construction or repair of any roads or bridges in such road district, such change in the government of said county shall not in any way affect such existing obligations of any such road district; but all such obligations shall remain and constitute a valid charge upon and against all of the taxable property included within the territorial limits of such road district as it existed at the time of the adoption of such township organization for the full amount of all of said obligations. For the purposes of *this act, the territory which comprised said road district shall thereafter comprise and constitute a road tax district of said county, and said road tax district

shall be designated by a like number by which said road district was theretofore known. [1911 c 13 § 1; RRS § 11480.]

***Reviser's note:** This act [1911 c 13] is codified as RCW 45.72.040 through 45.72.060.

45.72.050 Payment of outstanding obligations—Tax levy to pay obligations. There shall be levied annually at the same time the levy for general county taxes is made, and by the officers levying the said county tax, a tax of not more than one dollar and twenty-five cents per thousand dollars of assessed value on all taxable property within the territorial limits of every such road district as the same existed at the time of the adoption of such township organization for the payment of and until the full amount of all indebtedness, together with all accrued and accruing interest thereon, existing against any such road district, shall have been paid in full. [1973 1st ex.s. c 195 § 45; 1911 c 13 § 2; RRS § 11481.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

45.72.060 Payment of outstanding obligations—Collection of tax—Application of proceeds. The tax levied, as provided for in RCW 45.72.050, shall be extended upon the tax rolls of the county, and shall be collected by the county treasurer of said county at the same time and in the same manner as other taxes are collected, and said treasurer shall credit to the proper road tax district all sums collected from any such levy, and all sums so collected shall by the said treasurer be applied to the payment, in the order of their issue, of the outstanding warrants against the road district for the indebtedness of which said levy was made. [1911 c 13 § 3; RRS § 11482.]

45.72.070 Construction of words used in *this act. In *this act the words town and township are used with the same meaning, and are used to designate a township organized under *this act, unless the contrary appears from the context; and whenever the word oath is used, it shall be understood to mean oath or affirmation.

The word tax means special taxes raised by special assessments and other forms of taxation authorized by law except ad valorem property taxes. [1969 ex.s. c 243 § 6; 1909 c 47 § 10; 1895 c 175 § 115; RRS § 11478.]

***Reviser's note:** For "this act" [1895 c 175], see note following RCW 45.08.020.

Severability—1969 ex.s. c 243: See note following RCW 45.82.010.

Chapter 45.76

DISORGANIZATION OF TOWNSHIPS

Sections

45.76.020	Proceedings for disorganization—Petition for election.
45.76.030	Petition—Canvass by auditor.
45.76.040	Election—Notice—Precincts.
45.76.050	Election—Ballots.
45.76.060	Election—Conduct.
45.76.070	Order of disorganization—Receiver.
45.76.080	Powers of receiver.
45.76.090	Tax levy to pay obligations.

45.76.100 Final account—Disposition of remaining funds—Order of dissolution.

45.76.020 Proceedings for disorganization—Petition for election. Proceedings for disorganization of a township may be commenced by petition for an election therein upon the question. A petition for such election shall be filed with the county auditor. It must be signed by registered voters residing within the township sufficient in number to equal twenty percent of the vote of the township at the last general election. [1951 c 173 § 1.]

45.76.030 Petition—Canvass by auditor. The county auditor shall canvass the petition for an election to vote upon the question of disorganization:

(1) By ascertaining the number of votes cast at the last general election by persons residing within such township; and

(2) By ascertaining by comparison whether the handwriting of each signer on the petition and on the registration card bearing his name were made by the same person. [1951 c 173 § 2.]

45.76.040 Election—Notice—Precincts. If the number of valid signatures on the petition are sufficient, the county auditor shall fix a date for holding the election and give at least twenty days' notice thereof. Notices of elections shall contain a statement of the purpose for which the election is called, the time at which it will be held and the location of the voting place or voting places. Regular voting precincts may be divided or combined, or both. The notices shall be posted in ten of the most public places within the township sought to be disorganized. [1951 c 173 § 3.]

45.76.050 Election—Ballots. Ballots for elections to be held under the provisions of this chapter shall have printed thereon the words "for disorganization" on one line, followed by a printed square bounded on all sides by a line one quarter of an inch long, and the words "against disorganization" on another line, followed by a similar printed square. At the top of the ballot shall appear directions to the voter advising him to place a cross in the square opposite the decision of his choice, or words to that effect. [1951 c 173 § 4.]

45.76.060 Election—Conduct. Elections held under the provisions of this chapter shall be conducted by the county auditor and canvassed by the county election board conformable as nearly as practicable to the requirements for conducting and canvassing the returns of general elections. [1951 c 173 § 5.]

45.76.070 Order of disorganization—Receiver. If, in an election held under the provisions of this chapter, a majority of the votes cast thereat favor disorganization, the county auditor shall certify the results to the presiding judge of the superior court for the county, who shall enter an order of disorganization and shall appoint the chairman of the board of county commissioners who shall act as receiver to wind up the affairs of the disorganized township. [1951 c 173 § 6.]

45.76.080 Powers of receiver. The chairman of the board of county commissioners shall take possession of all the property, moneys, vouchers, records and books of the former township, including those in any manner pertaining to its business, and proceed to wind up its affairs. He shall have the right to sue and be sued in all cases necessary or proper for the purpose of winding up the affairs of the former township. He is authorized to sell at public auction, after such public notice as the sheriff is required to give as to property sold on execution, all the property of the former township, except such as is necessary for his use in winding up its affairs. Any personal property may be sold for cash. Real property may be sold for all cash or for one-half cash and deferred payments, the last payment not to be later than one year from date of sale. Title shall not pass until all deferred payments have been fully paid. [1951 c 173 § 7.]

45.76.090 Tax levy to pay obligations. In the same manner and to the same extent as the proper authorities of the former township could have done had it not been disorganized, the chairman of the board of county commissioners may be authorized by the court when necessary to levy taxes on all taxable property therein, to receive the taxes when collected and to apply them together with the proceeds arising from any sales of property to the extinguishment of the obligations of the former township. [1951 c 173 § 8.]

45.76.100 Final account—Disposition of remaining funds—Order of dissolution. Upon the payment of all lawful demands against the former township, the chairman of the board of county commissioners shall file a final account, together with all vouchers, with the clerk of the superior court and pay any funds remaining in his hands to the county treasurer to be placed to the credit of any school district or districts within whose boundaries the township is located, said money to be prorated to such school districts in proportion to their share of assessed value of the real estate located therein: PROVIDED, That if within one hundred eighty days after the execution of the order of dissolution any city or town is incorporated within the boundaries of the dissolved township, such remaining funds shall be divided between the operating fund of such city or town and said school district or districts in the proportion that the assessed valuation of the territory included within the boundaries of the city or town bears to the assessed valuation of the entire property lying within the boundaries of the dissolved township. Upon the approval by the court of said final account the court shall sign proper orders dissolving such township. [1957 c 65 § 1; 1951 c 173 § 9.]

Chapter 45.80

COUNTY-WIDE DISORGANIZATION OF TOWNSHIPS

Sections

- 45.80.010 Proceedings for disorganization—Resolution directing election.
- 45.80.020 Election—Date.
- 45.80.030 Election—Conduct and canvass.
- 45.80.040 Election—Order of disorganization—Receiver.

- 45.80.050 Powers and duties of receiver.
- 45.80.060 Tax levy by disorganized township barred—Levy to extinguish obligations.
- 45.80.070 Final account—Payment of demands—Disposition of funds—Order of dissolution—Transfer of cemetery properties.
- 45.80.080 Vesting of property—Management, conditions.
- 45.80.090 Tax levy by fire protection district when township disorganized and no longer making a levy.
- 45.80.100 Chapter additional to other laws.

45.80.010 Proceedings for disorganization—Resolution directing election. Proceedings for the disorganization of the township organization of a county may be commenced by the board of county commissioners through its filing a resolution with the county auditor directing that there be an election by the voters of the county upon the question. [1961 c 53 § 1.]

45.80.020 Election—Date. Upon the filing of the resolution the county auditor shall fix a date for holding an election thereon which may be either a special or general election date set not later than the general election next succeeding the filing of the resolution in the office of the county auditor. [1961 c 53 § 2.]

45.80.030 Election—Conduct and canvass. Elections held under the provisions of this chapter shall be conducted by the county auditor and canvassed by the county election board in the manner provided by law for the conducting and canvassing of returns of general elections within the county. [1961 c 53 § 3.]

45.80.040 Election—Order of disorganization—Receiver. If a majority of the votes cast upon the question favor disorganization of the township system of the county, the county auditor shall certify the results to the presiding judge of the superior court for the county, who shall enter an order of disorganization effective December 31st of that year and shall appoint the chairman of the board of county commissioners to act as receiver to wind up the affairs of the disorganized township. [1961 c 53 § 4.]

45.80.050 Powers and duties of receiver. The chairman of the board of county commissioners shall take possession of all the property, moneys, vouchers, records and books of the townships of the county, including those in any manner pertaining to its business, and proceed to wind up their affairs. He shall have the right to sue and be sued in all cases necessary or proper for the purpose of winding up the affairs of the townships. He is authorized to sell at public auction, after such public notice as the sheriff is required to give as to property sold on execution, all the property of the former townships, except property granted under the provisions of RCW 45.80.080. [1961 c 53 § 5.]

45.80.060 Tax levy by disorganized township barred—Levy to extinguish obligations. A township ordered disorganized by the court will not after the effective date of the order of disorganization levy any tax. However, the chairman of the board of county commissioners may be authorized by the court, when necessary for the extinguish-

ment of the obligations of the township, to levy taxes on all taxable property therein, to receive the taxes when collected and to apply them, together with the proceeds arising from any sales of property, to the extinguishment of the obligations of the townships. [1961 c 53 § 6.]

45.80.070 Final account—Payment of demands—Disposition of funds—Order of dissolution—Transfer of cemetery properties. When an election has resulted in an affirmative vote to disorganize the townships in a county, the chairman of the board of county commissioners shall take the following actions in the order indicated:

First, he shall pay all lawful demands against the townships, and then file a final account together with all vouchers, with the clerk of the superior court;

Second, if prior to the election a tax levy has been made by one or more of the townships, for collection the year following the election, and if a pro rata reduction has been caused in the levy of any junior taxing district in the county which would [not] have been required had the township made no levy, the chairman shall order the county treasurer to collect the township levy and to disburse to the junior taxing district whose levy was reduced by proration the sum of money by which its levy was so reduced; if the township levy is not sufficient for such payments, any available funds to the credit of the township shall be so paid;

Third, the chairman shall pay any remaining township funds to the county treasurer to be deposited to the credit of the several taxing districts of the county (except the state and county) in the following allocations: Each such taxing district of the county shall receive a share that bears the same proportion to the total amount as its assessed valuation within the township times its authorized levy last in process of collection (excepting excess levies) bears to the total assessed valuation of such taxing districts within the township times the total authorized levy (excepting excess levies) of such districts. Upon approval by the court of said final account the court shall sign proper orders dissolving said township;

Fourth, he shall transfer all cemetery properties, facilities, and funds, real and personal, together with all funds designated or intended for endowment care, perpetual care, or similar purposes to the cemetery authority succeeding to the operation and maintenance of such cemetery. All gifts and donations shall be applied strictly according to the requirements stipulated by the donor. Where donor has not otherwise specified, such funds shall be presumed to be endowment care funds within the meaning of chapter 68.44 RCW, and are to be devoted exclusively to the care, improvement, or embellishment of the cemetery or such other purposes authorized by RCW 68.40.060. [1971 c 19 § 3; 1961 c 53 § 7.]

45.80.080 Vesting of property—Management, conditions. Cemetery real property, buildings, and the furnishings and equipment used in connection with the operation of a cemetery shall pass to the cemetery authority succeeding to the control, management, and operation of the cemetery. All other real property, buildings, and the furnishings and equipment used in connection with buildings owned by the township shall pass to the county in fee upon

the effective date of the order of disorganization. Such property, as all other county property, shall be managed and controlled by the board of county commissioners: PROVIDED, That the board shall for at least five years maintain and operate township meeting halls for community and public use. [1971 c 19 § 4; 1961 c 53 § 8.]

45.80.090 Tax levy by fire protection district when township disorganized and no longer making a levy. See RCW 52.16.160.

45.80.100 Chapter additional to other laws. This chapter shall not be construed to repeal, amend or modify any law heretofore enacted providing a method of township disorganization in this state, but shall be held to be an additional and concurrent method providing for such purpose. [1961 c 53 § 10.]

Chapter 45.82

AD VALOREM TAXES—SPECIAL ASSESSMENTS—GIFTS—DISORGANIZATION ELECTION

Sections

- 45.82.010 Ad valorem taxes prohibited—Special assessments authorized, procedure—Gifts and grants—Disorganization election.
- 45.82.020 Levy of property taxes by county commissioners.

45.82.010 Ad valorem taxes prohibited—Special assessments authorized, procedure—Gifts and grants—Disorganization election. (1) Hereafter no township shall assess or levy any ad valorem taxes upon property. Townships may levy and collect special assessments upon property specially benefited by improvements constructed by such townships under their general powers. The procedure for the making of such improvements and the levying and collecting of such assessments shall, insofar as applicable, be the same as that prescribed for fire protection districts under chapter 52.20 RCW. A township may also receive and expend gifts and grants from any source for strictly township purposes.

(2) The county auditor of each county which contains one or more townships shall prior to January 1, 1970, fix a date for holding an election which may be either a special or general election at which election the voters of the county shall determine whether all township organizations within the county shall or shall not be disorganized. If a majority of votes cast upon the question favor disorganization of the township system of the county, the ensuing disorganization shall be conducted pursuant to RCW 45.80.040, 45.80.050, 45.80.060, 45.80.070 and 45.80.080: PROVIDED, That nothing contained in subsection (1) of this section shall limit the authority of the county commissioners when authorized by the court from levying ad valorem taxes upon real property and using the proceeds therefrom in order to extinguish the obligations of townships disorganized pursuant to this subsection or pursuant to the provisions of chapter 45.80 RCW. [1969 ex.s. c 243 § 1.]

Severability—1969 ex.s. c 243: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of

the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 243 § 8.]

County-wide disorganization election: RCW 45.80.020.

45.82.020 Levy of property taxes by county commissioners. Any township which at the time that *this 1969 amendatory act takes effect has outstanding obligations in excess of anticipated receipts from sources other than general tax levies for the next ensuing year may certify the same to the board of county commissioners and the board shall levy taxes on the property within the township at the rates which the township would have been permitted to levy except for *this 1969 amendatory act until such obligations have been extinguished, and until such time such dollar rate levy will take precedence over any additional dollar rates of fire protection districts under *this 1969 amendatory act. [1973 1st ex.s. c 195 § 46; 1969 ex.s. c 243 § 3.]

Reviser's note: (1) The effective date of 1969 ex.s. c 243 was August 11, 1969.

* (2) This 1969 amendatory act [1969 ex.s. c 243] consists of the enactment of RCW 45.82.010 and 45.82.020; the 1969 ex.s. c 243 amendments to RCW 45.12.100, 45.56.040, 45.72.070, and 52.16.160; and the repeal of RCW 45.56.020, 45.56.030, 45.56.060, 45.60.010, 45.60.030, and 45.60.040.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

